

groundwater concentrations still exceed the Ambient Water Quality Standards, the general trend shows a decrease in cVOCs concentrations. The additional remedial actions proposed in the RAWP are anticipated to expedite this trend.

2. *Comment: Should future on-site tenants and adjacent residents feel safe?*

Response: The selected remedy will remediate the site for Restricted Residential use. The new building will not be occupied until NYSDEC certifies that the remedy is complete and that all the Remedial Action Objectives (RAOs) have been achieved. The following summarizes the Public Health RAOs and how the selected remedy will achieve them:

- **Prevent ingestion or direct contact with contaminated soil.** A cover system consisting of the proposed concrete cellar slab will be installed across the entire site footprint, preventing direct contact with remaining contaminated soil.
- **Prevent inhalation of, or exposure to, contaminants volatilizing from contaminants in soil.** All cVOC impacted soil above the water table will be excavated and removed, eliminating the risk of these contaminants volatilizing and migrating into indoor air. Additionally, a polyethylene vapor barrier will be installed beneath the foundation slab to further reduce the risk of any remaining VOCs from entering the new building. The selected remedy also includes a soil vapor intrusion (SVI) evaluation, which incorporates recommended actions to address exposures related to soil vapor.
- **Prevent ingestion of groundwater containing contaminant levels exceeding drinking water standards.** Groundwater in NYC is not used as a source of potable water and there is no risk of tenants ingesting any on-site groundwater.
- **Prevent contact with, or inhalation of, volatiles from contaminated groundwater.** ISBR injections will reduce cVOCs in groundwater via anaerobic reductive dechlorination, eliminating the risk of these contaminants volatilizing.
- **Mitigate the risk of impacts to public health resulting from existing, or the potential for, soil vapor intrusion into the building to be constructed at the site.** As part of the SVI evaluation, indoor air samples will be collected from the proposed buildings prior to occupancy. The results of these analyses will be reviewed by NYSDEC and the New York State Department of Health (NYSDOH). If the results indicate a need for soil vapor mitigation, those actions must be completed before the new development can be occupied.

Nearby residents are protected from contamination at 60-66 Gerry Street for similar reasons:

- The site is completely fenced with a locked gate and is covered in a layer of clean recycled concrete aggregate (RCA), preventing anyone from coming into contact with the contaminated on-site soil.
- The area is served by a public water supply and residents are not drinking or coming into contact with contaminated groundwater associated with this site.
- Many of the buildings in the Broadway Triangle area are recent developments with new foundation slabs and vapor barriers. Properties such as the high school at 177 Harrison Avenue and the residential buildings at 81, 83, 85, and 87 Gerry Street are equipped with active sub-slab depressurization systems that are being maintained under Site Management Plans (SMPs) to mitigate soil vapor intrusion.

3. *Comment: Is this situation and approach similar to that encountered and performed at the NuHart Superfund site?*

Response: Both the 60-66 Gerry Street BCP site and the NuHart State Superfund site do have exceedances of cVOCs in soil, groundwater, and soil vapor, and the cVOC-focused remedy elements at NuHart are very similar to the remedy selected for 60-66 Gerry Street: excavating cVOC-impacted soil above the water table and conducting in-situ injections to remediate cVOC-impacted groundwater. However, as noted above, the main contaminant driving the remedy at the NuHart site is a plume of phthalate NAPL that is floating on top of the groundwater table both on-site and off-site.

Please note that while the selected remedies for the cVOC impacts at these two sites may be similar, the cVOC plume at the NuHart parcel differs significantly from the conditions at 60-66 Gerry Street. Specifically, the concentrations of cVOCs in groundwater at NuHart were an order of magnitude higher than those at the Gerry Street site.

4. Comment: *A ventilation tent with negative air pressure should be deployed...[since] the similarities to the NuHart project are striking.*

Response: The requirement for a negative pressure enclosure at the NuHart site was predicated on the presence of a significant volume of NAPL, which was anticipated to generate odors. There is no NAPL at the 60-66 Gerry Street site, and the excavation is not expected to generate significant odor impacts.

As a requirement of the Community Air Monitoring Plan (CAMP) for 60-66 Gerry Street, continuous real-time monitoring for VOCs and particulates will occur during all ground intrusive work to ensure that contaminants are not leaving the site in ambient air. If the ambient air concentrations at the downwind perimeter of the work area exceed threshold levels, work activities will stop, and corrective measures will be implemented to abate emissions.

5. Comment: *Why isn't this site designated a State Superfund site?*

Response: The BCP is a voluntary program, and the applicant for the 60-66 Gerry Street site entered the program as a Volunteer. A Volunteer is an applicant whose liability arises solely as a result of ownership and was not an owner or operator of the site at the time of contaminant disposal. Under Part 375-3.7(b) of New York Codes, Rules and Regulations Title 6 (6 NYCRR), NYSDEC defers assessment of a BCP site's classification on the State Superfund Registry provided the Volunteer complies with the BCP agreement. As part of the BCP process, NYSDEC and NYSDOH made a positive significant threat determination based on the results of the remedial investigation and the potential for contaminant migration off-site. The BCP procedure requires NYSDEC to identify any potentially responsible parties (PRPs) for the contamination and to initiate enforcement action against these PRPs. If the PRPs cannot or will not investigate and (if necessary) remediate off-site contamination related to the site, NYSDEC would initiate a NYS-funded remedial program. The PRP search has already been initiated for this site.

6. Comment: *Sampling should be frequent during the remediation and post-remediation. Site Management and CAMP measures should be more rigorous.*

Response: As noted above, continuous air monitoring under the CAMP will occur during all intrusive work both upwind and downwind of the site. Since the proposed remedial work will be taking place within 20 ft of the mixed-use residential/commercial building at 58 Gerry

Street to the west and the office building at 35 Bartlett Street to the south, two additional CAMP stations will be deployed to monitor air quality between the work area and these potential receptors.

Groundwater monitoring will occur at a minimum on a quarterly basis following the remedial excavation and the ISBR injections to evaluate the performance of the remedy. Additionally, indoor air samples will be collected from each of the proposed buildings prior to occupancy as part the SVI evaluation. NYSDEC and NYSDOH will review the data to determine if active mitigation is required. The SMP will be submitted after remedial actions are implemented and will outline all specific operation, maintenance, and monitoring requirements for soil vapor and groundwater.

7. *Comment: How is the applicant and the agency addressing the effects of chronic flooding in this area?*

Response: The RAWP includes a Stormwater Pollution Prevention Plan (SWPPP) which contains provisions for controlling stormwater runoff and minimizing the migration of pollutants that may leave the site and enter local waterways. Stormwater that collects on-site will be discharged to the sewer under authority of the New York City Department of Environmental Protection. Erosion control measures such as silt fencing and hay bales will be placed along the perimeter of the site to prevent off-site migration of sediment. Excavated soil will be direct-loaded into trucks for off-site disposal to the extent feasible, thus minimizing any stockpiling of contaminated soil on-site. Any stockpiles will be properly graded and covered in plastic sheeting to prevent erosion or migration. The SWPPP calls for periodic inspections of the erosion and sediment controls, and corrective actions as needed.

NYSDEC requires an in-depth explanation regarding climate change risks for this site in the Green and Sustainable Remediation (GSR) section of the RAWP, including a Climate Change Vulnerability Assessment and an Environmental Footprint Analysis detailing all the potential climate hazards at the site and gauging the remedy's resiliency to these hazards. These assessments will be included in the final RAWP.

8. *Comment: The board is also concerned that the SCO's and health standards used to inform cleanup project remediation goals and public safety are antiquated and are in long need of updating.*

Response: NYSDEC is required by Environmental Conservation Law (ECL) 27-1415(6)(c), to update the Soil Cleanup Objective (SCO) tables every 5 years. A revision to the SCOs listed in Part 375 of 6 NYCRR was recently noticed for public comment (see https://dec.ny.gov/regulatory/regulations/proposed-emergency-recently-adopted-regulations/environmental-remediation-revisions#comment_instruc). The comment period on this rulemaking ends on January 15, 2025.

NYSDEC and NYSDOH continuously review and revise other guidance documents related to site investigation and remediation. For example, NYSDOH's *Guidance for Evaluating Soil Vapor Intrusion in the State of New York*, initially published in 2006, has been updated several times since then (most recently in February 2024) to account for advances in toxicological research. Likewise, NYSDEC's *Sampling, Analysis, and Assessment of Per- and Polyfluoroalkyl Substances (PFAS)* is regularly updated when new scientific information becomes available.

If you have any further questions, please contact me at (718) 482-4992 or e-mail me at madeleine.babick@dec.ny.gov.

Sincerely,

A handwritten signature in black ink that reads "Madeleine Babick". The signature is fluid and cursive, with the first name and last name clearly distinguishable.

Madeleine Babick, EIT
Project Manager

cc: Jane O'Connell, Cris-Sandra Maycock, Rodney Rivera – NYSDEC
Scarlet McLaughlin, Stephanie Selmer – NYSDOH
Stephen Chesler – Brooklyn CB 1 (stevechesler@me.com)

**RESPONSIVENESS SUMMARY
Meeker Avenue Plume Superfund Site
Operable Unit 2
Brooklyn, New York**

INTRODUCTION

This Responsiveness Summary provides a summary of the public's comments and concerns regarding the Proposed Plan for Operable Unit 2 (OU2) of the Meeker Avenue Plume Superfund site (site), and the U.S. Environmental Protection Agency's (EPA's) responses to those comments. All comments summarized in this document have been considered in EPA's decision for the selection of a remedy for OU2 at the site under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

This Responsiveness Summary is divided into the following sections:

I. BACKGROUND ON COMMUNITY INVOLVEMENT AND CONCERNS

This section provides the history of community involvement and interests regarding the site.

II. COMPREHENSIVE SUMMARY OF MAJOR QUESTIONS, COMMENTS, CONCERNS, AND RESPONSES

This section contains summaries of written and verbal comments received by EPA at the public meeting and during the public comment period, and it contains EPA's responses to these comments.

The last section of this Responsiveness Summary includes attachments which document public participation in the remedy selection process for this site. They are as follows:

Attachment A contains the Proposed Plan that was distributed to the public for review and comment;

Attachment B contains the public notice that was published in the Brooklyn Daily Eagle, on the Nowy Dziennik website, and via the Greenpointers newsletter on April 5, 2024, and in Abecadlo on April 12, 2024. It also includes the notice of extension published via the Greenpointers newsletter on April 12, 2024, in the Brooklyn Daily Eagle and in Abecadlo on April 19, 2024, and in Nowy Dziennik on April 20, 2024. The notices were published in English, as well as in Spanish and Polish for the non-English speaking communities within and surrounding the Meeker Avenue Plume site;

Attachment C contains the public comments received during the public comment period; and

Attachment D contains the transcript of the public meeting held on April 16, 2024 at the St. Stanislaus Kostka Church, Brooklyn, New York.

I. BACKGROUND ON COMMUNITY INVOLVEMENT AND CONCERNS

Since the inclusion of the site on the National Priorities List in 2022, public interest in the site has been high. EPA has strongly encouraged and received public input since the listing of the site. EPA published a Community Involvement Plan in 2023. This 2023 Community Involvement Plan outlines specific outreach tools to facilitate transparent and accessible communication with the community in the decision-making process and to solicit public input on site activities. EPA also sends out monthly email updates to the community to keep them informed of ongoing activities at the site.

In 2023, EPA provided Technical Assistance Services for Communities (TASC) support to the Meeker Avenue Plume Community Advisory Group (CAG) for strategy, engagement, and outreach. The TASC contract was amended in 2024 to provide the CAG with technical support, interpretation and translation services, and administrative support on an as-needed basis.

EPA also provides the support of a neutral facilitator to the CAG. The neutral facilitator assisted in the formation of the CAG, including development of the mission statement, structure, and operating procedures. The neutral facilitator also assists the CAG in planning and conducting meetings.

The CAG holds its meetings in the surrounding community and serves in a technical review and advocacy capacity on behalf of the community. The CAG membership includes representatives from local businesses, environmental organizations, community residents, and other interested parties from Brooklyn. The CAG regularly conducts outreach in the community to encourage public participation in site-related activities and engages social-media outlets to ensure project information is broadcast widely. In addition, the CAG maintains a webpage and an email list to disseminate project-related information, including the dates of upcoming meetings and site updates.

II. COMPREHENSIVE SUMMARY OF MAJOR QUESTIONS, COMMENTS, CONCERNS AND RESPONSES

Comments and/or questions were received at the public meeting, in addition to two written letters (via email), one from the Meeker Avenue Plume Community Advisory Group (CAG) and one from Brooklyn Community Board No. 1. North Brooklyn Neighbors, a local environmental group, also indicated their support for the CAG's comments via email. In addition, one comment was received via email during the comment period. Copies of the comment letters and emails are provided in Attachment A, and a copy of the public meeting transcript is provided in Attachment D. A summary of the significant comments provided at the public meeting and in writing, as well as EPA's responses to those comments, are provided below.

The sign-in sheets indicate that approximately 25 people attended the April 16, 2024 public meeting. The meetings' attendees included residents, Community Advisory Group members, local business representatives, interested community members, journalists, elected officials, and representatives from the New York State Department of Environmental Conservation and the New York State Department of Health.

Part 1: Written Comments

A comment letter (via electronic format) was submitted by the Meeker Avenue CAG. The letter contained several comments, which are summarized below, along with EPA responses. A representative of North Brooklyn Neighbors sent a separate email reiterating the CAG's concerns and expressing general support for the action.

Comment 1: The CAG is concerned that access for testing is being granted at too slow of a rate and would like to know how EPA intends to improve its success rate at getting access to test buildings at risk of vapor intrusion within the Study Area. They would like to see new strategies for outreach, including to non-residential properties.

EPA Response 1: EPA is actively exploring ways to improve the outreach approach at the site. The Community Involvement Plan is being updated and further developed and the Region intends to discuss it with the community prior to the next winter heating season to explore additional strategies for increasing participation. EPA appreciates the CAG's offer to continue helping with outreach and understands that our mission is to protect the community from elevated risks posed by site-related contamination. Cleanup efforts at the site are being conducted in an expedited fashion on parallel tracks to (i) address the immediate risks posed by vapor intrusion and (ii) determine the full nature and extent of contamination at the site so that the sources of the contamination leading to vapor intrusion can be addressed. Signature of this ROD will give the Region the ability to quickly mitigate any vapor intrusion concerns that are discovered, and the ongoing groundwater investigation will help to better focus ongoing outreach efforts on areas where vapor intrusion is most likely to occur. The discovery and mitigation of unacceptable risks in indoor air at residential and non-residential structures resulting from site-related contamination is the Region's top priority for the site.

Comment 2: The CAG would like clarity on how realistic it would be for EPA to compel testing in a systematic way.

EPA Response 2: EPA will consider the need for use of its enforcement authorities at every property where access is sought and not granted. EPA has the ability to compel access to properties to conduct vapor intrusion sampling and is trying to do so in a systematic and balanced manner, taking into consideration our current understanding of the nature and extent of contamination at the site, as well as people's individual rights to

privacy and autonomy. As mentioned in the response to Comment 1, cleanup efforts at the site are being conducted on two tracks. As we gain a better understanding of where contamination concentrations are elevated in the subsurface, we can use that information to better focus our outreach efforts, including our use of access authorities if determined to be appropriate. Other reasons EPA may decide to utilize legal authority to gain access include, but are not necessarily limited to, the construction characteristics of a building and the presence of sensitive receptors in the building (e.g., day care facilities, schools or senior centers). While multiple lines of evidence can and will be used by EPA in making determinations about where and when to use our access authorities, it must be noted that vapor intrusion issues do not necessarily follow a clear pattern and two adjacent buildings can have different results (i.e., one could be found to have a vapor intrusion concern and the neighboring building could not). While testing as many properties as possible overlying the plume of contamination is ideal, note that vapor intrusion impacts occur on a structure-by-structure basis and the lack of testing at any individual property will not impact EPA's ability to mitigate concerns at the neighboring properties, if needed.

Comment 3: The CAG would like to know the number of properties where access was refused.

EPA Response 3: EPA has been going through a systematic process of reaching out to potentially impacted properties within the Study Area. A review of lot and block tax maps shows that there are an estimated 943 lots within the preliminary Study Area. Not every one of these lots necessarily has a structure, so this would be an outside estimate of how many structures are potentially impacted. Lot and block maps also do not tell us how many individual units or businesses are potentially impacted (for example, any individual lot could have multiple basement and first floor units that require testing). Of these lots, we know that prior to EPA's direct involvement with the site in March 2022, NYSDEC had tested 166 buildings and mitigated 26 of them for vapor intrusion impacts. If we very conservatively assume that NYSDEC did not reach out to any other properties during their time as lead agency for the site from 2007 to 2022 (which is not actually the case), then this leaves approximately 700 structures that may or may not have ever been contacted by NYSDEC or EPA at the time that the site listed on the National Priorities list in March 2022.

EPA has been working with the City of New York to compile mailing addresses for these remaining properties and has sent informational postcards and/or letters to more than 500 properties since March 2022. EPA has also tried several additional ways to obtain voluntary access to these properties, including going door-to-door on multiple occasions, making phone calls, participating in public meetings, tabling at a local farmer's market and library, and speaking with local sources of news and information. We have also reached out via social media. Several members of the community have assisted with these efforts, which EPA greatly appreciates.

EPA estimates that we have communicated in some direct way (i.e., through mailings, door-to-door, meetings, calls, in-person) with occupants and/or owners of approximately 700 individual properties in or near the preliminary study area since the site was listed in 2022. Unfortunately, we have gained access to only 40 individual units in 35 structures through these efforts to date, plus all 11 buildings of Cooper Park Houses and P.S. 110. That said, the vast majority of properties that we have not yet gained access to have not denied access – they have simply not granted it yet. The number of outright denials, which might be counted as people explicitly saying or writing they would not provide access, as well as people that have hung up the phone on us, is relatively small; only approximately 25 individuals have fallen into the outright denial category thus far.

Comment 4: The CAG submitted several comments regarding the Remedial Action Levels (RALs) included in this decision document. In particular, the CAG asked that different (lower) RALs be considered for use at the site.

EPA Response 4: The individual comments regarding RALs submitted by the CAG are summarized and responded to below. In general, EPA wants to clarify that the RALs are only one line of evidence that are being used in determining if mitigation is needed at any individual property. As is stated in the ROD, the RALs represent current EPA Vapor Intrusion Screening Levels (VISLs) set at a target Hazard Quotient (HQ) of 1, which falls midway between EPA's cancer risk range of 1×10^{-6} to 1×10^{-4} . They are developed using health-protective assumptions and toxicity information for each individual chemical that is intended to be protective of all individuals, including sensitive subgroups such as pregnant women, children and the elderly, so that they may be exposed without adverse effects over a lifetime or part of a lifetime, incorporating an adequate margin of safety. The VISLs, and thus the RALs, are only screening values. They will be considered with other Site-specific lines of evidence such as subsurface geology and hydrogeology, subsurface contamination levels, the structural characteristics of each building, and proximity to other impacted structures in determining whether there is a need for remedial action. The need for remedial action will also be determined in consultation with NYSDEC and the NYSDOH, including consideration of NYSDOH's *Guidance for Evaluating Soil Vapor Intrusion in the State of New York*.

The RALs will not be used as a discrete line to determine if mitigation is needed or not; rather, each individual property will be evaluated on a case-by-case basis to determine if mitigation is warranted based on current and reasonably anticipated future use. EPA will err on the side of protectiveness when making these determinations and the determination to mitigate at any individual property could be made even if there are no RAL exceedances if the other lines of evidence, such as those described in the previous paragraph, suggest it would be appropriate, in consultation with NYSDEC, NYSDOH and EPA's risk assessor.

Comment 5: The CAG asks that applicable or relevant and appropriate requirements (ARARs) be taken into consideration when establishing RALs for the site. They note that Section 121(d) of

the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) requires that on-site remedial actions attain or waive federal environmental ARARs, or more stringent state environmental ARARs, upon completion of the remedial action, and point out that NYSDEC's action levels are more stringent than EPA's RALs. The CAG also makes the point that Region 9 uses lower values than Region 2 for RALs.

EPA Response 5: In October 2006, NYSDOH published "Guidance for Evaluating Soil Vapor Intrusion in the State of New York"

(https://www.health.ny.gov/environmental/indoors/vapor_intrusion/docs/2006_guidance.pdf). The preface to this document, which has been updated over the years, most recently in February 2024, states that it has been prepared by NYSDOH in consultation with NYSDEC and that is intended as "general guidance for parties evaluating soil vapor intrusion in the State of New York." The guidance goes on to state directly that it is not "a regulation, rule or requirement." As such, this document would not be considered an ARAR for the site. Further, EPA Region 9 guidelines would not be considered ARARs for EPA Region 2. However, the guidance documents referred to in the comment are to be considered (TBC) in the Superfund remedy selection process. As such, EPA will consider these values in remedial decision making along with the multiple lines of evidence discussed above.

Comment 6: The CAG stated that the residential RAL for TCE should be set to 2 ug/m³ or below based on EPA Region 9 recommendations found in this document:

<https://archive.epa.gov/region9/superfund/web/pdf/r9-tce-interim-action-levels-response-recs-memo-2014.pdf> and the NYSDOH recommendation that "TCE concentrations in the air not exceed 2 ug/m³.

EPA Response 6: The EPA Region 9 memo that is referenced by the CAG is an archived document from 2014 and does not include the most up to date methodology/exposure parameters for calculating VISLs, which are typically updated twice a year by EPA. Current VISLs can be found here: <https://www.epa.gov/vaporintrusion/vapor-intrusion-screening-level-calculator>

Region 2's current residential VISL for TCE is 2.1 ug/m³, which is only slightly higher than the Region 9 number and the NYSDOH numbers referenced by the CAG, and is consistent with EPA's current Vapor Intrusion guidelines. Further, as is explained in EPA's response to Comment 4, above, the decision of whether to mitigate any particular property will be made based on multiple lines of evidence and in consultation with NYSDEC, NYSDOH and EPA's risk assessor.

Comment 7: The CAG thinks the commercial/industrial RAL should be more stringent for both TCE and PCE. The commercial/industrial RALs in the Proposed Plan are based on an 8-hour workday. Instead, they recommend that a 10-hour workday be assumed, particularly because of the number of people who both live and work in the neighborhood, and the frequency with which

people work greater than 8-hour workdays. In addition, the CAG notes that assuming a 10-hour workday would bring the RAL for TCE closer to the Region 9 recommendation referenced in Comment 6, above.

EPA Response 7: EPA’s commercial RALs are based on a typical workday and are considered protective for most workers including sensitive subpopulations, such as pregnant women and the elderly. Response #20 discusses in more detail the conservative exposure parameters used to calculate commercial/industrial RALs. As stated in the proposed plan and ROD, the commercial/industrial RALs assume an eight-hour workday, which is protective of most non-residential settings and can be adjusted as needed to account for property-specific conditions. If the Region were to become aware of a situation where 10 or 12-hour workdays were the norm, the RAL could be adjusted to account for that. A RAL for a 10-hr workday would be 7.0 ug/m³ for TCE and 140 ug/m³ for PCE. Assuming a 12-hr workday, the RALs would be 5.8 ug/m³ and 120 ug/m³ for TCE and PCE, respectively. The indoor air RALs for both TCE and PCE based on an 8hr, 10hr and 12hr days are displayed in the table below. The Region understands and agrees that many workers spend more than 8 hours a day at their place of business and, in addition, that many people both live and work in the neighborhood, often in the same space (i.e., they work from home), in which case a residential RAL might be more appropriate. Property-specific determinations will be made on a property-specific basis based on multiple lines of evidence. As is stated in the ROD, “whether to apply the residential RAL or Commercial/Industrial RAL will also be determined on a case-by-case basis, in consultation with NYSDEC and NYSDOH. In general, EPA understands that many properties that are zoned for non-residential use may be used, either regularly or from time-to-time, in what would be more consistent with residential exposure assumptions. The residential RALs may be used at any property, residential or non-residential, if there is reason to believe the commercial/industrial RALs are not sufficiently conservative, either under current or reasonably anticipated future use scenarios.” These decisions will also be made in consultation with EPA’s risk assessor.

Contaminant of Concern	Commercial/Industrial Remedial Action Level, Indoor Air (ug/m ³)		
	8hr	10hr	12hr
TCE	8.8	7	5.8
PCE	180	140	120

Comment 8: The CAG thinks the residential RAL should be more stringent for PCE and notes that it seems to correspond not to a one-in-a-million cancer risk, but instead are pegged to non-cancer risk. The CAG expressed that the community deserves to be granted the utmost protection and they are concerned that the EPA allows a cancer risk range of 1x10⁻⁴ and 1x10⁻⁶, but the

RALs do not correspond to the most stringent standard. The CAG requests that the RAL for PCE be set to the NYSDOH value of 30 ug/m³ or less.

EPA Response 8: EPA's current residential VISL based on a 10⁻⁶ cancer risk for PCE is 42 ug/m³, which is consistent with EPA's current Vapor Intrusion guidelines and based on the most up-to-date methodology/exposure parameters for calculating VISLs. As stated in the *Role of the Baseline Risk Assessment in Superfund Remedy Selection* (<https://www.epa.gov/sites/default/files/2015-11/documents/baseline.pdf>):

"Generally, where the baseline risk assessment indicates that a cumulative site risk to an individual using reasonable maximum exposure assumptions for either current or future land use exceeds the 10⁻⁴ lifetime excess cancer risk end of the risk range, action under CERCLA is generally warranted at the site. For sites where the cumulative site risk to an individual based on reasonable maximum exposure for both current and future land use is less than 10⁻⁴, action generally is not warranted, but may be warranted if a chemical specific standard that defines acceptable risk is violated or unless there are noncarcinogenic effects or an adverse environmental impact that warrants action. A risk manager may also decide that a lower level of risk to human health is unacceptable and that remedial action is warranted where, for example, there are uncertainties in the risk assessment results. Records of Decision for remedial actions taken at sites posing risks within the 10⁻⁴ to 10⁻⁶ risk range must explain why remedial action is warranted."

The noncancer hazard falls within the risk range established in the National Contingency Plan (NCP) for taking action. As such, it serves as a useful benchmark for determining an action is necessary; however, as is explained in EPA's response to Comment 4, above, the decision of whether to mitigate any particular property will be made based on multiple lines of evidence and in consultation with NYSDEC, NYSDOH and EPA's team, including the risk assessor.

Comment 9: At the May 30, 2024, presentation by the EPA, results of some of the well sampling were presented. A select list of contaminants found in the groundwater was presented, many of which are known to be harmful to human health. While the CAG applauds the investigation of PCE and TCE in the area, given the profusion of other harmful contaminants, the CAG is concerned that other contaminants that may negatively affect our public health are not being properly considered. When the EPA does indoor air sampling, does it test for other contaminants? If so, which ones? If levels of these contaminants are found at harmful concentrations, what is done? The CAG requests that the EPA take full advantage any time they have access to a property and ensure the inhabitants are protected not just from PCE and TCE, but also from other potentially harmful compounds, especially those that have been found to be present in the groundwater sampling.

EPA Response 9: When EPA conducts vapor intrusion sampling in residential and non-residential buildings, EPA analyzes the samples collected for multiple volatile organic compounds (VOCs). The contaminant list can vary depending on which laboratory is selected to conduct the analysis. However, there are typically 50 to 55 VOCs that are analyzed for during each event. All of these compounds are evaluated to see if they are related to the Site and compared to EPA's vapor intrusion screening levels in the same fashion as TCE and PCE.

The full list of contaminants is available at the following link:
<https://www3.epa.gov/ttn/amtic/files/ambient/airtox/to-15r.pdf>.

EPA understands the community would like EPA to evaluate contaminants other than TCE and PCE, but it is important to note this is an interim remedial decision based on the information currently available for the site, which shows TCE and PCE as the primary contaminants in groundwater contributing to vapor intrusion risk. As is stated in the ROD, if additional contaminants of concern are identified during the ongoing OU1 RI/FS that may adversely affect indoor air, EPA's VISLs and NYSDOH guidance will be reviewed and, if warranted, appropriate mitigative actions will be taken.

Comment 10: The CAG thinks it is vital that ARARs be applied for this decision even though they understand they are not required since this is an interim decision. They go on to explain that EPA has stated numerous times that the reason that it is addressing vapor intrusion now is because it is an immediate health risk, but, as of yet, there is no timeline or plan for an underlying cleanup or removal action. As such, it is unknown for how long the community will exist with only this proposed plan to protect its health. Because of all these unknowns and the EPA's own indications that the health risks are immediate, the CAG believes that the standards of ARARs should apply. Additionally, the CAG went on to note that the community has been very supportive of and even pushed for the site to move from a state-level site to the National Priorities List, but are concerned now if this move means less protective health standards than were used under the state cleanup will be applied, stating that this goes against all the reasons that the site was elevated to a national status.

EPA Response 10: The proposed plan is an interim remedial action that is intended to reduce site risks early in the Superfund site remediation process. EPA's preferred alternative includes engineering measures and vapor intrusion mitigation systems that do not treat the subsurface vapor source, but rather serve to prevent contaminated soil vapors from entering and/or accumulating in structures at concentrations that represent a threat, or a potential threat, to human health. Because the remedy for OU2 is considered an interim remedy, identification of ARARs is not required at this time. That said, ARARs and TBCs will be considered in decision making. Regarding the CAG's comment on the health standards, please refer to EPA responses 4 through 8. To summarize, the RALs are just one line of evidence that will be considered in concert with other factors including site-specific, and property-specific, lines of evidence such as subsurface geology and hydrogeology, subsurface contamination levels, the structural characteristics of each building, and proximity to other impacted structures in determining whether there is a need for mitigation. The need mitigation will also be determined in consultation with NYSDEC and the NYSDOH, including consideration of NYSDOH's *Guidance for Evaluating Soil Vapor Intrusion in the State of New York*, and the EPA risk assessor will be consulted on each individual decision.

A timeline for the OU1 RI/FS has not yet been established. However, vapor intrusion and groundwater investigations are currently in progress. Given the scope of the investigation, EPA expects that the OU1 RI/FS process will take a number of years to complete. EPA acknowledges community's frustration with the process, however, EPA's goal is to complete the OU1 RI/FS as thoroughly and quickly as possible on two parallel

tracks, as described in the response to Comment 1. Regarding the CAG's comment on the health standards, please refer to EPA responses 4 through 8. To summarize, the RALs are just one line of evidence that will be considered in concert with other factors including site-specific, and property-specific, lines of evidence such as subsurface geology and hydrogeology, subsurface contamination levels, the structural characteristics of each building, and proximity to other impacted structures in determining whether there is a need for mitigation. The need mitigation will also be determined in consultation with NYSDEC and the NYSDOH, including consideration of NYSDOH's *Guidance for Evaluating Soil Vapor Intrusion in the State of New York*, and the EPA risk assessor will be consulted on each individual decision.

Comment 11: The CAG believes that soil gas vapor testing should be implemented in addition to soil vapor intrusion, since it can be done in the public right of way and would provide some data on how likely a vapor intrusion risk is at a particular property, even if access to that property is denied. This would provide additional information to help the EPA determine whether it is vital to consider using additional measures to gain access to the property for testing. Depending on the underlying properties of soil in different parts of the neighborhood, the well sampling might not be a good proxy for soil gas vapor and potential vapor intrusion. Without a larger data set of results from indoor air testing, The CAG doesn't feel confident that a plan based on such a small sample of properties is the best for the community. For example, soil gas vapor testing could be used at residences where tenants have requested testing, but the property owner has not granted access, should the EPA be unwilling to use its administrative authority to force access.

EPA Response 11: NYSDEC has collected nearly 1,000 soil gas samples and has made that data available to EPA for evaluation, which EPA considers a substantial dataset. EPA is in the process of evaluating this soil gas data and will collect additional samples if needed. Collecting soil vapor samples from outside of buildings does not provide a 1:1 correlation to soil vapor concentrations beneath an adjacent building. As indicated in EPA's *Technical Guide for Assessing and Mitigating the Vapor Intrusion Pathway from Subsurface Vapor Sources to Indoor Air* (<https://www.epa.gov/sites/default/files/2015-09/documents/oswer-vapor-intrusion-technical-guide-final.pdf>), "individual exterior soil gas samples cannot generally be expected to accurately estimate sub-slab or indoor air concentrations." Therefore, EPA's priority thus far has been to conduct sub-slab and indoor air sampling to address any immediate health concerns and groundwater sampling to determine the nature and extent of the groundwater plume.

Comment 12: The CAG requests that the EPA be willing to test apartments on upper floors in elevator buildings and buildings with other vertical conduits. It has been found that elevators can increase the movement of vapors throughout a building. The EPA has stated on numerous occasions that testing every building within the investigation area would be an aspirational goal. Since there is evidence that upper-level apartments in elevator buildings may have greater risk of indoor air issues due to vapor intrusion, the CAG sees no reason why the EPA should turn away willing participants of this type

EPA Response 12: The soil, soil gas, and groundwater at the Site are contaminated with CVOCs. CVOCs are a subset of volatile organic compounds (VOCs), which are substances that typically evaporate at room temperature. They can affect the indoor air of

properties located in close proximity to contaminated areas by entering the indoor air of structures through small cracks, pipes or other points of entry. Based on how soil vapors usually enter a building, indoor air samples collected from the lowest level floor and basement typically exhibit the highest concentrations of vapors. If EPA were to find that the concentration of contaminants on the first floor are unusually elevated, EPA could elect to collect additional samples from higher floors to ensure that these locations are not presenting an unacceptable risk to those living on those floors. EPA is aware that in some situations that elevators and elevator shafts can provide preferential pathways for vapors and will consider testing of upper floors in buildings with elevators.

Comment 13: The CAG believes the EPA should do vapor intrusion sampling outside of the winter heating season. The EPA should identify test sites where indoor air is sampled during the winter heating season and at other times as well, especially during times of heavy rainfall to assess whether winter heating season testing is indeed the best method for determining risk of vapor intrusion. Seasonal variability of factors such as weather and rainfall can affect vapor intrusion. From a June 2015 document of the EPA's Office of Solid Waste and Emergency Response, "Because fluctuations in water table elevation can lead to elevated vapor concentrations in the vadose zone, EPA also recommends that "near source" soil gas sampling (and possibly a soil gas survey) be considered in different seasons that coincide with groundwater fluctuations."

EPA Response 13: Indoor air samples are typically collected during the winter heating season because soil vapor intrusion is more likely to occur when a building's heating system is in operation, doors and windows are closed and buildings are generally less ventilated. When buildings are closed up and heated, a difference in temperature between the inside and outdoor air induces a stack effect, pulling warm air from lower to higher floors. Vapor intrusion can be enhanced as the air is replaced in the lower parts of the building. In New York State, heating systems are generally expected to be operating routinely from November 15th to March 31st. However, these dates are not absolute. EPA can collect vapor intrusion samples outside of the winter heating season if EPA determines the circumstances warrant testing. However, these samples could not be used to rule out exposure. Samples during the heating season would still be necessary to verify indoor concentrations under a worst-case scenario.

Comment 14: The CAG believes that given that TCE exposure during the first few weeks of pregnancy increases the risk of heart damage to a developing fetus, testing should be done in homes at any season if there is a person of childbearing age living in the home. The risk is greatest between weeks 2 and 8 of pregnancy, which is often before a person may even know that they are pregnant. Thus, to reduce the risk of birth defects, it would make sense to ensure safe living and working conditions for any person who may become pregnant.

EPA Response 14: EPA evaluates each situation on a case-by-case basis and would consider vapor intrusion sampling if the circumstances warrant testing. Additionally, Region 2 has a long-standing process for reviewing vapor intrusion data so that expeditious decisions regarding mitigation can be made, especially in situations where TCE is a contaminate of concern.

Comment 15: The CAG has questions about how long the results of vapor intrusion testing are valid. Given that the condition of the foundation, for example, can change with construction

projects, earthquakes, etc, we are concerned that while initial testing may deem a location “safe,” the status may change in the future. The CAG would like to see a schedule under which properties can be retested or a list of changes that would make a property eligible to be retested. The CAG has seen it suggested that if soil gas vapor tests above a certain threshold, perhaps mitigation should be suggested in locations even if the indoor air tests “safe” in the event of future changes to the building.

EPA Response 15: EPA does not have a schedule under which properties would be retested. Each request that is submitted to EPA for testing is evaluated on a case-by-case basis, including those requests made when a property has already been tested. Situations that may lead EPA to retest a property can include, but are not limited to, the concentrations of compounds detected during a previous sampling event, new vapor intrusion testing data at neighboring and adjacent properties, significant changes to a building’s construction (i.e., significant remodeling) and/or foundation (i.e., new cracks), and changes in EPA’s understanding of groundwater flow direction and/or groundwater contaminant concentrations. Also, keep in mind that EPA’s long-term goal is to address the source and/or sources of contamination to reduce the likelihood of vapor intrusion concerns at the site. As mentioned in EPA Response 10, EPA looks at multiple lines of evidence when determining whether there is a need for mitigation, including subsurface geology and hydrogeology, subsurface contamination levels, the structural characteristics of each building, and proximity to other impacted structures. For example, if EPA finds that contamination levels in the sub-slab significantly exceed the RALs, but first floor contamination levels do not exceed the RALs, then EPA may consider whether mitigation is required.

Comment 16: The CAG is concerned that not all available information is being collected and analyzed. In particular, the EPA should use all data and wells from the National Grid site to determine the extent of the plume given that groundwater analysis presented at the May 30, 2024, CAG meeting showed that contamination exists right up against the current boundary of the plume and the National Grid property. The CAG also believes that there should be better coordination with the Newtown Creek site in order to gain further information about how the two sites affect one another.

EPA Response 16: EPA is actively coordinating with property owners in the area to gain access to sample existing wells and/or to install new wells, including National Grid. EPA anticipates sampling several of the existing wells on their property in the upcoming fall 2024 groundwater sampling effort. This is a dynamic process and as more data is collected, it may become apparent that additional sampling locations should be tested. EPA will continue to keep the CAG informed as more information is developed. EPA’s Meeker Avenue Plume Site project managers work with the EPA’s Newtown Creek project managers to eliminate any duplication of effort, ensure coordination between both teams, and share data across both sites. EPA also regularly meets with and coordinates with NYSDEC and NYSDOH.

A comment letter (via electronic format) was submitted by Brooklyn Community Board No. 1.

Comment 17: Brooklyn Community Board No.1 requested that EPA adhere to the more stringent NYSDEC vapor intrusion chemical contamination thresholds that 1) are lower for TCE and PCE than those used by EPA and 2) require residential and commercial spaces utilize the same RALS instead of using higher levels for commercial spaces.

Their letter also voiced that this project is of the utmost concern, not only due the breadth, severity and complexity of the Meeker Avenue Plume contamination, but because this Superfund site resides solely within the confines of Brooklyn Community District #1, a district that has a long history of exposure to toxic sites. The letter expressed concern with the protectiveness of the RALs that EPA is using and asked that EPA not seek waivers to override the State guidelines. The letter also explained that it is both normal and pervasive for workers in commercial work environments to spend more time (very often more than 10 hours) at their workplace than at their home, and reiterated that it is imperative that residents and workers in the district receive the same level of protection that the state would provide.

EPA Response 17: EPA appreciates the long history of contamination that is present in the neighborhoods represented by Community Board No. 1 and understands the distress this has caused to so many in the area. Very similar concerns regarding the appropriate RALs to use and the need to follow State regulations were also raised by the Meeker Avenue Plume CAG. Please see EPA Responses 4 through 10 above.

A member of the community submitted a comment to EPA via e-mail, which is provided below, along with EPA's response.

Comment 18: The community member is concerned about access to residential properties for vapor intrusion sampling. They think that having to get landlord permission to get their apartment tested makes this testing program useless. As someone with health problems living on the Meeker Superfund site who wanted to get our building tested, they were unable to do so because they couldn't get landlord permission. Their building is an old building with many visible cracks in the facade and ground floor where vapors could easily get through, and there is also a basement unit. The community member feels that in order for this program to work, a court order needs to be put in place immediately requiring testing, because when left with a choice, the overwhelming majority of landlords will not choose to get the space tested. They feel it is completely unrealistic to think that landlords will comply voluntarily. They voiced that delays continue to jeopardize the health of the community who actually lives in the superfund site (the renters).

EPA Response 18: Consent is the preferred method for EPA to obtain property access for various CERCLA activities including vapor intrusion sampling. However, EPA has the ability to use other enforcement options, including administrative or judicial orders or warrants to compel access when consent is not forthcoming or otherwise is denied and access is necessary. As such, while EPA always seeks access for the purposes of sampling or mitigation through consent from property owners, a decision by EPA that access is necessary leading to the use of its access authorities will depend on the facts of

the situation, including the levels of contamination and exposure scenarios. Please also see EPA's response to Comment 2 above.

Part 2: Verbal Comments

EPA received a number of verbal comments from community members during the public meeting held on April 16, 2024. The comments are provided below, along with EPA's responses.

Comment 19: A community member asked EPA to identify and describe briefly the sources of pollution?

EPA Response 19: EPA is still in the process of identifying source areas for the site as part of the ongoing OU1 RI/FS. Prior to the site being added to the Superfund list, NYSDEC had already identified at least six likely source areas and another ten to twenty additional probable source areas. The uses of these properties vary and will be explored further during the RI/FS process, but at least one was used for dry cleaning and another was a drum reconditioner. EPA is investigating all of these areas and others as part of the OU1 RI/FS.

To expand upon information provided at the meeting, the properties already designated by NYSDEC as likely source areas include:

- Former Spic and Span Cleaners and Dyers, Inc. (NYSDEC No. 224129)
- Former Klink Cosmo Cleaners (NYSDEC No. 224130)
- Former Acme Steel / Metal Works (NYSDEC No. 224131)
- Former Acme Steel / Brass Foundry (NYSDEC No. 224132)
- Former Lombardy Street Lacquer and Soap (NYSDEC No. ID No. 224182)
- Former Goodman Bros. Steel Drum Co. Inc (NYSDEC No. 224211)
- 291 Richardson Street Site (NYSDEC No. C224292)

Comment 20: A community member, who also identified as a resident and a member of Evergreen, asked EPA to explain why the RALs are different between residential and commercial properties and whether it has to do with how much time people spend in one place versus the other. They also asked whether the RALs offer the same level of protection and if more TCE or PCE intrusion is allowed in a space that's commercial because people might spend less time there.

EPA Response 20: The primary difference between EPA's residential and commercial RAL calculations is the exposure time per day (residential at 24 hours per day; commercial at 8 hours per day), the number of days exposed per year (residential at 350 days per year; commercial at 250 days per year) and the number of years exposed (residential at 26 years; commercial at 25 years).

To expand upon what was said at the meeting, in order for there to be risk, there needs to be exposure and the longer the exposure, the higher the risk. In general, people spend less time at their job than they do at home. Therefore, just based on the math, somewhat higher concentrations for non-residential properties would result in similar risk levels for

somewhat lower concentrations at residential properties. However, as is noted in EPA Response 7, the determination of the most appropriate RAL to use for any particular property will be determined on a case-by-case basis. The residential RALs may be used at any property, residential or non-residential, if there is reason to believe the commercial/industrial RALs are not sufficiently conservative, either under current or reasonably anticipated future use scenarios, and these decisions will be made in consultation with NYSDEC, NYSDOH and EPA's risk assessor.

Exposure Parameter	Receptor Population			
	Resident		Commercial/Industrial Worker	
	Value	Source/Rationale	Value	Source/Rationale
Exposure Time	24 hours/day	whole day	8 hours/day	typical workday; may be adjusted based on site-specific considerations
Exposure Duration	26 years	EPA, 2011; 90th percentile for current residence time	25 years	EPA, 1991; 95th percentile; Bureau of Labor Statistics, 1990
Exposure Frequency	350 days/year	EPA, 1991; 365 days/year minus 15 days/year spent away from home	250 days/year	EPA, 1991; assumes 5 days/week for 50 weeks/year (assumes 2 weeks of vacation)

Sources:

EPA, 1991. Human health evaluation manual, supplemental guidance: Standard default exposure factors. OSWER Directive 9285.6-03

EPA, 2011. Exposure Factors Handbook: 2011 Edition. EPA/600/R-090/052F, September 2011

Comment 21: A community member asked why the Proposed Plan assumes 100 buildings will require mitigation.

EPA Response 21: In order to develop a cost estimate for the mitigation measures, EPA used best professional judgement to develop a reasonable estimate of how many properties may require mitigation. The estimate was based on the number of properties within the Study Area, as well as the number of properties that have required mitigation thus far. That said, if more properties require mitigation, they will still be addressed. One of the assumptions of Superfund decision documents is that the cost estimates used to support RODs are expected to be accurate within a range of +50 to -30 percent. Further, even if we do end up going outside of this range (i.e., if we need to mitigate more than about 150 properties or fewer than about 70) we can modify the decision document so that we can still complete the work.

RECORD OF DECISION AMENDMENT

FORMER NUHART PLASTIC MANUFACTURING



Brooklyn / Kings County / Registry No. 224136

July 2024

Prepared by the New York State Department of Environmental Conservation
Division of Environmental Remediation

STATEMENT OF PURPOSE AND BASIS

This document presents the amended remedy for the Former NuHart Plastic Manufacturing site, a Class 2 inactive hazardous waste disposal site. The amended remedy was chosen in accordance with the New York State Environmental Conservation Law and Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (6 NYCRR) Part 375 and is consistent with the National Oil and Hazardous Substances Pollution Contingency Plan of March 8, 1990 (40CFR300), as amended.

This decision is based on the Administrative Record of the New York State Department of Environmental Conservation (NYSDEC) for the Former NuHart Plastic Manufacturing site and the public's input to the proposed remedy presented by NYSDEC. A Responsiveness Summary including all comments received from the public is included as Appendix A of the Record of Decision (ROD) Amendment. A listing of the documents included as a part of the Administrative Record is included in Appendix B of the ROD Amendment.

New York State Department of Health Acceptance

The New York State Department of Health (NYSDOH) concurs that the remedy for this site is protective of human health.

Declaration

The amended remedy is protective of human health and the environment, complies with State and Federal requirements that are legally applicable or relevant and appropriate to the remedial action to the extent practicable, and is cost effective. This amended remedy utilizes permanent solutions and alternative treatment or resource recovery technologies, to the maximum extent practicable, and satisfies the preference for remedies that reduce toxicity, mobility, or volume as a principal element.

July 8, 2024

Date

Andrew O. Guglielmi, Director
Division of Environmental Remediation

SECTION 1: PURPOSE AND SUMMARY OF THE RECORD OF DECISION AMENDMENT

The New York State Department of Environmental Conservation (NYSDEC), in consultation with the New York State Department of Health (NYSDOH), is issuing an amendment to the Record of Decision (ROD) for the above referenced site. The disposal of hazardous wastes at this site, as more fully described in the original ROD document and Section 6 of this document, has caused the contamination of various environmental media. The amendment is intended to attain the remedial action objectives identified for this site for the protection of public health and the environment. This amendment identifies the new information which has led to this amendment and discusses the reasons for the preferred remedy.

NYSDEC has issued this document in accordance with the requirements of New York State Environmental Conservation Law and Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (6 NYCRR) Part 375 Environmental Remediation Programs. This document is a summary of the information that can be found in the site-related reports and documents in the document repository identified below.

On March 27, 2019, the NYSDEC issued a Record of Decision (ROD) which selected a remedy for the Former NuHart Plastics Manufacturing Site. A minor modification of the ROD was issued on November 28, 2022, the details of which are noted in Section 7.1 below.

The ROD required excavation and off-site disposal of all “grossly contaminated soil” as that term is defined in 6NYCRR Part 375-1.2(u), specifically: “...soil, sediment, surface water or groundwater which contains sources or substantial quantities of mobile contamination in the form of NAPL...”

The amendment will add a new ROD Element 2A, In-Situ Solidification for certain soils containing bis(2-ethylhexyl)phthalate at concentrations exceeding 10,000 parts per million (ppm) as established in DER-10 Section 2.1(f). This is the concentration at which non-aqueous phase liquid (NAPL) would be expected to be present. The amendment will also modify ROD Element 2, Excavation, Sub-Bullet 1 as follows: “Grossly contaminated soil as defined in 6NYCRR Part 375-1.2(u) to the extent feasible.”

New ROD Element 2A would read as follows: “Soils containing bis(2-ethylhexyl)phthalate in the form of NAPL that cannot be feasibly excavated will be treated via In Situ Solidification (ISS) up to a maximum depth of 25 feet below grade surface.”

SECTION 2: CITIZEN PARTICIPATION

NYSDEC seeks input from the community on this ROD Amendment. A public comment period was held, during which the public was encouraged to submit comment on the remedy. All comments on the remedy received during the comment period were considered by NYSDEC in selecting a remedy for the site. Site-related reports and documents were made available for review by the public at the following document repositories:

DECinfo Locator: Project documents may be accessed electronically at
<https://extapps.dec.ny.gov/data/DecDocs/224136>

Brooklyn Public Library – Greenpoint Branch

107 Norman Avenue
Brooklyn, NY 11222
(718) 389-4394

Brooklyn Public Library – Williamsburg Branch

240 Division Avenue
Brooklyn, NY 11211
(718) 486-6006

Brooklyn Community Board 1

435 Graham Avenue
Brooklyn, NY 11211
(718) 389-0009
Bk01@cb.nyc.gov

A public meeting was also conducted. At the meeting, the findings of the remedial investigation (RI) and the feasibility study (FS) were presented along with a summary of the remedy. After the presentation, a question-and-answer period was held, during which verbal or written comments were accepted on the remedy.

Comments on the remedy received during the comment period are summarized and addressed in the Responsiveness Summary (Appendix A of the AROD).

Receive Site Citizen Participation Information By Email

Please note that NYSDEC's Division of Environmental Remediation (DER) is "going paperless" relative to citizen participation information. The ultimate goal is to distribute citizen participation information about contaminated sites electronically by way of county email listservs. Information will be distributed for all sites that are being investigated and cleaned up in a particular county under the State Superfund Program, Environmental Restoration Program, Brownfield Cleanup Program, Voluntary Cleanup Program, and Resource Conservation and Recovery Act Program. We encourage the public to sign up for one or more county listservs at <http://www.dec.ny.gov/chemical/61092.html>.

SECTION 3: SITE DESCRIPTION AND HISTORY

Location:

The site is located at 65 Dupont Street in the Greenpoint section of Brooklyn, Kings County, NY. The 1.18-acre site is identified on the tax map as Block 2487, portion of Lot 17. The site is bordered immediately to the north by Clay Street followed by commercial/industrial buildings, to the east by the Brownfield Cleanup Program (BCP) Site Former NuHart East (ID: C224287), to the south by Dupont Street followed by multi-family residential structures, and to the west by Franklin Street followed by a New York City playground.

Site Features:

The dimensions of the site are approximately 200 feet by 245 feet. The site is currently under construction.

Current Zoning and Land Use:

The site is zoned M1-2/R6, which designates the site as manufacturing with a residential overlay. The site is currently being redeveloped for residential use. Future use of the site is consistent with current zoning.

Past Use of the Site:

The site has been in use for various manufacturing and commercial purposes since 1887. It has been used for manufacturing, as an office, for storage, and for shipping and receiving. Prior to the late 1940s, the site and the surrounding lots were used as a boiler shop for Logan Ironworks, two stables, a gas and light fixture factory, a sheet metal works, a soap factory, a waterproofing factory, and a scrap metal facility. The subject property was developed for plastic manufacturing purposes in the late 1940s to early 1950s and has remained relatively unchanged since that time. From 1983 to 2004, NuHart and Company made vinyl siding and sheeting at the site. After 2004, NuHart vacated the on-site buildings.

A total of 12 underground storage tanks (USTs) were located at the site prior to demolition of the on-site buildings. According to records, these tanks were emptied and closed. There were also two large aboveground silos on site. The Petroleum Bulk Storage (PBS) facility number is 2-608875, and the Chemical Bulk Storage (CBS) facility number is 2-000444 both of which are closed. Liquid plasticizers stored included bis(2-ethylhexyl)phthalate, bis(2-ethylhexyl)adipate, and palatinol 711P phthalate.

Operable Units:

The site was divided into two operable units. An operable unit represents a portion of a remedial program for a site that for technical or administrative reasons can be addressed separately to investigate, eliminate or mitigate a release, threat of release or exposure pathway resulting from the site contamination.

Operable unit 1 (OU1) is the on-site source area and associated contamination. OU2 consists of the off-site groundwater and soil vapor contamination associated with the site.

Site Geology and Hydrogeology:

Soil at the site consists of a layer of urban fill extending from the surface to about 8 feet below the original onsite slab, underlain by sand, silty sand and/or sandy silt. Groundwater is encountered at a depth of approximately 10 to 15 feet below grade surface and flows generally westerly to northwesterly towards the East River.

SECTION 4: LAND USE AND PHYSICAL SETTING

NYSDEC may consider the current, intended, and reasonably anticipated future land use of the site and its surroundings when evaluating a remedy for soil remediation. The Former NuHart Plastics Manufacturing site is currently zoned M1-2/R6 for manufacturing and residential use and is located in an area of mixed- use manufacturing, commercial and residential.

SECTION 5: ENFORCEMENT STATUS

Potentially Responsible Parties (PRPs) are those who may be legally liable for contamination at a site. This may include past or present owners and operators, waste generators, and haulers.

NYSDEC and 49 Dupont Realty Corp. entered into a Consent Order on January 18, 2011. The Order was amended on February 7, 2014 to add a new owner (Dupont Street Developers LLC). NYSDEC and the current owner (Dupont Street Owner LLC) entered into a new Consent Order on November 30, 2022. The Consent Order obligates the responsible parties to implement a full remedial program.

SECTION 6: SITE CONTAMINATION

6.1: Summary of Environmental Assessment

Nature and Extent of Contamination:

Soil and groundwater samples from both on-site and off-site were analyzed for volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs), PCBs, pesticides and metals. Based upon previous investigations, the primary contaminants of concern for both OU1 and OU2 include phthalates (specifically bis(2-ethylhexyl) phthalate and di-n-octyl phthalate) and VOCs (specifically trichloroethylene and its decomposition products). The following describes the nature and extent of contamination at the site prior to remediation.

Soil: VOCs in soil were found both on and off-site at levels above unrestricted use soil cleanup objectives (UUSCOs) in a limited area in the northeast portion of the site and extending off-site beneath the sidewalk on the south side of Clay Street. The highest soil contamination concentration of trichloroethylene (TCE) was reported at 14 ppm compared to the UUSCO of 0.47 ppm. Other VOCs detected above the UUSCOs include: cis-1,2-dichloroethene (DCE) with maximum concentration of 2.4 ppm (UUSCO is 0.25 ppm). SVOCs in soil were identified both onsite and off-site above UUSCOs, including bis(2-ethylhexyl) phthalate (DEHP) at a concentration of 59,200 ppm (UUSCO is 50 ppm) and di-n-octyl phthalate (DOP) at a concentration of 3,010 ppm (UUSCO is 100 ppm). The following site-specific chemicals were identified in soil exceeding the restricted residential SCOs: bis(2-ethylhexyl) phthalate, di-n-octyl phthalate, cis-1,2-dichloroethene, and TCE.

Groundwater: Phthalates were present as an LNAPL plume floating on the groundwater surface beneath most of the site and extending off-site to the west and southwest. Dissolved-phase phthalates were detected above NYSDEC groundwater standards in several wells generally located on the periphery of the LNAPL plume. The maximum concentration of DEHP was reported at 1,750 parts per billion (ppb; compared to the groundwater standard of 5 ppb) and DOP at 87.1 ppb (compared to the groundwater standard of 50 ppb). Dissolved phase TCE and its associated breakdown product DCE were found in the northeast portion of the site and extend off-site to the northwest at concentrations exceeding the groundwater standards of 5 ppb. The maximum concentrations of TCE was reported at 33,000 ppb, and DCE at 2,700 ppb.

Soil Vapor: VOCs were detected in on-site sub-slab soil vapor beneath the northeastern portion of the site building with the greatest impacts coinciding with the chlorinated VOC-impacted groundwater in this area. On-site sub-slab vapor contaminant concentrations were detected up to a maximum of 43,000 micrograms per cubic meter (ug/m3) for TCE, 2,500 ug/m3 for PCE, and 3,700 ug/m3 for DCE.

6.2: Interim Remedial Measures

An IRM is conducted at a site when a source of contamination or exposure pathway can be effectively addressed before issuance of the Record of Decision.

An IRM consisting of LNAPL recovery at the site was initiated under the spill program in November 2006. The IRM consisted of the removal of LNAPL from recovery wells via manual bailing and automated product-seeking equipment. An Operation, Maintenance and Monitoring (OM&M) Plan for the IRM was prepared to describe the implementation, management, and performance evaluation activities under the IRM. IRM activities concluded in February 2022 as part of Resource Conservation and Recovery Act (RCRA) closure activities. Approximately 4,600 gallons of product were recovered and disposed of

offsite.

6.3: Summary of Human Exposure Pathways

Access is restricted by a fence and the site is vacant. People who enter may come into contact with contaminants in soil by walking on the site, digging or otherwise disturbing the soil. Contaminated groundwater at the site is not used for drinking or other purposes and the site is served by a public water supply that obtains water from a different source not affected by this contamination. Volatile organic compounds in soil vapor (air spaces within the soil) may move into buildings and affect the indoor air quality. This process, which is similar to the movement of radon gas from the subsurface into the indoor air of buildings, is referred to as soil vapor intrusion. As the site is vacant, soil vapor intrusion is not a current concern, however the potential exists for soil vapor intrusion in future buildings on-site. Environmental sampling indicates soil vapor intrusion from site contamination is not a concern for off-site buildings.

SECTION 7: SUMMARY OF ORIGINAL REMEDY AND AMENDMENT

7.1 Original Remedy

The elements of the 2019 ROD, as modified in 2022, include:

1. Remedial Design

A remedial design program will be implemented to provide the details necessary for the construction, operation, optimization, maintenance, and monitoring of the remedial program. Green remediation principles and techniques will be implemented to the extent feasible in the design, implementation, and site management of the remedy as per DER-31. The major green remediation components are as follows:

- Considering the environmental impacts of treatment technologies and remedy stewardship over the long term;
- Reducing direct and indirect greenhouse gases and other emissions;
- Increasing energy efficiency and minimizing use of non-renewable energy;
- Conserving and efficiently managing resources and materials;
- Reducing waste, increasing recycling and increasing reuse of materials which would otherwise be considered a waste;
- Maximizing habitat value and creating habitat when possible;
- Fostering green and healthy communities and working landscapes which balance ecological, economic and social goals; and
- Integrating the remedy with the end use where possible and encouraging green and sustainable redevelopment.

2. Excavation (OU1)

The existing on-site building(s) will be demolished and materials which can't be beneficially reused on site will be taken off-site for property disposal in order to implement the remedy. Excavation and off-site disposal of contaminant source areas, including:

- Grossly contaminated soil as defined in 6NYCRR Part 375-1.2(u);
- Concentrated soil or semi-solid hazardous substance per 6 NYCRR Part 375-1.2(au);

- Non-aqueous phase liquids;
- Soil with visual waste material or non-aqueous phase liquid;
- Soil which exceeds the protection of groundwater soil cleanup objectives (PGWSCOs), as defined by 6 NYCRR Part 375-6.8 for those contaminants found in the site groundwater above standards;
- Soil that creates a nuisance condition, as defined in Commissioner Policy CP-51 section G;
- Grossly contaminated soil that may be present in proximity to the Underground Storage Tanks (USTs) and piping trench systems formerly used to store and convey phthalates and lubricating oil during the former plastic manufacturing process;
- VOC-impacted soil that are above the water table in the northeastern corner of the site; and
- Excavation and removal of any underground storage tanks (USTs), fuel dispensers, underground piping or other structures associated with a source of contamination.

Approximately 22,500 cubic yards of soil will be excavated in total. An estimated 6,600 cubic yards is expected to be disposed off-site as hazardous waste, and the remaining material is anticipated to be non-hazardous historic fill and un-impacted native soil.

3. Backfill (OU-1)

Clean fill meeting the requirements of 6 NYCRR Part 375-6.7(d) will be brought in to replace the excavated soil and/or to complete backfilling of the excavation and establish the designed grades at the site.

4. LNAPL Physical Barriers (OU-1 and OU-2)

Installation of two physical barriers to support the on-site excavation and prevent further off-site LNAPL migration.

- Shoring will be installed as a physical barrier around the entire perimeter of the on-site excavation area down to about 30 feet below grade;
- Installation of a physical barrier to prevent LNAPL migration onto the off-site property located to the southwest of the site.

5. Cover System (OU-1)

A site cover will be required to allow for restricted residential use of the site in areas where the upper two feet of exposed surface soil will exceed the applicable soil cleanup objectives (SCOs). Where a soil cover is to be used it will be a minimum of two feet of soil placed over a demarcation layer, with the upper six inches of soil of sufficient quality to maintain a vegetative layer. Soil cover material, including any fill material brought to the site, will meet the SCOs for cover material for the use of the site as set forth in 6 NYCRR Part 375-6.7(d). Substitution of other materials and components may be allowed where such components already exist or are a component of the tangible property to be placed as part of site redevelopment. Such components may include, but are not necessarily limited to: pavement, concrete, paved surface parking areas, sidewalks, building foundations and building slabs.

6. LNAPL Recovery (OU-2)

Installation and operation of a network of recovery wells and/or trenches located off-site to recover mobile LNAPL from the subsurface. The number, depth, type and spacing of the recovery wells and/or trenches will be determined during the design phase of the remedy. LNAPL will be collected periodically from each well; however, if wells are determined by the Department to accumulate large quantities of LNAPL over extended time periods, they can be converted to automated collection. Enhancement of the recovery

via surfactant injection to increase the mobility of the LNAPL may also be considered. A monitoring program will be implemented for groundwater and LNAPL to monitor the effectiveness of the LNAPL recovery effort.

7. Air Sparging/ Soil Vapor Extraction (OU-1 and OU-2)

Air sparging will be implemented to address the groundwater plume contaminated by volatile organic compounds (VOCs) identified in the northeast portion of the site and in the downgradient vicinity of the site. VOCs will be physically removed from the groundwater and soil below the water table (saturated soil) by injecting air into the subsurface. The injected air rising through the groundwater will volatilize and transfer the VOCs from the groundwater and/or soil into the injected air. The VOCs are carried with the injected air into the vadose zone (the area below the ground surface but above the water table) where a soil vapor extraction (SVE) system, designed to remove the injected air, will be installed. The SVE system will apply a vacuum to wells that have been installed into the vadose zone to remove the volatile organic compounds (VOCs) along with the air introduced by the sparging process. The air extracted from the SVE wells will be treated as necessary prior to being discharged to the atmosphere.

The number, depth, type and spacing of the AS/SVE wells will be determined during the design phase of the remedy.

[Note: During the Remedial Design phase, the Remedial Party's consultant determined that AS/SVE was infeasible due to the presence of clay and silt lenses beneath the site, and the In-Situ Chemical Reduction utilizing zero-valent iron (ZVI) to treat chlorinated VOCs (CVOCs) in groundwater was substituted for AS/SVE as documented in the 2022 minor ROD modification.]

8. Vapor Mitigation (OU-1 and OU-2)

Any on-site and off-site buildings impacted by the contaminants migrating from the site will be required to have a sub-slab depressurization system, or other acceptable measure, to mitigate the migration of vapors into the building from soil or groundwater. The sub-slab depressurization system will be installed in the on-site buildings to be constructed at the site. An evaluation will be conducted, as discussed in paragraph 11 below, to determine whether sub-slab depressurization systems are necessary in off-site properties north of Clay Street pending site access from the owner(s).

[Note: During the Remedial Design phase, the foundation design of the proposed buildings was modified such that the entire foundation will be below the water table. Therefore, NYSDEC and NYSDOH concurred that active vapor mitigation for the on-site (OU-1) building was not required, as documented in the 2022 minor ROD modification.]

9. Treatment Remedy Shutdown

The operation of the components of the remedy would continue until the remedial objectives have been achieved, or until the Department determines that continued operation is technically impracticable or not feasible.

10. Institutional Controls (OU-1)

Imposition of an institutional control in the form of an environmental easement for the controlled property that will:

- require the remedial party or site owner to complete and submit to the Department a periodic certification of institutional and engineering controls in accordance with Part 375-1.8 (h)(3);

- allow the use and development of the controlled property for restricted residential, commercial or industrial use as defined by Part 375-1.8(g), although land use is subject to local zoning laws;
- restrict the use of groundwater as a source of potable or process water, without necessary water quality treatment as determined by the NYCDOHMH; and
- require compliance with the Department-approved Site Management Plan.

11. Site Management Plan (OU-1 and OU-2)

A Site Management Plan is required, which includes the following:

- a. an Institutional and Engineering Control Plan that identifies all use restrictions and engineering controls for the site and details the steps and media-specific requirements necessary to ensure the following institutional and/or engineering controls remain in place and effective:
 - Institutional Controls: The Environmental Easement discussed in paragraph 10 above.
 - Engineering Controls: The migration barriers, site cover, LNAPL recovery, AS/SVE, and vapor mitigation systems discussed in paragraphs 4 through 8 above.

This plan includes, but may not be limited to:

- an Excavation Plan which details the provisions for management of future excavations in areas of remaining contamination;
 - descriptions of the provisions of the environmental easement including any land use, and groundwater use restrictions;
 - a provision for evaluation of the potential for soil vapor intrusion for buildings in off-site areas of contamination, including provision for implementing actions recommended to address exposures related to soil vapor intrusion;
 - a provision that should a building foundation or building slab be removed in the future, a cover system consistent with that described in paragraph 8 above will be placed in any area where the upper two feet of exposed surface soil exceed the applicable soil cleanup objectives (SCOs);
 - provisions for the management and inspection of the identified engineering controls;
 - maintaining site access controls and Department notification; and
 - the steps necessary for the periodic reviews and certification of the institutional and/or engineering controls.
- b. a Monitoring Plan to assess the performance and effectiveness of the remedy. The plan includes, but may not be limited to:
 - monitoring of LNAPL, groundwater and soil vapor to assess the performance and effectiveness of the remedy;
 - a schedule of monitoring and frequency of submittals to the Department; and
 - monitoring for vapor intrusion for any buildings on the site, as may be required by the Institutional and Engineering Control Plan discussed above.
 - c. an Operation and Maintenance (O&M) Plan to ensure continued operation, maintenance, optimization, monitoring, inspection, and reporting of any mechanical or physical components of the remedy. The plan includes, but is not limited to:
 - procedures for operating and maintaining the remedy;
 - compliance monitoring of treatment systems to ensure proper O&M as well as providing the data for any necessary permit or permit equivalent reporting;
 - maintaining site access controls and Department notification; and
 - providing the Department access to the site and O&M records.

7.2 Elements of the Remedy Already Performed

To date, the following remedial activities have been performed:

Eastern half of OU-1

- Excavation to a maximum depth of 19 feet below grade surface (bgs); approximately 17,500 tons of material have been excavated and removed.
- Twenty-seven endpoint samples were collected to document the effectiveness of the remedy.
- ZVI was mixed in remaining soils at the northeastern portion of the site to treat saturated soil and groundwater contaminated with CVOCs.
- End point soil sample results identified a maximum concentration of bis(2-ethylhexyl)phthalate of 7,700 ppm in remaining soil. The pre-remedial maximum concentration of bis(2-ethylhexyl)phthalate in the eastern portion was 59,000 ppm. The remaining soil concentrations did not exceed 10,000 ppm per DER-10 Section 2.1(f). NYSDEC therefore concurred that the remedial action objective for source removal had been achieved and excavation was complete.

Western half of OU-1

- Excavation to depths ranging from 18.5 to 21 feet bgs; approximately 21,000 tons of material have been excavated and removed.
- Field confirmation of the absence of visual NAPL through shaker tests.
- Twenty-eight endpoint samples were collected to document remaining contamination in on-site soils.

OU-2

- Installation of a drilled cut-off wall around the downgradient property located southwest of the site.
- Continued monthly gauging of off-site monitoring wells.
- Recovery wells have been installed along the downgradient offsite portion of the site along Franklin Street and Clay Street and an LNAPL recovery pilot test was completed between October 2023 and January 2024
- ZVI injections began in February 2024 in the northeast portion of OU-2 along Clay Street.

7.3 New Information

On January 3, 2024 the owner's consultant submitted the "Completion of OU-1 Western Excavation Remedial Element" letter to NYSDEC. This letter documented remaining concentrations of bis(2-ethylhexyl)phthalate at up to 26,000 ppm, which exceeds the 10,000 ppm NAPL concentration. The location of endpoint samples with exceedances were located along the western and southern perimeter. NYSDEC requested vertical delineation of contamination along the western and southern perimeter to better understand extent of remaining contamination. Vertical delineation of contamination confirmed the bulk of remaining contamination extends approximately 4 feet below base of excavation at a maximum depth of 25 feet bgs. This was documented in the February 5, 2024 "Proposed Amendment to the Record of Decision" letter submitted by the owner's consultant.

Further excavation to remove the remaining contaminated soil is deemed infeasible due to:

- The existing support of excavation (sheet pile cutoff wall, Remedy Element 4 of the original ROD) was installed to 34 feet bgs and is designed for a maximum excavation depth of 19 feet bgs. Any deeper excavation would undermine the SOE and could cause failure of the sheet pile wall.
- Structural stability of the negative pressure enclosure (tent) would be compromised.
- Deeper excavation would require further dewatering, which would require redesign and re-permitting of the existing dewatering system.
- Further dewatering needed to accomplish additional excavation may induce off-site drawdown, raising settling issues for on-site foundations and neighboring buildings.

7.4 Summary of Changes to the Original Remedy

A summary of the changes to the original ROD as outlined in this document are shown in the following Table:

SUMMARY OF REMEDY CHANGES
Former NuHart Plastics Manufacturing Site (No. 224136) Record of Decision Amendment

Media:	2019 ROD	Amended ROD
Soil	<p>Excavation and off-site disposal of contaminant source areas, including:</p> <p>(1) Grossly contaminated soil as defined in 6NYCRR Part 375-1.2(u);</p> <p>(2) Concentrated soil or semi-solid hazardous substance per 6 NYCRR Part 375-1.2(au);</p> <p>(3) Non-aqueous phase liquids;</p> <p>(4) Soil with visual waste material or non-aqueous phase liquid;</p> <p>(5) Soil which exceeds the protection of groundwater soil cleanup objectives (PGWSCOs), as defined by 6 NYCRR Part 375-6.8 for those contaminants found in the site groundwater above standards;</p> <p>(6) Soil that creates a nuisance condition, as defined in Commissioner Policy CP-51 section G;</p> <p>(7) Grossly contaminated soil that may be present in proximity to the Underground Storage Tanks (USTs) and piping trench systems formerly used to store and convey phthalates and lubricating oil during the former plastic manufacturing process;</p>	<p>(1) Grossly contaminated soil as defined in 6NYCRR Part 375-1.2(u) <u>to the extent feasible</u>.</p> <p>New Remedy Element 2A: <i>In-situ solidification (ISS) will be implemented to remediate soils containing bis(2-ethylhexyl)phthalate in the form of NAPL, or exceeding 10,000 ppm, that cannot be feasibly excavated up to a maximum depth of 25 feet below grade surface. ISS is a process that binds the soil particles in place creating a low permeability mass. The contaminated soil will be mixed in place together with solidifying reagents or other binding reagents using an excavator or augers. The soil and binding reagents are mixed to produce a solidified mass resulting in a low permeability monolith.</i></p> <p><i>The solidified mass will then be covered with a cover system as described in Remedy Element 5 to prevent direct exposure to the solidified mass. The resulting solid matrix reduces or eliminates mobility of contamination and reduces or eliminates the matrix as a source of groundwater contamination.</i></p>

	<p>(8) VOC-impacted soil that are above the water table in the northeastern corner of the site; and</p> <p>(9) Excavation and removal of any underground storage tanks (USTs), fuel dispensers, underground piping or other structures associated with a source of contamination.</p>	
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SECTION 8: EVALUATION OF CHANGES

8.1 Remedial Action Objectives

Remedial action objectives (RAOs) for the cleanup of the site were established in the original ROD. The objectives for the remedial program have been established through the remedy selection process stated in 6 NYCRR Part 375. The goal for the remedial program is to restore the site to pre-disposal conditions to the extent feasible. At a minimum, the remedy shall eliminate or mitigate all significant threats to public health and the environment presented by the contamination identified at the site through the proper application of scientific and engineering principles.

The remedial action objectives for this site are:

For OU 01:

Groundwater

RAOs for Public Health Protection

- Prevent ingestion of groundwater with contaminant levels exceeding drinking water standards.
- Prevent contact with, or inhalation of volatiles, from contaminated groundwater.

RAOs for Environmental Protection

- Restore ground water aquifer to pre-disposal/pre-release conditions, to the extent practicable.
- Remove the source of ground or surface water contamination.

Soil

RAOs for Public Health Protection

- Prevent ingestion/direct contact with contaminated soil.
- Prevent inhalation of or exposure from contaminants volatilizing from contaminants in soil.

RAOs for Environmental Protection

- Prevent migration of contaminants that would result in groundwater or surface water contamination.

Soil Vapor

RAOs for Public Health Protection

- Mitigate impacts to public health resulting from existing, or the potential for, soil vapor intrusion into buildings at a site.

For OU 02:

Groundwater

RAOs for Public Health Protection

- Prevent ingestion of groundwater with contaminant levels exceeding drinking water standards.
- Prevent contact with, or inhalation of volatiles, from contaminated groundwater.

RAOs for Environmental Protection

- Restore ground water aquifer to pre-disposal/pre-release conditions, to the extent practicable.
- Remove the source of ground or surface water contamination.

Soil

RAOs for Public Health Protection

- Prevent ingestion/direct contact with contaminated soil.
- Prevent inhalation of or exposure from contaminants volatilizing from contaminants in soil.

RAOs for Environmental Protection

- Prevent migration of contaminants that would result in groundwater or surface water contamination.
- Prevent impacts to biota from ingestion/direct contact with soil causing toxicity or impacts from bioaccumulation through the terrestrial food chain.

Soil Vapor

RAOs for Public Health Protection

- Mitigate impacts to public health resulting from existing, or the potential for, soil vapor intrusion into buildings at a site.

8.2 Evaluation Criteria

The criteria used to compare the remedial alternatives are defined in the regulation that directs the remediation of inactive hazardous waste sites in New York State (6 NYCRR Part 375). For each criterion, a brief description is provided. A detailed discussion of the evaluation criteria and comparative analysis is contained in the original Feasibility Study.

The first two evaluation criteria are called threshold criteria and must be satisfied in order for an alternative to be considered for selection.

1. Protection of Public Health and the Environment. This criterion is an overall evaluation of each alternatives ability to protect public health and the environment.

The original remedy would satisfy this criterion by removing the on-site contaminated soils, removing on-site and off-site LNAPL, treating any on-site groundwater contamination, thereby preventing the further migration of the groundwater plume, and managing remaining contamination to prevent human exposures. The on-site and off-site physical barrier will prevent further migration of the LNAPL plume both on and off-site.

The amended remedy will equally comply with this criterion with the addition of ISS to immobilize LNAPL source material remaining post-excavation.

2. Compliance with New York State Standards, Criteria, and Guidance (SCGs). Compliance with SCGs addresses whether a remedy will meet environmental laws, regulations, and other standards and criteria. In addition, this criterion includes the consideration of guidance which NYSDEC has determined to be applicable on a case-specific basis.

The original remedy complies with SCGs on-site, and to the extent practicable off-site. For the on-site source, would achieve compliance by fully excavating the on-site LNAPL and VOC contaminated source areas.

The amended remedy would achieve the SCGs on-site and off-site to the extent practicable. For the on-site source, the remedy will achieve compliance by fully excavating the on-site VOC contaminated source areas and LNAPL contaminated source areas to the extent practicable. Remaining LNAPL source area material would be immobilized via ISS.

The next six "primary balancing criteria" are used to compare the positive and negative aspects of each of the remedial strategies.

3. Long-term Effectiveness and Permanence. This criterion evaluates the long-term effectiveness of the remedial alternatives after implementation. If wastes or treated residuals remain on-site after the selected remedy has been implemented, the following items are evaluated: 1) the magnitude of the remaining risks, 2) the adequacy of the engineering and/or institutional controls intended to limit the risk, and 3) the reliability of these controls.

Long-term effectiveness is equally accomplished by the original remedy and amended remedy as both provide a significant reduction the volume of the LNAPL source and VOC impacted soil contamination, which would in turn reduce both the potential for soil vapor intrusion and off-site migration of the VOC plume.

4. Reduction of Toxicity, Mobility or Volume. Preference is given to alternatives that permanently and significantly reduce the toxicity, mobility or volume of the wastes at the site.

Both the original remedy and the amended remedy quickly and permanently remove on-site LNAPL contamination and provide a reduction in toxicity, mobility and volume. The removal of the source area contamination will also significantly limit the continued source area contribution to the off-site plume and reduce the potential for VOC soil vapor intrusion.

The remedy amendment will provide additional reduction in mobility by solidifying remaining contamination in soil, which would also reduce contaminant loading to downgradient groundwater.

5. Short-term Impacts and Effectiveness. The potential short-term adverse impacts of the remedial action upon the community, the workers, and the environment during the construction and/or implementation are evaluated. The length of time needed to achieve the remedial objectives is also estimated and compared against the other alternatives.

Both the original remedy and the amended remedy would be expected to have some short-term impacts associated with their activities. Both remedies involve some degree of intrusive activities which may temporarily disrupt the surrounding residential community via noise, odor, and increased truck traffic. These impacts may be minimized with careful coordination with the municipality and surrounding

landowners during remedial design. A community air monitoring plan (CAMP) and health and safety plan (HASP) would be required during remediation activities for each of the alternatives presented.

The time needed to achieve the remediation goals would be significantly longer for the original remedy in comparison to the amendment, since the additional excavation would require a wholesale redesign and installation of both deeper support of excavation and dewatering system(s).

6. Implementability. The technical and administrative feasibility of implementing each alternative are evaluated. Technical feasibility includes the difficulties associated with the construction of the remedy and the ability to monitor its effectiveness. For administrative feasibility, the availability of the necessary personnel and materials is evaluated along with potential difficulties in obtaining specific operating approvals, access for construction, institutional controls, and so forth.

Both the original remedy and the remedy amendment are considered implementable from a technical standpoint, since both use proven technologies for treating contamination. However, to implement deeper excavation to satisfy requirements of the original remedy (to a depth of 25 feet) would require the design and installation of a new, deeper cutoff wall/support of excavation, which would require destruction of existing foundations on the eastern portion of the site. The cost and significant delay needed to procure materials and implement additional excavation to achieve the original remedy (a minimum of 5 months) is considered administratively infeasible. The remedy amendment will take less time to implement (estimated 60 to 90 days), would not require significant changes to the support of excavation, and would use easily procured materials, in particular, Type III Portland Cement and on-site grout mixing plants.

Both remedies have similar off-site implementability by use of similar technologies (i.e., off-site barrier, groundwater treatment via zero-valent iron injections, LNAPL extraction via recovery wells) for remediating groundwater, LNAPL, and soil vapor identified off-site.

7. Cost-Effectiveness. Capital costs and annual operation, maintenance, and monitoring costs are estimated for each alternative and compared on a present worth basis. Although cost-effectiveness is the last balancing criterion evaluated, where two or more alternatives have met the requirements of the other criteria, it can be used as the basis for the final decision.

The relative costs of the original remedy and remedy amendment vary significantly. The capital costs of the remedy amendment would be significantly less than the original remedy. As stated in the previous subsection, it is administratively infeasible to implement the original remedy. The estimated cost of the additional excavation to comply with the original remedy would be approximately \$75,000,000 in addition to the \$40,200,000 already incurred through current remediation efforts.

Annual maintenance cost for both remedies is the same.

8. Land Use. When cleanup to pre-disposal conditions is determined to be infeasible, the Department may consider the current, intended, and reasonable anticipated future land use of the site and its surroundings in the selection of the soil remedy.

The site is currently vacant; however, the anticipated future use of the site is commercial and residential.

It is expected that both the original remedy and the remedy amendment would provide an acceptable level of cleanup for future site redevelopment. The amendment is slightly less desirable because some NAPL

source material will remain on-site, however, it will be immobile and inaccessible in the ISS monolith. The original remedy would permanently remove or treat the entire on-site source area but may take significantly longer to implement. Both remedies will require that remaining contamination be monitored and controlled with a site management plan, and institutional and engineering controls.

This final criterion is considered a modifying criterion and is considered after evaluating those above. It is focused upon after public comments on the proposed ROD amendment have been received.

9. Community Acceptance. Concerns of the community regarding the proposed changes are evaluated. A responsiveness summary will be prepared that describes public comments received and the manner in which NYSDEC will address the concerns raised. If the final remedy differs significantly from the proposed remedy amendment, notices to the public will be issued describing the differences and reasons for the changes.

The remedy amendment is being selected because, as described above, it satisfies the threshold criteria and provides the best balance of the balancing criterion.

SECTION 9: AMENDED REMEDY

NYSDEC is amending the Record of Decision (ROD) for the Former NuHart Plastics Manufacturing Site. The changes to the selected remedy are summarized in Section 7.3 above.

The total estimated cost ("Present Worth") to implement the remedy as outlined in the ROD was \$30,700,000. To date, the actual incurred costs have been approximately \$40,200,000, and the estimated additional cost to complete the original remedy (including redesign and installation of new SOE, replacement of existing foundation and building elements on eastern half of the site, and redesign and installation of the dewatering system in order to remove 4 feet of soil) is \$55,000,000. The estimated additional cost to implement the amended remedy is \$1,400,000.

The elements of the amended remedy listed below are identified as *unchanged*, *amended* or *new* when compared to the 2019 ROD/2022 amended remedy:

1. Remedial Design

A remedial design program will be implemented to provide the details necessary for the construction, operation, optimization, maintenance, and monitoring of the remedial program. Green remediation principles and techniques will be implemented to the extent feasible in the design, implementation, and site management of the remedy as per DER-31. The major green remediation components are as follows:

- Considering the environmental impacts of treatment technologies and remedy
- stewardship over the long term;
- Reducing direct and indirect greenhouse gases and other emissions;
- Increasing energy efficiency and minimizing use of non-renewable energy;
- Conserving and efficiently managing resources and materials;
- Reducing waste, increasing recycling and increasing reuse of materials which would otherwise be considered a waste;
- Maximizing habitat value and creating habitat when possible;
- Fostering green and healthy communities and working landscapes which balance

- ecological, economic and social goals; and
- Integrating the remedy with the end use where possible and encouraging green and
- sustainable re-development.

Unchanged

2. Excavation (OU1)

The existing on-site building(s) will be demolished and materials which can't be beneficially reused on site will be taken off-site for property disposal in order to implement the remedy.

Excavation and off-site disposal of contaminant source areas, including:

- Grossly contaminated soil as defined in 6NYCRR Part 375-1.2(u) *to the extent feasible*;
- Concentrated soil or semi-solid hazardous substance per 6 NYCRR Part 375-1.2(au);
- Non-aqueous phase liquids;
- Soil with visual waste material or non-aqueous phase liquid;
- Soil which exceeds the protection of groundwater soil cleanup objectives (PGWSCOs), as defined by 6 NYCRR Part 375-6.8 for those contaminants found in the site groundwater above standards. Soil that creates a nuisance condition, as defined in Commissioner Policy CP-51 section G;
- Grossly contaminated soil that may be present in proximity to the Underground Storage Tanks (USTs) and piping trench systems formerly used to store and convey phthalates and lubricating oil during the former plastic manufacturing process;
- VOC-impacted soil that are above the water table in the northeastern corner of the site; and
- Excavation and removal of any underground storage tanks (USTs), fuel dispensers, underground piping or other structures associated with a source of contamination.

Approximately 22,500 cubic yards of soil will be excavated in total. An estimated 6,600 cubic yards is expected to be disposed off-site as hazardous waste, and the remaining material is anticipated to be non-hazardous historic fill and un-impacted native soil.

Amended

2.A In-Situ Solidification

For areas where source material cannot not be excavated (below 19.5 ft), in-situ solidification (ISS) will be implemented. The area to be solidified is shown on Figure 2. ISS is a process that binds the soil particles in place creating a low permeability mass. The residual contaminated soil from 19.5 ft to 24.5 ft will be mixed in place together with Type III Portland Cement using an excavator or augers. The soil and cement are mixed to produce a solidified mass resulting in a low permeability monolith.

The design requirements are that the solidified mass will produce a hydraulic conductivity (K) of 1.0×10^{-6} cm/sec or less and would also result in an unconfined compressive strength of 50 psi. The solidified mass will then be covered with a cover system as described in Element 5 to prevent direct exposure to the solidified mass. The resulting solid matrix reduces or eliminates mobility of contamination and reduces or eliminates the matrix as a source of groundwater contamination.

New

3. Backfill (OU-1)

Clean fill meeting the requirements of 6 NYCRR Part 375-6.7(d) will be brought in to replace the excavated soil and/or to complete backfilling of the excavation and establish the designed grades at the site.

Unchanged

4. LNAPL Physical Barriers (OU-1 and OU-2)

Installation of two physical barriers to support the on-site excavation and prevent further off-site LNAPL migration.

- Shoring will be installed as a physical barrier around the entire perimeter of the on-site excavation area down to about 30 feet below grade
- Installation of a physical barrier to prevent LNAPL migration onto the off-site property located to the southwest of the site.

Unchanged

5. Cover System (OU-1)

A site cover will be required to allow for restricted residential use of the site in areas where the upper two feet of exposed surface soil will exceed the applicable soil cleanup objectives (SCOs). Where a soil cover is to be used it will be a minimum of two feet of soil placed over a demarcation layer, with the upper six inches of soil of sufficient quality to maintain a vegetative layer. Soil cover material, including any fill material brought to the site, will meet the SCOs for cover material for the use of the site as set forth in 6 NYCRR Part 375-6.7(d). Substitution of other materials and components may be allowed where such components already exist or are a component of the tangible property to be placed as part of site redevelopment. Such components may include, but are not necessarily limited to: pavement, concrete, paved surface parking areas, sidewalks, building foundations and building slabs.

Unchanged

6. LNAPL Recovery (OU-2)

Installation and operation of a network of recovery wells and/or trenches located off-site to recover mobile LNAPL from the subsurface. The number, depth, type and spacing of the recovery wells and/or trenches will be determined during the design phase of the remedy. LNAPL will be collected periodically from each well; however, if wells are determined by the Department to accumulate large quantities of LNAPL over extended time periods, they can be converted to automated collection. Enhancement of the recovery via surfactant injection to increase the mobility of the LNAPL may also be considered. A monitoring program will be implemented for groundwater and LNAPL to monitor the effectiveness of the LNAPL recovery effort.

Unchanged

7. Air Sparging/ Soil Vapor Extraction (OU-1 and OU-2)

Air sparging will be implemented to address the groundwater plume contaminated by volatile organic compounds (VOCs) identified in the northeast portion of the site and in the downgradient vicinity of the site. VOCs will be physically removed from the groundwater and soil below the water table (saturated soil) by injecting air into the subsurface. The injected air rising through the groundwater will volatilize and transfer the VOCs from the groundwater and/or soil into the injected air. The VOCs are carried with the injected air into the vadose zone (the area below the ground surface but above the water table) where a soil vapor extraction (SVE) system, designed to remove the injected air, will be installed. The SVE system will apply a vacuum to wells that have been installed into the vadose zone to remove the VOCs along with the air introduced by the sparging process. The air extracted from the SVE wells will be treated as necessary prior to being discharged to the atmosphere.

The number, depth, type and spacing of the AS/SVE wells will be determined during the design phase of the remedy.

[November 2022 Minor Remedy Modification: In situ Chemical Reduction (ISCR) will be implemented to remediate groundwater and saturated soil contaminated by chlorinated volatile organic compounds (CVOCs) in the northeast portion of the site and in the downgradient vicinity of the site. By introducing zero valent iron (ZVI) into the subsurface, CVOCs will be chemically reduced. For the on-site portion of the CVOC contamination, ZVI will be bucket-mixed with soils below the water table to a depth of one foot into the underlying clay layer. For the off-site portion of the CVOC contamination, ZVI will be injected into the groundwater and saturated soil immediately downgradient of the site from approximately 10 to 20 feet below grade.]

Unchanged

8. Vapor Mitigation (OU-1 and OU-2)

Any on-site and off-site buildings impacted by the contaminants migrating from the site will be required to have a sub-slab depressurization system, or other acceptable measure, to mitigate the migration of vapors into the building from soil or groundwater. The sub-slab depressurization system will be installed in the on-site buildings to be constructed at the site. An evaluation will be conducted, as discussed in paragraph 11 below, to determine whether sub-slab depressurization systems are necessary in off-site properties north of Clay Street pending site access from the owner(s).

[November 2022 Minor Remedy Modification: The planned development includes a full cellar level installed below the water table across the entire footprint of the site. The foundation slab and sidewalls will include a waterproofing/vapor barrier to prevent groundwater and vapor from entering the building. Furthermore, the lowest level of the building will be occupied by a parking garage which must be ventilated per NYC Building Code. The OU-1 soil vapor remedy will therefore consist of a vapor intrusion evaluation conducted post remedy and prior to occupancy.]

Unchanged

9. Treatment Remedy Shutdown

The operation of the components of the remedy would continue until the remedial objectives have been achieved, or until the Department determines that continued operation is technically impracticable or not feasible.

Unchanged

10. Institutional Controls (OU-1)

Imposition of an institutional control in the form of an environmental easement for the controlled property that will:

- require the remedial party or site owner to complete and submit to the Department a periodic certification of institutional and engineering controls in accordance with Part 375-1.8 (h)(3);
- allow the use and development of the controlled property for restricted residential, commercial or industrial use as defined by Part 375-1.8(g), although land use is subject to local zoning laws;
- restrict the use of groundwater as a source of potable or process water, without necessary water quality treatment as determined by the NYCDOHMH; and
- require compliance with the Department-approved Site Management Plan.

Unchanged

11. Site Management Plan (OU-1 and OU-2)

A Site Management Plan is required, which includes the following:

- a) an Institutional and Engineering Control Plan that identifies all use restrictions and engineering controls for the site and details the steps and media-specific requirements necessary to ensure the

following institutional and/or engineering controls remain in place and effective:

- Institutional Controls: The Environmental Easement discussed in paragraph 10 above.
- Engineering Controls: The migration barriers, site cover, LNAPL recovery, ISCR, and vapor mitigation systems discussed in paragraphs 4 through 8 above

This plan includes, but may not be limited to:

- an Excavation Plan which details the provisions for management of future excavations in areas of remaining contamination;
 - descriptions of the provisions of the environmental easement including any land use, and groundwater use restrictions;
 - a provision for evaluation of the potential for soil vapor intrusion for buildings in off-site areas of contamination, including provision for implementing actions recommended to address exposures related to soil vapor intrusion;
 - a provision that should a building foundation or building slab be removed in the future, a cover system consistent with that described in paragraph 8 above will be place in any area where the upper two feet of exposed surface soil exceed the applicable soil cleanup objectives (SCOs);
 - provisions for the management and inspection of the identified engineering controls;
 - maintaining site access controls and Department notification; and
 - the steps necessary for the periodic reviews and certification of the institutional and/or engineering controls.
- b) a Monitoring Plan to assess the performance and effectiveness of the remedy. The plan includes, but may not be limited to:
- monitoring of LNAPL, groundwater and soil vapor to assess the performance and effectiveness of the remedy;
 - a schedule of monitoring and frequency of submittals to the Department;
 - monitoring for vapor intrusion for any buildings on the site, as may be required by the Institutional and Engineering Control Plan discussed above.
- c) an Operation and Maintenance (O&M) Plan to ensure continued operation, maintenance, optimization, monitoring, inspection, and reporting of any mechanical or physical components of the remedy. The plan includes, but is not limited to:
- procedures for operating and maintaining the remedy;
 - compliance monitoring of treatment systems to ensure proper O&M as well as providing the data for any necessary permit or permit equivalent reporting;
 - maintaining site access controls and Department notification; and
 - providing the Department access to the site and O&M records.

Unchanged

SECTION 10: NEXT STEPS

A notice describing NYSDEC's final decision will be sent to all persons on the site mailing list.

If you have questions or need additional information you may contact any of the following:

Project Related Questions

Jennifer Gonzalez
Project Manager
NYSDEC
47-40 21st Street
Long Island City, NY 12233
(718) 482-4508
jennifer.gonzalez@dec.ny.gov

Site-Related Health Questions

Stephen Lawrence
New York State Department of Health
Bureau of Environmental Exposure Investigation
Empire State Plaza, Corning Tower, Room 1787
Albany, NY 12237
(518) 402-0450
BEEI@health.ny.gov

APPENDIX A

Responsiveness Summary

RESPONSIVENESS SUMMARY

**Former NuHart Plastic Manufacturing
State Superfund Project
Kings County, New York
Site No. 224136**

On March 27, 2019, the New York State Department of Environmental Conservation (DEC), in consultation with the New York State Department of Health (DOH), issued a Record of Decision (ROD) which selected a remedy for the Former NuHart Plastics Manufacturing Site. A minor modification of the ROD was issued on November 28, 2022 related to Remedial Element 7: Air Sparging/Soil Vapor Extraction (OU-1 and OU-2). During the Remedial Design phase, the Remedial Party's consultant determined that Air Sparging/Soil Vapor Extraction (AS/SVE) was infeasible due to the presence of clay and silt lenses beneath the site, and In-Situ Chemical Reduction utilizing zero-valent iron (ZVI) to treat chlorinated VOCs (CVOCs) in groundwater was substituted for AS/SVE.

The proposed amendment will add a new ROD Element 2A: In-Situ Solidification for certain soils containing bis(2-ethylhexyl)phthalate at concentrations exceeding 10,000 parts per million (ppm) as established in DER-10 Section 2.1(f). This is the concentration at which non-aqueous phase liquid (NAPL) would be expected to be present. The proposed amendment will also modify ROD Element 2: Excavation, Sub-Bullet 1 as follows: "Grossly contaminated soil as defined in 6NYCRR Part 375-1.2(u) *to the extent feasible*."

A community update meeting was held on February 15, 2024 to informally discuss the need for an additional remedy element. A public meeting was held on April 10, 2024, which included a presentation of the proposed ROD amendment (Element 2A) for the Former NuHart Plastic Manufacturing site as well as a discussion of the proposed additional remedy. The meeting provided an opportunity for citizens to discuss their concerns, ask questions and comment on the proposed remedy. These comments have become part of the Administrative Record for this site. The public comment period ended on April 24, 2024.

The following glossary of terms and acronyms is provided to assist the public in reviewing this document.

Term or Acronym	Definition
CAMP	Community Air Monitoring Plan
DOH	New York State Department of Health
DEC	New York State Department of Environmental Conservation
ISS	In-situ solidification
LNAPL	Light, non-aqueous phase liquid. LNAPL at this site is a mixture of phthalates and petroleum that does not readily mix with water and is present on the groundwater.
NYC DOB	New York City Department of Buildings
ROD	Record of Decision

RP	Remedial Party
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This responsiveness summary responds to all questions and comments raised during the public comment period. The following are the comments received, with DEC's responses:

Comments Related to Remedy Selection

COMMENT 1: Why weren't the sheet piles extended deeper to allow for deeper excavation rather than implement the ISS solution?

RESPONSE 1: The support of excavation (SOE) was designed and installed for an expected excavation depth of 16 feet below grade surface (bgs) with a maximum allowable excavation of 19 feet bgs. The SOE sheet pile cutoff wall was installed to 34 feet bgs. This was the maximum depth that could be achieved utilizing the approved pile installation mechanism. Current dewatering within the sheet pile cutoff wall has drawn down the on-site water table to approximately 24 feet bgs. Further excavation would require: a) a new sheet pile wall driven to a deeper depth; and b) a redesign of the dewatering system. Additional dewatering may induce off-site drawdown and potential settling issues for on-site foundations and neighboring buildings. In addition, the structural stability of the negative pressure enclosure (tent) could be compromised. This effort would have been time consuming, financially infeasible, and disruptive for the community as was experienced during the driving of the first sheet pile wall. For these reasons, ISS is a more feasible and implementable option.

COMMENT 2: The draft RA [ROD Amendment] states that "Vertical delineation of contamination confirmed the bulk of remaining contamination extends approximately 4 feet below base of excavation at a maximum depth of 25 feet bgs." Please provide additional information about the confirmation sampling (number, type, and depth of samples). Were "clean" samples collected below 25 feet bgs? If so, how many, and what threshold was applied?

RESPONSE 2: Excavation and sampling frequency were performed in accordance with the approved Remedial Design dated May 4, 2023. A total of 55 confirmation samples were collected. Eight samples exceeded the 10,000 ppm threshold established in DER-10 Section 2.1(f) between 19 and 25 ft. Only one confirmation sample out of 55 samples exceeded the threshold criteria below 25 ft bgs. Details of excavation as performed, shake test results, endpoint confirmation sampling, and additional delineation sampling results can be found in the attached supporting documents for the ROD Amendment. Relevant documents include the "Completion of the OU-1 Western Excavation Remedial Element Letter Report", dated January 3, 2024, and the "Proposed Amendment to the Record of Decision, Revision 1", dated February 26, 2024, both prepared by Haley & Aldrich of New York (HANY).

Comments Related to Remedial Design / Remedy Monitoring

COMMENT 3: In the evaluation of threshold criterion #1 (Protection of public health and the environment), the RA states: "the proposed amended remedy will equally comply with this criterion with the addition of ISS to immobilize LNAPL source material remaining post-excavation."

This statement could be viewed as problematic in several aspects:

- Leaving contamination in place, relative to removing all contaminated soil, cannot be considered “equal” in any meaningful sense.
- The apparent equivalence is dependent, in part, by shifting from criteria that include SCOs based on “protection of groundwater,” to a less stringent target that is based only on “grossly contaminated soil”.
- The RA is not clear regarding the expectation for groundwater that could flow beneath the ISS zone.

It is important to consider that ISS does not eliminate any impact to groundwater. Importantly, effective implementation should significantly reduce groundwater advection through the contaminated soil. However, solidified soil is still porous, and the pore fluid will be in contact with grossly contaminated material, raising its concentration. Thus, over time, the normal process of diffusion will result in the release of contaminated groundwater from the ISS zone, possible into areas of increased flow. It would be plausible to suggest that such a release would have a small effect on human health and the environment, but not zero. The RA should provide more detail to support this sort of argument and communicate its scientific foundation. Put differently, the implementation of ISS does not “turn off” all release of contaminant.

The above concerns should be addressed by an expanded analysis of criterion #1. The current RA provides only one sentence!

For criteria #2 (SCGs), the evaluation should state clearly that the SCGs have been modified and defend this decision.

RESPONSE 3: The evaluation of the two threshold criteria (Criteria 1: overall protection of public health and the environment, and Criteria 2: compliance with standards, criteria and guidance) are met by the implementation of ISS. As noted in the Summary of Proposed Remedy Changes in this ROD Amendment, the amended remedy element applies to soil, not to groundwater.

The ISS mixture is, in essence, a concrete monolith. Hydraulic conductivity of the ISS mixture exceeds NYSDEC QA/QC minimum standards of 1.0×10^{-6} cm/sec; laboratory results demonstrate hydraulic conductivities between 1.0×10^{-7} and 1.0×10^{-9} cm/sec were achieved. This is equivalent to a clay aquitard (i.e., water barrier), through which water and contaminants would not readily flow (see Freeze and Cherry, 1979). Groundwater will not readily penetrate a concrete monolith, the building slab which acts as a site cover, nor the sealed steel sheeting surrounding the site. In addition, clay lenses are located at approximately 30 feet below grade and the cutoff wall was installed to 34 feet below grade. Given that static groundwater is between 13 and 16 feet, and that phthalates cannot sink beneath the water table and do not readily dissolve in groundwater, on-site residual contamination will have limited ability to diffuse into the surrounding neighborhood or into the on-site building. This satisfies Criteria 1.

In accordance with Part 375-1.8(c), the hierarchy of remedial actions for source removal and control measures includes (in order of most preferable to least preferable) removal and/or treatment, containment, elimination of exposure, and treatment at the point of exposure. The original remedy for soil included excavation. The majority of the source was removed via

excavation. The amended remedy includes source treatment and containment, which satisfies Criteria 2.

COMMENT 4: The opening section of the RA [ROD Amendment] refers to the 10,000 mg/kg threshold for grossly contaminated soil. The statement in the text states: “This is the concentration at which non-aqueous phase liquid (NAPL) would be expected to be present”. However, this is only one of the criteria listed in DER-10, and it is not specific to the contaminant of concern, which has a very low aqueous solubility and may be present as NAPL at much lower soil concentrations.

RESPONSE 4: In addition to the threshold of 10,000 mg/kg concentration in soil, DER-10 lists a number of methods to determine the presence of NAPL in soil including visual identification of sheen or other visible product, the use of field instruments, ultraviolet fluorescence, soil-water agitation, and hydrophobic dye testing. Several of these methods are not applicable to phthalates (i.e., field instrumentation, UV fluorescence and hydrophobic dye testing) due to the nature of the contaminant. Other methods as outlined in DER-10 were used to assess the presence of NAPL, including visual observations and soil-water agitation (i.e., shake tests). Following excavation to remove all visible NAPL, shake tests were performed at the base of excavation as an additional field method to confirm presence or absence of NAPL. Additional excavation was performed as needed if a shake test contained NAPL until “clean” test were achieved. Endpoint samples were then taken at these depths to determine the extent of residual contamination. Details of excavation as performed, shake test results, and endpoint confirmation sampling can be found in the attached supporting documents for the ROD Amendment. Relevant letter-reports include the “Completion of the OU-1 Western Excavation Remedial Element Letter Report”, dated January 3, 2024, and the “Proposed Amendment to the Record of Decision, Revision 1”, dated February 26, 2024, both prepared by Haley & Aldrich of New York.

COMMENT 5: Will there be soil between the slab and ISS layer? If so, how much?

RESPONSE 5: Following the completion of the ISS, imported recycled concrete aggregate was used to backfill portions of the site to the foundation slab depth (16 feet below grade). There is no remaining soil between the ISS monolith and the slab.

COMMENT 6: What will the testing cycle be going forward?

RESPONSE 6: The site contains several environmental media that will have different testing cycles. The forthcoming Site Management Plan (SMP) will describe testing requirements and frequencies both onsite and offsite, as well as operation, maintenance, and monitoring requirements for all engineering controls. In general, the remedial party will be required to provide annual certification of the engineering controls in perpetuity; however, monitoring frequencies may occur at shorter intervals.

COMMENT 7: In the event of earthquake, climate change, water table changes and so forth, is the community guaranteed that the capping or slab won't rupture?

RESPONSE 7: The site cover system (i.e., foundation slab) is a permanent engineering control (EC) that must be maintained for the life cycle of the building. In the event of catastrophic failure,

the cover system would be repaired and re-certified. The SMP will include contingencies that the owner of the property must follow in perpetuity.

COMMENT 8: We are concerned that the concrete may start to deteriorate in such a way that would allow the contamination previously bound to once again get into the water table. Because this concrete will be below the water table, the time period for the degradation of Type III Portland cement should be longer than the entire lifespan of the building atop it. If there is degradation, how will that be addressed to ensure the toxic contaminants are not reintroduced to the environment?

RESPONSE 8: The Interstate Technology Regulatory Council (ITRC) published a technical/regulatory guidance document entitled "Development of Performance Specifications for Solidification/Stabilization" (ITRC, 2011), which provides the basis for the design and use of in-situ solidification (ISS) for the immobilization of contaminants in soil. The ITRC guidance document on ISS states that monoliths formed by ISS meet the definition of concrete.

The ITRC guidance document states that "the combined experience of the ITRC S/S [aka ISS] Team indicates that some in the regulatory community perceive that solidified materials will degrade over time as a result of one or more of the following: internal chemical reactions; geochemical and/or biological reactions within the surrounding environment; and physical mechanisms such as settlement, wet-dry cycling, or freeze-thaw cycling. However, degradation mechanisms for S/S that solidified materials typically are slow to manifest significant alteration of material properties which control contaminant release."

The ISS monolith under the building will not be exposed to the physical degradation mechanisms of settlement, wet-dry cycling, or freeze-thaw cycling. If the building is removed in the future, the remaining impacted material solidified in the monolith is identified in the recorded Environmental Easement and will be handled per the requirements of the forthcoming SMP, which will be reviewed and approved by NYSDEC and NYSDOH. In addition, the ISS monolith is further isolated by a surrounding steel sheet pile cut-off wall that was installed at the perimeter of the site and will remain in perpetuity. Finally, the area around the site will be monitored and remediated under the SMP to ensure the remedy is functioning as designed.

COMMENT 9: The original ROD indicated that excavation would address: "Soil which exceeds the protection of groundwater soil cleanup objectives (PGWSCOs), as defined by 6 NYCRR Part 375-6.8 for those contaminants found in the site groundwater above standards" (Table on page 12). In contrast, the amended ROD is expressed primarily in terms of "grossly contaminated soil". This raises the possibility that soil left in place, either within the ISS zone or below it, could adversely affect groundwater. The argument (in several places) is that groundwater flow through problematic soil will be reduced; however, it will not be eliminated. Please comment, including an explanation for limiting the vertical extent of the ISS.

RESPONSE 9: The reference to the protection of groundwater SCOs in the original ROD (excavation remedy element 2e) was intended to address on-site soil containing trichloroethene (TCE). TCE was also found dissolved in groundwater at concentrations significantly exceeding applicable standards. Phthalates do not readily partition (change phases) into groundwater and have strong adsorption tendencies, as supported by 15 years of groundwater monitoring data

collected at the site. While some groundwater samples from historical investigations have varying concentrations of dissolved phthalates, the vast majority have remained in the NAPL phase. As such, the phthalate contamination in on-site soil was addressed by excavation remedy element 2a (grossly contaminated soil).

Regarding the vertical extent of ISS, as stated in the “Proposed Amendment to the Record of Decision, Revision 1”, dated February 26, 2024, prepared by HANY, additional SOE bracing was required to allow for approximately 4 additional feet of soil disturbance. As stated by the structural engineer in the attachments for the above-referenced letter, soil disturbance greater than the additional 4 feet would require the installation of a new set of sheet piles driven to a deeper depth. As stated in Response 1, a new SOE would be time consuming, financially infeasible, and disruptive for the community as was experienced during the driving of the first sheet pile wall. For these reasons, ISS is a more feasible and implementable option.

Comments Related to Schedule

COMMENT 10: Why did they remove the tent before ISS is complete? Or is it fully implemented?

RESPONSE 10: The ISS is complete. The developer elected to proceed with the full-scale implementation of the ISS based on favorable results of the pilot test performed in February 2024. Work was completed on March 7, 2024 following verification via QA/QC coring. The tent was removed between March 12 and 22, 2024.

COMMENT 11: Brooklyn Community #1 would like to express its deep concern regarding the proposed amended remedy for State Superfund Site No. 224136 (former NuHart Plastic Factory).

As has been stated by the developer, they must complete the site remediation and their housing development project in order to receive a certificate of occupancy, in order to qualify for a state 421(a) tax abatement. The board is worried the developer will sacrifice quality control and safety working under these underlying time constraints, as exemplified by their decision to proceed at-risk with implementing the amended ISS remedy sitewide before DEC's review and response to test results and public comment input. Being mixed and poured at a breakneck pace, has the ISS concrete mixture been compromised, leaving it susceptible to leakage?

Being that the developer is responsible for cleaning up two potentially lethal contaminants of concern in wide areas of the site where levels still exceed state residential limits, we fear for the health and safety of residents and neighbors. We cite recent setbacks for both the developers and DEC that undermine confidence in this rushed process. At 642 E 14th Street in Manhattan, the developers damaged a residential building there while performing excavation work at an adjacent property, prompting a vacate order for tenants. At 34 Berry Street in Williamsburg, extensive additional contamination was discovered after the building was constructed.

Additionally, the board is concerned that the health and contamination data and testing methods being used are out of date.

The board appreciates the fact that this project will create badly needed affordable housing in our district. However, the safety and health of the residents living in Brooklyn Community District #1 is of the utmost importance to us. We urge the NYS Department of Environmental Conservation, the NYS Department of Health and the developers, Madison Realty Capital, to hold the project's future residents and neighbors in the same regard, and work to ensure it.

RESPONSE 11: NYSDEC and NYSDOH acknowledge the concern of the community and factor in community health and safety into all decisions made in the remedy selection and implementation process. As such, NYSDEC has been working closely with the developer and their consultant during the entirety of the ISS process including design, implementation and verification.

Following the pilot study, ISS cells were mixed with a 20% mix ratio of Portland Type III cement. In comparable projects where ISS is more frequently used (i.e., former manufactured gas plant sites), a 10 to 12% mix ratio commonly provides the minimum strength and hydraulic conductivity (an indicator of permeability) required by NYSDEC's QA/QC process. At minimum, NYSDEC's QA/QC standards include:

- A lack of field evidence of significant non-aqueous phase liquid (NAPL) both within the ISS monolith and as evidenced on equipment or observed on exposed soils;
- An unconfined compressive strength (UCS) of the concrete monolith above 50 pounds per square inch (PSI);
- A hydraulic conductivity of less than 1.0×10^{-6} cm/sec;
- Less than 1 cubic foot of unmixed material observed in QA/QC cores; and
- A QA/QC core recovery rate of greater than 60%.

The developer acknowledged that failure to meet any of the above standards would require re-mixing and was ready to comply with such a scenario.

NYSDEC provided continuous oversight during mixing, pouring, and QA/QC implementation. NYSDEC directed the contractor and subcontractors as to the duration and scope for each pour to ensure each cell was properly mixed to the target depth. A sample of each mixture was taken by a certified concrete inspector and was properly cured and transported to a certified NYSDEC-approved laboratory.

Field observation and laboratory data have confirmed that both the pilot study and full-scale mixtures have exceeded QA/QC standards for UCS and hydraulic conductivity by 1 to 2 orders of magnitude (10 to 100 times the guidance values). This strongly indicates that the concrete is both stronger and significantly less permeable than NYSDEC requires for ISS monoliths. Several cores were taken at different areas of the monolith; NYSDEC documented that all QA/QC cores demonstrated well-mixed material vertically and that the mixture cured properly. NYSDEC is satisfied with the performance of the ISS.

The consultant collected 55 endpoint samples between September 2023 and January 2024 which were compared with current standards and guidance values. Corresponding field observations at sample depths indicated no visible NAPL remained in on-site soil. Laboratory results indicate a

significant reduction in on-site phthalate contamination (the maximum on-site pre-remediation concentration of bis(2-ethylhexyl)phthalate was 59,200 parts per million [ppm]).

The site will remain listed on the NYS Registry of Inactive Hazardous Waste Disposal Sites (State Superfund Sites) and will be monitored post-remediation in the manner outlined in the forthcoming SMP.

As a clarification, ISS has been proposed to remediate remaining contamination related to the on-site portion (operable unit OU-1) of the phthalate plume. Trichloroethene (TCE) is being remediated through groundwater treatment via zero-valent iron injection points and soil mixing in the northern portion of the site (both on-site and off-site) and at the adjoining BCP site, NuHart East (ID: C22487). The proposed ROD amendment does not change the remedy elements to address TCE contamination.

COMMENT 12: It's been concerning all along that the developer is in rush mode to meet 421(a) deadlines, while health and environment are second. This is while community deals with legacy, recent and current and health impacts.

RESPONSE 12: As discussed in Response 11 above, the NYSDEC and NYSDOH have been extensively involved in the design, performance, and QA/QC of the ISS effort to ensure it is both effective and safe for the public. To that end, the developer and their consultant have been responsive to any concerns raised by NYSDEC and NYSDOH and have been open to input and design changes in the development and implementation of the ISS. The deadlines in place related to 421(a) are outside the control of the NYSDEC and the developer.

COMMENT 13: In general, we are very concerned with the way that this process has unfolded. This has been a public comment period in name only. It seems as though the profits of the developer have been privileged over mandated community involvement. We have been invited to comment on a remedy that has already been completed.

While Madison Realty has taken this on "at risk," the idea that all the concrete blocks that have been created deep in the ground would be dug up is not only extremely unlikely, but if it were to happen, it would strain the neighbors with noise, additional machines, labor, and trucks. This was a short-sighted decision by the DEC to allow this development to proceed. While there has been real public engagement by holding meetings, it does not feel as though the community actually had an opportunity to provide input into the process.

At the public meeting held April 10, 2024, it was stated that the reason that the digging could not go deeper was because of the stability of neighboring buildings. However, the Proposed Record of Decision Amendment states that, "However, to implement deeper excavation to satisfy requirements of the original remedy (to a depth of 25 feet) would require the design and installation of a new, deeper cutoff wall/support of excavation, which would require destruction of existing foundations on the eastern portion of the site." To learn through reading the document that the major damage would be to the building that was recently built was yet another reason to be concerned about the process here. Previously there was much discussion about allowing the eastern building to be built before the remedy on the western part of the site was completed. This is exactly

the type of reason why. Because the DEC allowed the developer to push for speed in allowing the building to begin before the entire site was remediated, we now will have contamination remaining in our community. This is yet another example of the DEC putting the budget and timetable of MRC ahead of the health and safety of the community. We are extremely disappointed with how this has played out.

RESPONSE 13: NYSDEC and NYSDOH acknowledge that the perceived speed has been concerning for the public. As discussed in Response 11, this process was developed over the course of several months between NYSDEC, the developer, and their consultant. ISS was also an alternative remedy previously evaluated during the Feasibility Study. At the time of the preparation of the original ROD, it was anticipated that all on-site contamination could be remediated by excavation alone. As this could not occur, an additional remedial technology that was previously evaluated and deemed feasible was required. Regarding the breaking of the newly-poured foundation, if NYSDEC had determined that installation of a new SOE was feasible, the developer would have been instructed to do so regardless of the impact on the existing foundation. However, as stated in Response 1, further excavation would require: a) a new SOE/sheet pile wall driven to a deeper depth; and b) a redesign of the dewatering system. Additional dewatering may induce off-site drawdown and potential settling issues both for existing development foundations as well as neighboring buildings. In addition, the structural stability of the negative pressure enclosure (tent) would have been compromised. In other words, the tent would have had to have been removed, new SOE installed, and the tent re-constructed.

COMMENT 14: Even though I'm hopeful that the site may be something other than a toxic eyesore and horrible environmental reminder, I also have a sick feeling about all the involved parties being okay with leaving deadly phthalates behind in Greenpoint. Phthalates will remain under a residential building, under our streets and eerily close to our playground. I'm also disgusted that the developer went ahead with a pilot remedy (with NYS agency blessings) before the community had an opportunity to comment on it or to otherwise have input about it. Only in Greenpoint's own Area 51 would a developer be allowed to move forward with such a remedy and then have the audacity to gather comments afterward in terms of being "proposed". It's the typical middle finger feeling that the community has felt from the state, from our elected officials, from developers for decades. Not much has changed. Greenpointers know how it feels to be part of the tradeoffs of what you do. As we received this middle finger we continue to be acutely aware that the developer is in rush mode to build before they lose 421A credits. We experience it with amounts of dust, noise, trucks, being blown off at meetings, and so forth. We are still going to have phthalates in our soil and now we'll have even more congestion and crowding too. And this is to remind you that long time Greenpoint residents are still living with conditions, diseases and quality of life issues caused by poor environmental practices. Given that fact, a true cleanup should be the very best. It should be authentic and unrushed. This is not. You need to do better.

RESPONSE 14: As stated in Response 13, the NYSDEC and NYSDOH acknowledge that the perceived speed has been concerning for the public; however, significant outreach was made to the community throughout project and the AROD process. NYSDEC and NYSDOH have determined the ISS remedy in the AROD is protective of human health and the environment.

Comments Related to Public Outreach

COMMENT 15: I hardly call this a public meeting given there was no public outreach. Even the Senator's office had trouble getting registered for this meeting.

RESPONSE 15: As per the Citizen Participation Plan, NYSDEC has performed due diligence to provide timely outreach to the public. A community update meeting was held in February 2024. The elected officials were made aware of the April 10, 2024 public meeting and provided copies of the factsheet and meeting announcement when the comment period began. A factsheet containing a meeting announcement and registration link were sent to NYSDEC's site-specific contact list, which includes elected officials, North Brooklyn Neighbors, and any member of the public that have signed up for site updates.

Comments Related to Site Management

COMMENT 16: Does the site lose its superfund designation now that it's mostly mitigated? Or maybe not because of continual future well monitoring and unmitigated portions?

RESPONSE 16: The site will remain listed as a State Superfund Site. Currently the site is classified as Class 2, which is defined as a site which presents a significant threat to public health and/or the environment. Once remediation is complete and the site management phase begins, the site would be reclassified to Class 4, signifying remediation is complete, and any remaining contamination will be addressed through the implementation of institutional and engineering controls that will be operated, maintained and monitored under the forthcoming SMP.

COMMENT 17: What happens after remediation and the status of the site? It may be helpful for the community if you create a slide with what should be expected post-remediation. Does this now become just another developer site? Does this mean no more weekend work? There are a lot of hardships going on and we're just trying to deal with parking, deal with other things in the community. So there are community issues happening in conjunction with what's going on.

RESPONSE 17: The site will be monitored post-remediation in a manner outlined in the forthcoming SMP. NYSDEC will continue to provide the community with periodic updates including discussions of the SMP and Final Engineering Report (FER).

Regarding continued site development, the elected officials have worked with developers to create a task force which meets biannually. The developer will continue to provide updates at task force meetings and keep the community informed of both onsite and offsite work.

Regarding traffic, parking, and weekend work, NYSDEC defers those questions/issues to the task force.

COMMENT 18: The original ROD and RA [ROD Amendment] includes the development of a Site Management Plan, which includes a Monitoring Plan. Given the past trajectory of the remedy implementation, including multiple modifications and the discovery of unexpected contamination, it would be prudent and appropriate to present core elements of the Monitoring Plan NOW rather than at a future time. For example, how will sampling be conducted to assess the effectiveness of the ISS remedy? What steps will be taken if groundwater contamination is

discovered? What would constitute an unacceptable level of groundwater contamination? How long will monitoring last?

RESPONSE 18: The SMP is forthcoming and will contain contingency plans. As described in previous responses above, the ISS has already met all required parameters through laboratory tests and in-field QA/QC coring. An LNAPL Recovery Design for the offsite portion is under review by NYSDEC and will be implemented once approved.

All Other Comments

COMMENT 19: While the previous remedy would have removed all contaminants from within the footprint of the site, the in-situ solidification/stabilization (ISS) procedure allows contaminants to remain on-site. We believe therefore that it is imperative that the information on remaining site contamination be included in the site deed restriction.

RESPONSE 19: An Environmental Easement dated April 8, 2024 was recorded with the New York City Office of the City Register. The Environmental Easement defines allowable site uses, restrictions on land use, and requires adherence to all requirements set forth in the SMP including the documenting and monitoring of remaining contamination.

COMMENT 20: Given that this new remedy leaves an appreciable amount of contamination in our community, we request that there be a review of alternative treatment methods every 5 years to evaluate whether there is a more health and environmentally protective alternative or treatment that becomes available in the future.

RESPONSE 20: The forthcoming SMP will include a contingency if the NYSDEC determines that the remedy is not performing as expected or as designed. The SMP includes a provision for NYSDEC to require the remedial party to perform a Remedial System Optimization (RSO) periodically. The RSO will provide a critique of a site's conceptual model, give a summary of past performance, document current cleanup practices, summarize progress made toward the site's cleanup goals, gather additional performance or media specific data and information, and provide recommendations for improvements to enhance the ability of the present system to reach RAOs or to provide a basis for changing the remedial strategy.

COMMENT 21: We want to ensure that this new amendment does not increase the public health risk. Does this new treatment meet health standards at or below the 1 in a million cancer risk?

RESPONSE 21: Potential exposures to the remaining site contamination have been mitigated through solidification of materials at 19.5 to 24.5 feet below grade and within the support of excavation limits. Solidification binds the soil particles together and reduces the permeability of the treated area so water cannot freely flow through the material. This greatly reduces the potential for the remaining contamination to dissolve into the groundwater. The solidified mass is located at depth, beneath approved backfill and well below the building foundation. People are not expected to come into contact with the solidified mass due to its depth and since the site is covered with buildings and pavement. New York State Department of Health believes that the remedial

plan is protective of public health, including the solidification of remaining contamination that could not be excavated during the initial phase of the remedy implementation.

COMMENT 22: ISS was covered in the 2017 Feasibility Study Report. In that report on page 4-33, it states, “This remedy further takes a relatively immobile plume and makes it slightly less immobile. The ISS option does not remove source material and once completed, would render the phthalates unrecoverable.” Making the plume “less immobile” or more mobile seems contradictory to the goals of the operation. It is very concerning that ISS would make the plume more likely to move and in doing so would pose a greater threat to the community and the environment. Was this a mischaracterization or a typo? Please clarify.

RESPONSE 22: The above is a typo and should read “This remedy further takes a relatively immobile plume and makes it slightly less mobile.”

COMMENT 23: Have the results of the LNAPL pilot test been shared with stakeholders?

RESPONSE 23: The results of the LNAPL pilot test are included in the draft LNAPL Recovery System Design, which is available on DECInfo Locator.

COMMENT 24: How will the offsite recovery be affected by the ISS process?

RESPONSE 24: Due to the cutoff wall, the offsite recovery design is unaffected by the ISS.

COMMENT 25: In Section 7.2, completed elements of the ROD are discussed, including the excavation in the eastern TCE source area, with reference to 27 endpoint samples. Were remedial goals met in this area? If not, what is the expectation for future impacts on groundwater?

RESPONSE 25: There were four exceedances of the PGWSCO for TCE in the northeastern portion of the Site with a maximum concentration of 11 ppm (PGWSCO: 0.47 ppm). Remaining TCE is being remediated in this area (both on-site and off-site) through groundwater treatment via ZVI injection points and soil mixing, as well as at the adjoining BCP site, NuHart East (ID: C22487). The proposed ROD amendment does not include additional elements to address TCE contamination.

COMMENT 26: Please clarify the costs of the original remedy. The RA states that the extra cost of implementing the original ROD would be \$75M (page 16) or \$55M (page 17), versus \$40M already spent. Can these large estimates be substantiated?

RESPONSE 26: Cost summaries can be found in supporting documentation, specifically in letters dated January 18 and 30, 2024 from Dupont Street Owner LLC, the owner of the Site.

APPENDIX B

Administrative Record

ADMINISTRATIVE RECORD

**Former NuHart Plastic Manufacturing
State Superfund Project
Kings County, New York
Site No. 224136**

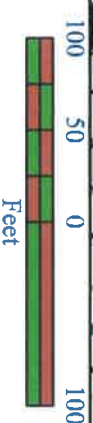
1. Order on Consent, Index No. R2-0654-11-10, between the NYSDEC and 49 Dupont Realty Corp., executed on January 18, 2011.
2. *Citizen Participation Plan*, dated April 2011, prepared by Ecosystems Strategies, Inc. (ESI)
3. Amended Order on Consent, Index No. R2-0654-11-10, to add a new owner (Dupont Street Developers LLC), executed on February 7, 2014.
4. *Remedial Investigation Report*, dated July 30, 2015, prepared by Ecosystems Strategies, Inc.
5. *Feasibility Study Report*, dated January 19, 2017, prepared by Goldberg Zoino & Associates of New York, P.C. d/b/a GZA GeoEnvironmental Of New York
6. *Record of Decision for the Former NuHart Plastic Manufacturing site*, dated March 27, 2019, prepared by the NYSDEC.
7. Order on Consent, Index No. R2-20210317-28, between NYSDEC and Dupont Street Owner LLC, executed on November 30, 2022
8. *Final 100% Remedial Design Report*, dated May 2023, prepared by H&A of New York LLP
9. *Completion of the OU-1 Western Excavation Remedial Element Letter Report*, dated January 3, 2024, prepared by Haley & Aldrich of New York (HANY)
10. OU-1 Western Excavation Request for Modification to Remedy letter dated January 18, 2024 from Dupont Street Owner LLC
11. Letter dated January 30, 2024 from Dupont Street Owner LLC
12. *Proposed Amendment to the Record of Decision, Revision 1*, dated February 26, 2024, prepared by HANY
13. *OU-1 Western Excavation ISS Completion Letter Report*, dated March 7, 2024
14. Comment letter dated April 15, 2024 from Community Board No. 1
15. Comment letter dated April 19, 2024 from North Brooklyn Neighbors
16. Comment email dated April 23, 2023 from Laura Hofmann
17. Comment letter dated April 24, 2024 from Alan Rabideau



NEW YORK
STATE OF
OPPORTUNITY

**Department of
Environmental
Conservation**

Figure 1 - Site Boundary Map
Former NuHart Plastic Manufacturing
Site No. 224136

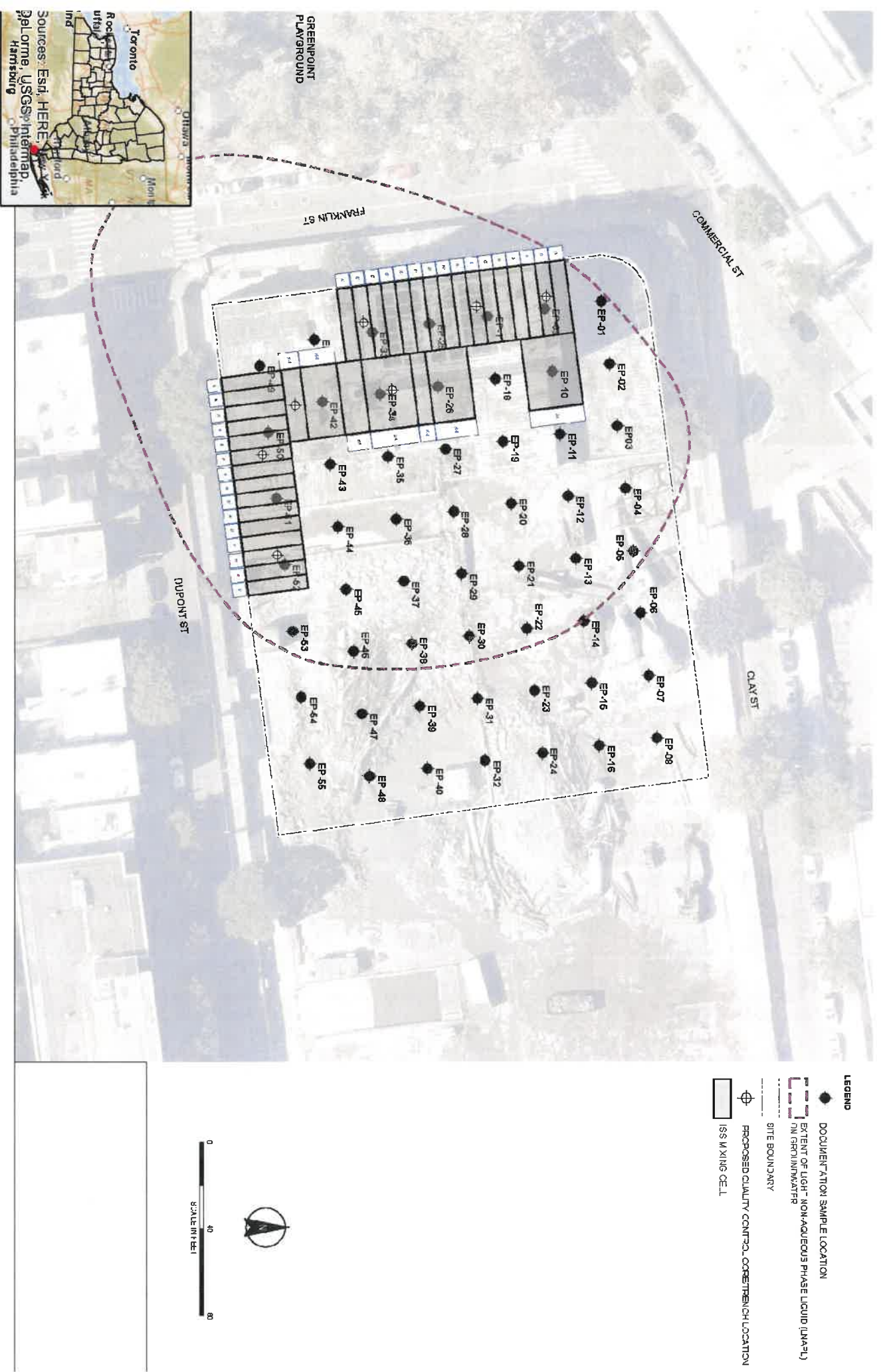


Legend



Former NuHart Property Boundary
Surrounding Site Boundary

Figure 2 - ISS Installation





COMMUNITY BOARD No. 1

435 GRAHAM AVENUE - BROOKLYN, NY 11211- 8813

PHONE: (718) 389-0009

FAX: (718) 389-0098

Email: bk01@cb.nyc.gov

Website: www.nyc.gov/brooklyncb1

HON. ANTONIO REYNOSO
BROOKLYN BOROUGH PRESIDENT



SIMON WEISER
FIRST VICE-CHAIRMAN

DEL TEAGUE
SECOND VICE-CHAIRPERSON

GINA BARROS
THIRD VICE-CHAIRPERSON

DAVID HEIMLICH
FINANCIAL SECRETARY

SONIA IGLESIAS
RECORDING SECRETARY

PHILIP A. CAPONEGRO
MEMBER-AT-LARGE

DEALICE FULLER
CHAIRPERSON

JOHANA PULGARIN
DISTRICT MANAGER

HON. LINCOLN RESTLER
COUNCILMEMBER, 33rd CD

HON. JENNIFER GUTIERREZ
COUNCILMEMBER, 34th CD

December 18, 2024

Ms. Jane O'Connell
Chief, Superfund and Brownfield Cleanup Section, Region 2
NYS Department of Environmental Conservation
One Hunters Point Plaza 1st Floor
47-40 21st Street
L. I. City, NY 11101-5401

RE: Former Nuhart Plastic Factory - 65 Dupont St - Superfund Site

Dear Ms. O'Connell:

On December 10, 2024, Brooklyn Community Board #1, by a vote of 32 "YES"; 0 "NO"; 1 "ABS", approved the submission of the following questions and concerns regarding the offsite (OU2) remediation of the Former Nuhart Plastic Factory Superfund Site located at 65 Dupont St, Brooklyn, NY:

At a public project update meeting hosted by North Brooklyn Neighbors on October 29, 2024:

It was indicated that a successful method for Soil Vapor Extraction (SVE) had not been devised and implemented yet for OU2. Please provide a status on development (description of method) and success level for OU2 SVE.

It was indicated that a filter box has been permanently installed inside the building constructed onsite. What is/will be the schedule for monitoring the operation and safety of the box's operation (substance intake, treatment and release/removal)?

Thank you for your attention to these items in advance.

Working for a Safer Williamsburg and Greenpoint.

Sincerely,

A handwritten signature in cursive script that reads "Dealice Fuller". The signature is written in black ink and is positioned above the printed name and title.

Dealice Fuller
Chairperson



COMMUNITY BOARD No. 1

435 GRAHAM AVENUE - BROOKLYN, NY 11211- 8813

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COUNCILMEMBER, 33rd CD

HON. JENNIFER GUTIERREZ
COUNCILMEMBER, 34th CD

December 23, 2024

Commissioner Sean Mahar
New York State Department of Environmental Conservation
625 Broadway
Albany, NY 12233-1010
518-402-8013

RE: DKN Ready Mix Concrete Mixing Operation, 270 Green Street, Brooklyn, NY

On December 10, 2024, Brooklyn Community Board #1, by a vote of 32 “YES”; 0 “NO”; 1 “ABS”, passed the following resolution:

Where as, Residents living at 252 Green Street, Brooklyn, NY, adjacent to 270 Green Street have encountered an abundance of dust in their living space since DKN began its concrete mixing operations next door.

Where as, Residents living at 252 Green Street have experienced significant respiratory and eye irritation since DKN began its operations next door.

Where as, Residents living at 252 Green Street have detected silica dust in their living space and outdoors since DKN began its operations next door. Inhaled silica dust can cause significant lung damage.

Where as, A 2-year old boy living at 252 Green Street, has been diagnosed with a high white blood cell count.

Where as, Local environmental organization North Brooklyn Neighbors installed an air monitor on the corner of Green Street and Provost Street in close proximity to the DKN site. During the month of June 2024 some daily readings reached AQI levels between 100-500, the highest and worst levels. (see attachment)

Where as, Noise levels next to DKN's operation have reached 100 decibels, 15 units higher than OSHA damage trigger levels.

Where as, Broadway Stages, located at 259 Green Street across the street from DKN, had to cease TV and film production operations at this facility, due to extreme noise levels produced by DKN.

Where as, Pulverization of concrete blocks at DKN causes severe vibrations. Cracks in the building at 252 Green Street have formed since DKN began operations next door.

Where as, DKN is operating with an expired construction permit.

Where as, DKN has erected a construction fence to the curb preventing pedestrian right-of-way. This is illegal. (DKN has paid a fine, but has not removed the fence).

Where as, Barriers placed in the street to support concrete pumping in the street prevent pedestrian right-of-way. This is illegal.

Where as, DKN has violated their Certificate of Occupancy (fine paid, but continues to operate without a proper COO).

Where as, This concrete mixing facility, especially one operated by a bad actor, is not compatible with the rapid residential building development that has and is occurring as a result of the 2005 Greenpoint-Williamsburg rezoning, and existing residential units, commercial and light manufacturing business that operate in close proximity.

Where as, DKN has had to close 2 previous mixing operations in Dutch Kills and Maspeth Queens due to illegal concrete dumping into the waterways and other violations.

THEREFORE, is it RESOLVED, Brooklyn Community Board #1, citing the severe adverse conditions being created by DKN's concrete operation at 270 Green Street, Brooklyn, NY and subsequent violations they have incurred for their operations, respectfully demand Commissioner Mahar revoke DKN's permit to operate a concrete mixing facility at this location.

Please see the attached supporting documents.

Working for a Safer Williamsburg and Greenpoint.

Sincerely,

Dealice Fuller
Chairperson


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NYC Department of Buildings
OATH/ECB Violation Details

[Click here for more information about Severity, Violation and Hearing Statuses](#)

Premises: 81 PROVOST STREET BROOKLYN

Filed At: 270 GREEN STREET , BROOKLYN , NY 11222

BIN: 3064222 Block: 2524 Lot: 24

Community Board: 301

OATH/ECB Violation Summary

VIOLATION RESOLVED

OATH/ECB Violation Number: 35652622X

[View Image of Summons/Notice at OATH](#)

Severity: CLASS - 1

Certification Status: CERTIFICATE ACCEPTED

Penalty Balance Due: \$0.00

Hearing Status: ADMIT/IN-VIO

Respondent Information

Name: DKN READY MIX LLC
Mailing Address: 362 MASPETH AVENUE , BKLN , NY 11211
License/Registration/Tracking Number: [GC604193](#)

Violation Details

Violation Date:	05/24/2022	Violation Type:	CONSTRUCTION
Served Date:	05/24/2022	Inspection Unit:	CONSTRUCTION SAFETY COMPLIANCE
Infraction Codes	Section of Law	Standard Description	
106	27-MISC, 28-MISC, BC -MISC	MISCELLANEOUS VIOLATIONS	

Specific Violation Condition(s) and Remedy:

BC3307.2 FAILURE TO COMPLY W/DOT REGULATIONS-NO PED WALKWAY PROVIDED AT EXP.#1 & 3. NOTE: AT TIME OF INSPECTION AN OPEN ACTIVE SITE OBSERVED AT EXP.#1 & 3 BLOCK THE SIDEWALK W/FENCE & NOT PROVIDED WALKWAY FOR PU

Issuing Inspector ID: 3341

DOB Violation Number:
05242022CC01MH03

Issued as Aggravated Level: NO

Dept. of Buildings Compliance History and Events

Certification Status: CERTIFICATE ACCEPTED

Compliance On: 05/27/2022

Certification Submission Date: 05/27/2022

A Certificate of Correction must be submitted to the Administrative Enforcement Unit (AEU) for all violations. A violation that is not dismissed by OATH/ECB will continue to remain ACTIVE or "open" on DOB records until acceptable proof is submitted to the AEU, even if you have paid the penalty imposed by OATH/ECB.

OATH/ECB Hearing Information

Scheduled Hearing Date/Time: 11/16/2022 8:30

Hearing Status: ADMIT/IN-VIO

OATH/ECB Penalty Information

Penalty Imposed: \$2,500.00

Adjustments: \$0.00

Amount Paid: \$2,500.00

Penalty Balance Due: \$0.00

If you have any questions please review these [Frequently Asked Questions](#), the [Glossary](#), or call the 311 Citizen Service Center by dialing 311 or (212) NEW YORK outside of New York City.


[CLICK HERE TO SIGN UP FOR BUILDINGS NEWS](#)

NYC Department of Buildings
OATH/ECB Violation Details

[Click here for more information about Severity, Violation and Hearing Statuses](#)

Premises: 81 PROVOST STREET BROOKLYN

Filed At: 270 GREEN STREET , BROOKLYN , NY 11222

BIN: 3064222 Block: 2524 Lot: 24

Community Board: 301

OATH/ECB Violation Summary

VIOLATION RESOLVED

OATH/ECB Violation Number: 35652622X

[View Image of Summons/Notice at OATH](#)

Severity: CLASS - 1

Certification Status: CERTIFICATE ACCEPTED

Penalty Balance Due: \$0.00

Hearing Status: ADMIT/IN-VIO

Respondent Information

Name: DKN READY MIX LLC
Mailing Address: 362 MASPETH AVENUE , BKLN , NY 11211
License/Registration/Tracking Number: [GC604193](#)

Violation Details

Violation Date:	05/24/2022	Violation Type:	CONSTRUCTION
Served Date:	05/24/2022	Inspection Unit:	CONSTRUCTION SAFETY COMPLIANCE
Infraction Codes	Section of Law	Standard Description	
106	27-MISC, 28-MISC, BC -MISC	MISCELLANEOUS VIOLATIONS	

Specific Violation Condition(s) and Remedy:

BC3307.2 FAILURE TO COMPLY W/DOT REGULATIONS-NO PED WALKWAY PROVIDED AT EXP.#1 & 3. NOTE: AT TIME OF INSPECTION AN OPEN ACTIVE SITE OBSERVED AT EXP.#1 & 3 BLOCK THE SIDEWALK W/FENCE & NOT PROVIDED WALKWAY FOR PU

Issuing Inspector ID: 3341

DOB Violation Number:
05242022CC01MH03

Issued as Aggravated Level: NO

Dept. of Buildings Compliance History and Events

Certification Status: CERTIFICATE ACCEPTED

Compliance On: 05/27/2022

Certification Submission Date: 05/27/2022

A Certificate of Correction must be submitted to the Administrative Enforcement Unit (AEU) for all violations. A violation that is not dismissed by OATH/ECB will continue to remain ACTIVE or "open" on DOB records until acceptable proof is submitted to the AEU, even if you have paid the penalty imposed by OATH/ECB.

OATH/ECB Hearing Information

Scheduled Hearing Date/Time: 11/16/2022 8:30

Hearing Status: ADMIT/IN-VIO

OATH/ECB Penalty Information

Penalty Imposed: \$2,500.00

Adjustments: \$0.00

Amount Paid: \$2,500.00

Penalty Balance Due: \$0.00

If you have any questions please review these [Frequently Asked Questions](#), the [Glossary](#), or call the 311 Citizen Service Center by dialing 311 or (212) NEW YORK outside of New York City.


[CLICK HERE TO SIGN UP FOR BUILDINGS NEWS](#)

NYC Department of Buildings
OATH/ECB Violation Details

[Click here for more information about Severity, Violation and Hearing Statuses](#)

Premises: 81 PROVOST STREET BROOKLYN

Filed At: 270 GREEN STREET , BROOKLYN , NY 11222

BIN: 3064222 Block: 2524 Lot: 24

Community Board: 301

OATH/ECB Violation Summary

VIOLATION OPEN

OATH/ECB Violation Number: 39115004K

[View Image of Summons/Notice at OATH](#)

Severity: CLASS - 2

Certification Status: NO COMPLIANCE RECORDED

Penalty Balance Due: \$0.00

Hearing Status: STIPULATION/IN-VIO

Respondent Information

Name: LVC HERKIMER LLC

Mailing Address: 275 MADISON AVENUE , NEW YORK , NY 10016

Violation Details

Violation Date: 05/22/2024

Violation Type: CONSTRUCTION

Served Date: 05/22/2024

Inspection Unit: EXECUTIVE INSPECTIONS

Infraction Codes

Section of Law

Standard Description

203

28-118.3.2

OCCUPANCY CONTRARY TO THAT ALLOWED BY THE
CERTIFICATE OF OCCUPANCY OR BUILDINGS DEPARTMENT
RECORDS

Specific Violation Condition(s) and Remedy:

FOR OCCUPANCY CONTRARY TO THAT ALLOWED BY THE CERTIFICATE OF OCCUPANCY OR BUILDINGS DEPARTMENT RECORDS. AT TIME OF INSPECTION OBSERVED CEMENT CONCRETE MIXING DKN READY MIX BUSINESS IN OPERATION AT THE SUBJECT L

Issuing Inspector ID: 3226

DOB Violation Number:

Issued as Aggravated Level: NO

Dept. of Buildings Compliance History and Events

Certification Status: NO COMPLIANCE RECORDED

Compliance On:

Stipulated Compliance Due Date: 10/21/2024

A Certificate of Correction must be submitted to the Administrative Enforcement Unit (AEU) for all violations. A violation that is not dismissed by OATH/ECB will continue to remain ACTIVE or "open" on DOB records until acceptable proof is submitted to the AEU, even if you have paid the penalty imposed by OATH/ECB.

OATH/ECB Hearing Information

Scheduled Hearing Date/Time: 08/07/2024 8:30

Hearing Status: STIPULATION/IN-VIO

OATH/ECB Penalty Information

Penalty Imposed: \$620.00

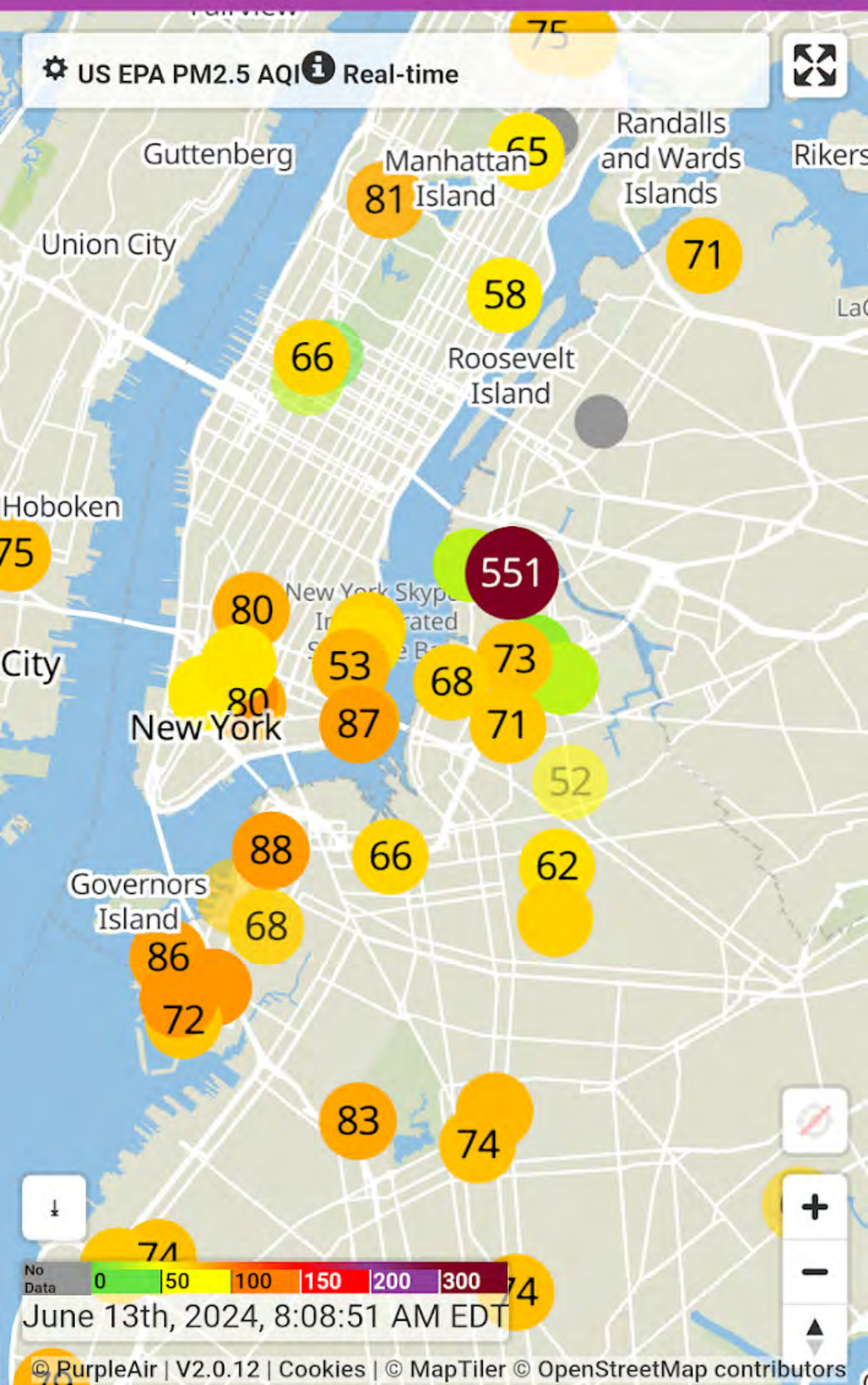
Adjustments: \$0.00

Amount Paid: \$620.00

Penalty Balance Due: \$0.00

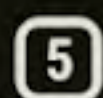
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⚙️ US EPA PM2.5 AQI ⓘ Real-time





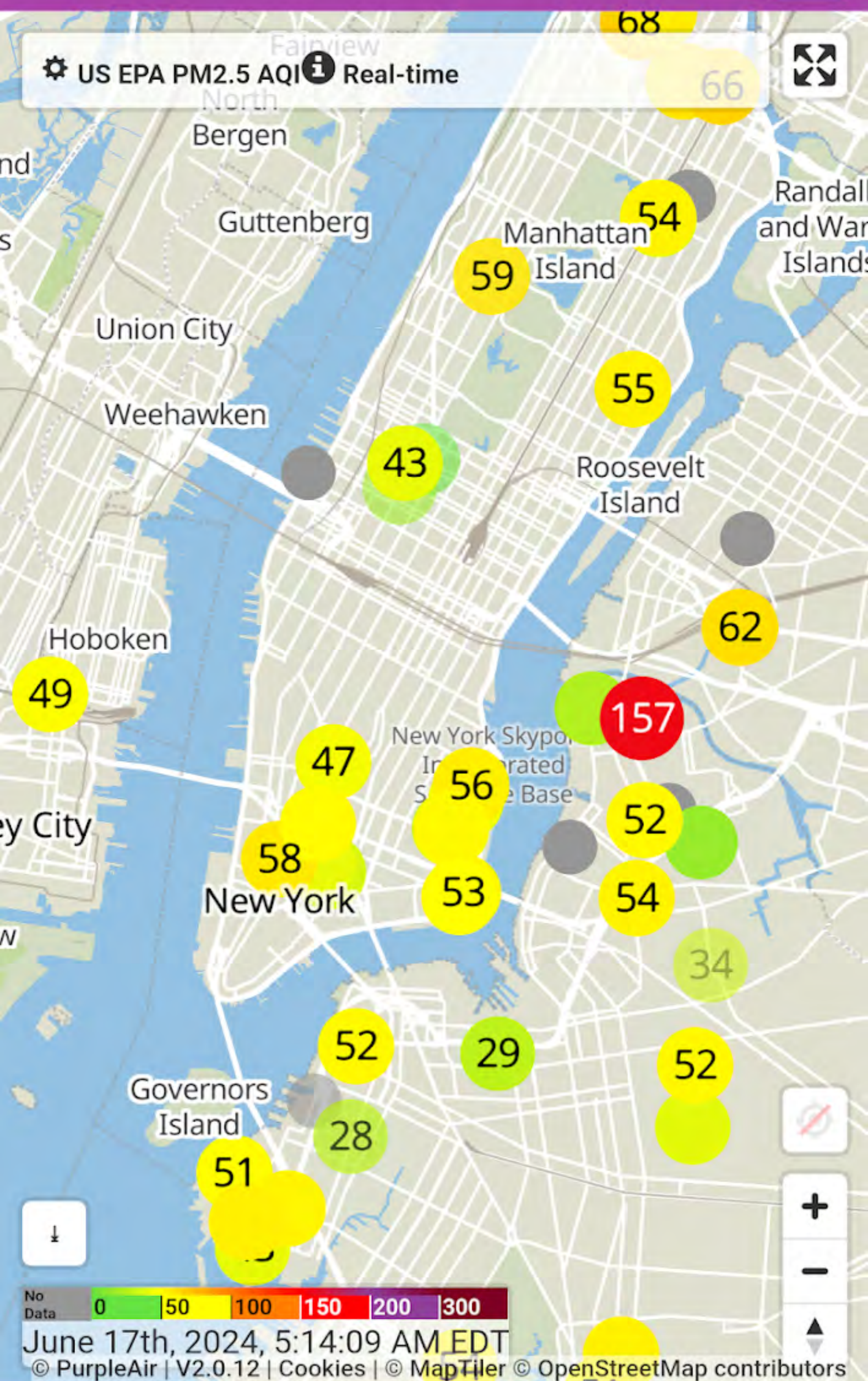
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PurpleAir



⚙ US EPA PM2.5 AQI ⓘ Real-time





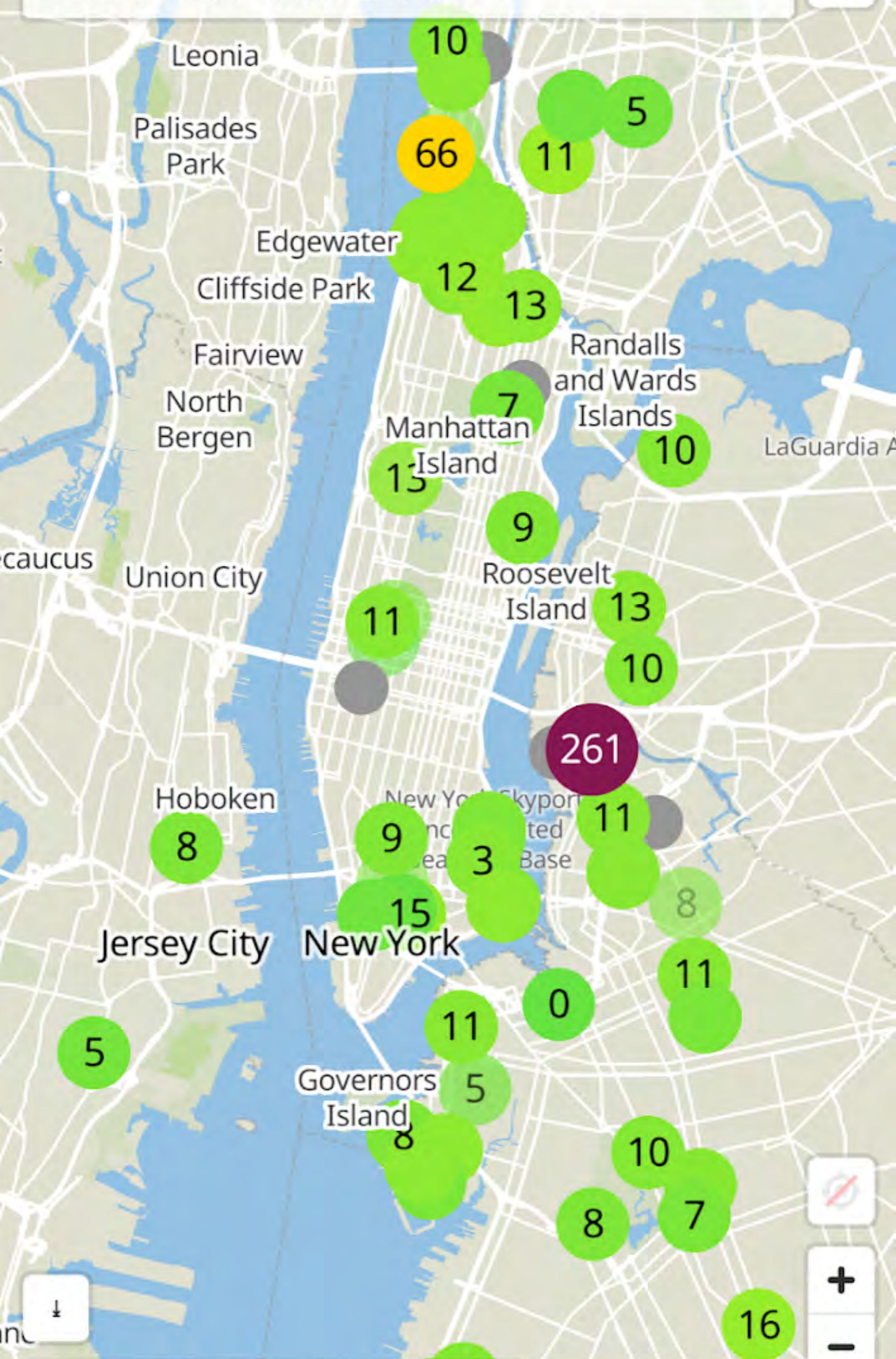


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 US EPA PM2.5 AQI  Real-time



June 28th, 2024, 7:57:10 AM EDT



PurpleAir



Ridgerfield

Click & drag to zoom. Shift + click & drag to pan. [How](#) to use the graph.



US EPA PM2.5 AQI

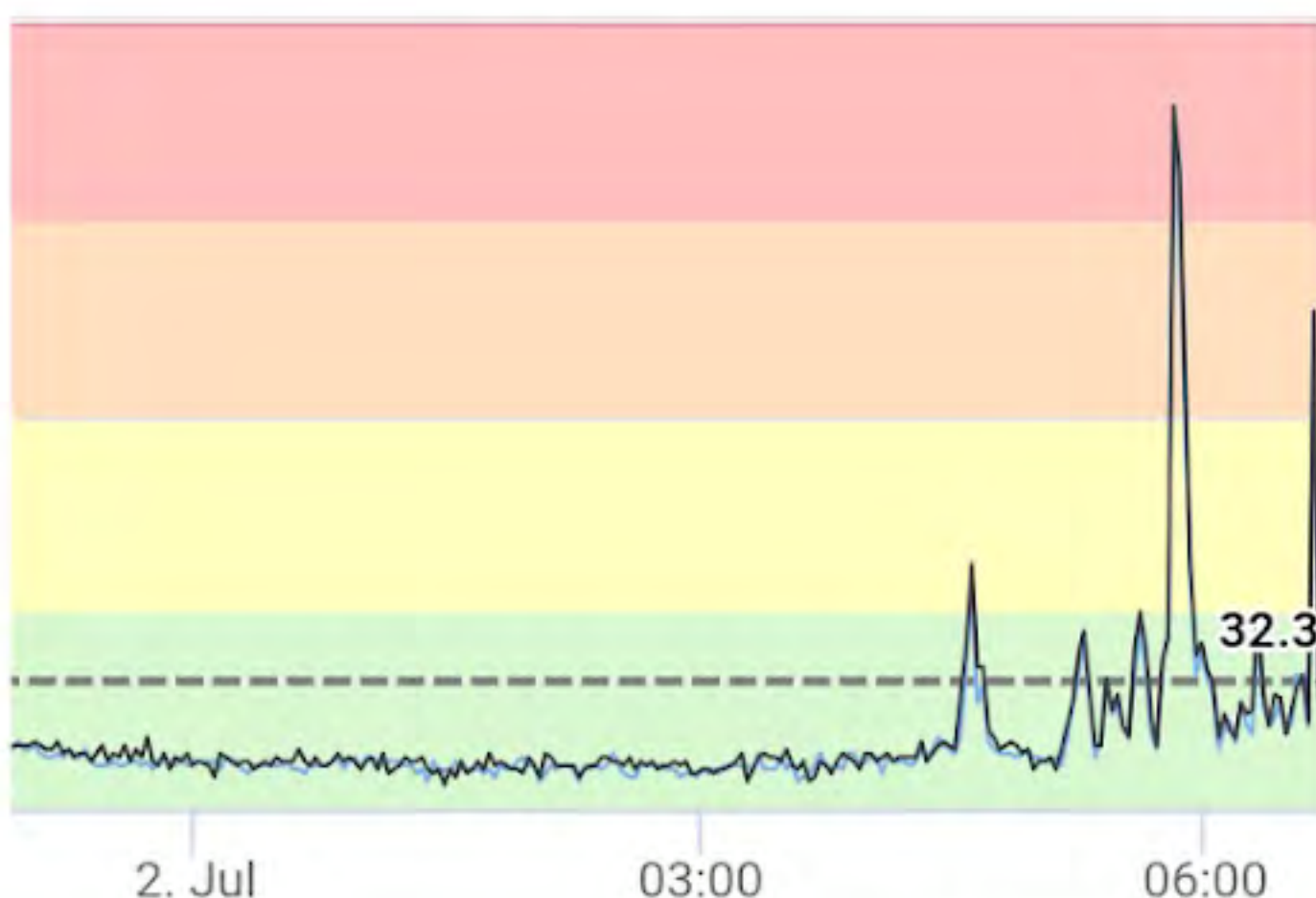


Real-time

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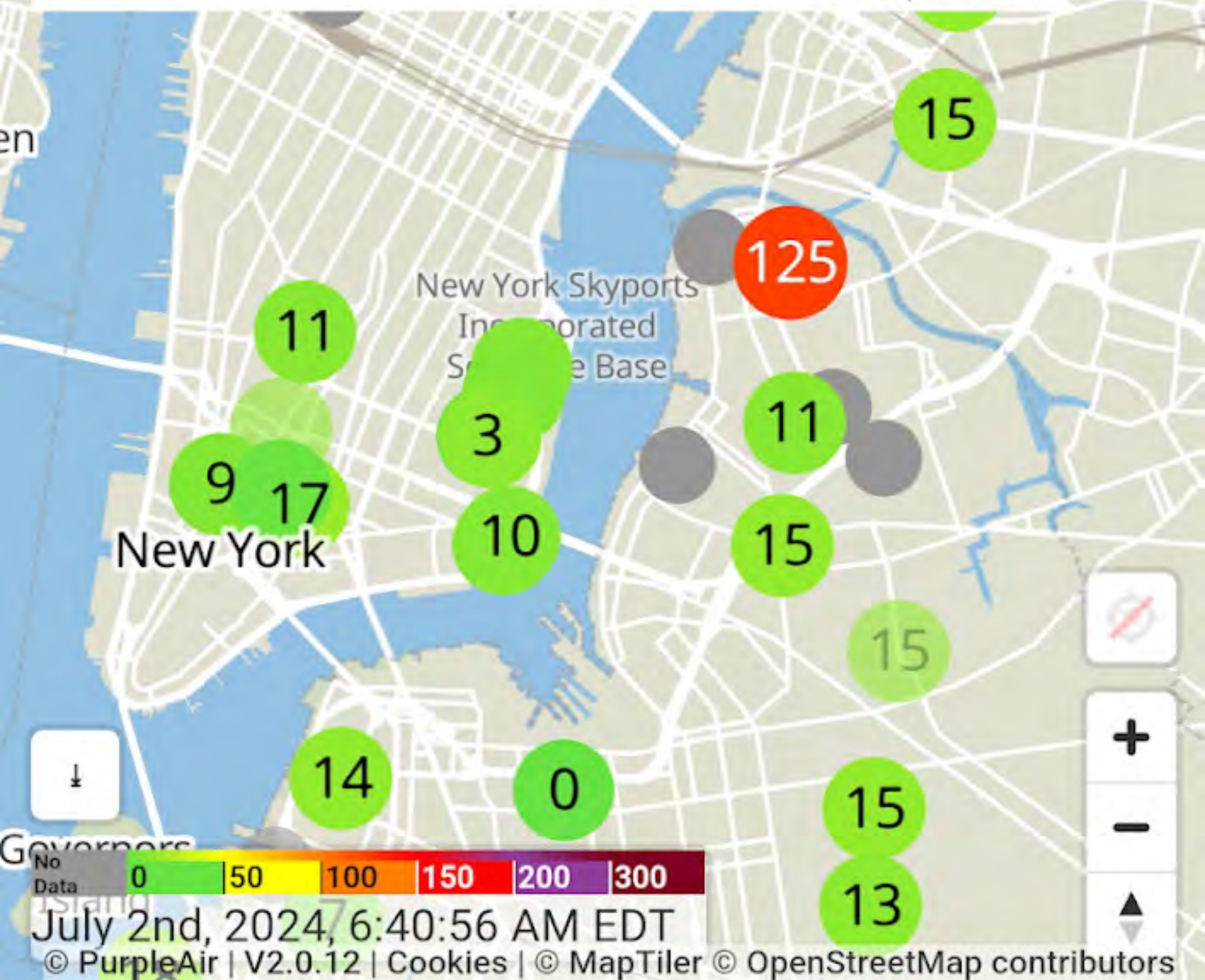
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--- Average — NBN-Green & Provost A — NBN-Green & Provost B

Reset zoom

PurpleAir.com





PurpleAir



⚙️ US EPA PM2.5 AQI ⓘ Real-time

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No Data	0	50	100	150	200	300

July 3rd, 2024, 6:05:59 AM EDT

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COMMUNITY BOARD No. 1

435 GRAHAM AVENUE - BROOKLYN, NY 11211- 8813

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HON. LINCOLN RESTLER
COUNCILMEMBER, 33rd CD

HON. JENNIFER GUTIERREZ
COUNCILMEMBER, 34th CD

December 18, 2024

Ms. Lacey Tauber
Legislative Director
Office of Brooklyn Borough President Antonio Reynoso
208 Joralemon Street
Brooklyn, NY 11201

RE: NYS DEC Community Air Monitoring Initiative Mitigation Ideas

Dear Ms. Tauber:

On December 10, 2024, Brooklyn Community Board #1, by a vote of 32 "YES"; 0 "NO"; 1 "ABS", approved the submission of the following suggestions for mitigating air pollution as a part of NYS DEC Community Air Monitoring Initiative, for the Brooklyn Community Advisory Group's mitigation ideas table:

1. Agency enforcement of dust control at commercial and industrial operations (e.g. waste transfer, recycling/scrap metal, concrete mixing)
2. Install/upgrade power conduit infrastructure in IBZ's (e.g. North Brooklyn adjacent to the BQE and the Kosciuszko Bridge), to eliminate the need for gas and diesel powered generators.
3. Build the BQ Green Project, cap the BQE trench between S 3rd Street and S 5th Street to create a public green space and park.
4. Full delivery of street cleaning service in industrial areas, to help alleviate dust pollution sources in the streets.

These ideas target disadvantaged community areas adjacent or near the Brooklyn Queens Expressway in Williamsburg and Greenpoint, which includes the North Brooklyn Industrial Business Zone (NBIBZ) and the areas near or under the Kosciuszko Bridge.

During the board's Environmental Protection Committee meeting, where these ideas were drafted, it was noted during the discussion, 1) businesses in the NBIBZ are not hosing down debris as is required by code 2) the NBIBZ lacks sufficient power voltage for businesses to sufficiently operate, prompting owners and operators to resort to air polluting generators to help supply ample power 3) The BQE trench in South Williamsburg is choking nearby residents with air pollution with its high volume of exhaust producing vehicles, and this neighborhood is horribly deficient in open green space and 4) The NYC Department of Sanitation is neglectful in cleaning the streets in the NBIBZ leaving layers of dust and debris-causing dust in the street.

Brooklyn Community Board #1 kindly requests that the Brooklyn CAMI CAG accepts these suggestions for helping improve the lives of people who live and work in Brooklyn.

Working for a Safer Williamsburg and Greenpoint.

Sincerely,

A handwritten signature in cursive script that reads "Dealice Fuller".

Dealice Fuller
Chairperson

C.C. Brooklyn Borough President Antonio Reynoso

December 10, 2024

TRANSPORTATION COMMITTEE
REPORT

TO: Chairperson Dealice Fuller
and CB #1 Board Members
FROM: Mr. Eric Bruzaitis, Committee Chair
RE: Committee Report for Thursday, November 21, 2024

The Transportation Committee met Thursday, November 21, 2024 (CALLED TO ORDER: 6:42 PM; ADJOURNED: 8:57 PM) at Swinging Sixties Senior Center, 211 Ainslie Street, Brooklyn.

A quorum was not met.

ATTENDANCE:

Present: Bruzaitis; Kelterborn; Drinkwater; Espinal; Goldstein; Vega; *Breitner;
Absent: Argento; Costa; Itzkowitz; Klagsbald; Kaminski; Pferd; Talati; Weiser; *Radesky.

AGENDA

1. STREET CO-NAMING TO BE LOCATED BETWEEN SOUTH 4TH STREET AND HOOPER STREET IN HONOR OF AUGIE AYALA JR:

The committee heard a presentation from Ms. Lucia Fernandez and other family members of Augie Ayala, a longtime community resident who made a deep and lasting impact on his neighborhood. A petition with many signatures was presented for the record. Chair Bruzaitis spoke in support of the co-naming and relayed the support from Councilmember Gutierrez.

MOTION: COMMUNITY BOARD 1 TO DRAFT A LETTER TO COUNCILMEMBER JENNIFER GUTIERREZ IN SUPPORT OF THE CO-NAMING OF THE CORNER OF SOUTH 4TH STREET AND HOOPER STREET IN HONOR OF MR. AUGUSTINE “AUGIE” AYALA JR. (MR. VEGA)

SECOND: MS. DRINKWATER.

MOTION PASSED WITHOUT OBJECTIONS OR ABSTENTIONS, ONE PUBLIC CMTE MEMBER.

2. **PRESENTATION:** Informal discussion on how we might be able to collaborate on pedestrian-level improvements around the Pre-ULURP 19 Maspeth Avenue (Block 2893, Lot 1 & 59) project site, a small, approximately 3000 square foot triangular-shaped property, bounded on all sides by streets: Woodpoint Road to the west, Maspeth Avenue to the South & Conselyea Street to the north. NOTE: Item is not yet certified with DCP.

Benjamin Stark, Herschen Singer & Epstein LLP

Presentation and informal discussion about public realm opportunities at the 19 Maspeth development site and around Memorial Gore :

Benjamin Stark, Land Use Counsel at Hirschen Singer & Epstein LLP presented plans for a new 6-story residential building at 19 Maspeth Avenue. On behalf of Friends of Cooper Park, Paul Kelterborn presented a proposal for street safety improvements around Memorial Gore.

The committee engaged in a discussion about the need for street safety measures in this area and how the public realm could be improved. Chair Bruzaitis expressed support for the proposal, as did committee members Ms. Breitner, Mr. Vega, and Ms. Drinkwater.

Boardmember Meryl LaBorde expressed support for the idea but wanted to be sure that the bus route would not be negatively impacted. Chair Bruzaitis made it clear that any street redesign would certainly require review by and engagement with the MTA. Aaron Koen, co-owner of Easy Lover, a bar that faces Memorial Gore expressed strong support for the efforts of the Friends of Cooper Park coalition.

Mr. Vega noted that this area has been under discussion at GREC meetings around Cooper Commons development and are on-going.

Mr. Kevin La Chera noted that “Crash Map” data supports a redesign at this location.

Several committee members noted that this is a travel path for students of both PS 132 & Progress High School which should make a review of this area by DOT appropriate.

3. REQUEST FOR LETTER OF NO OBJECTION FOR 184 BEDFORD AVENUE:

“DOT for the last couple of weeks and they have agreed to allow our team to perform a one day, 7-hour crane operation on Sunday, December 15th. This operation will require a road closure of the section of the section of Bedford Avenue between North 6 and North 7 Street from 8am to 3pm.” The project owners will provide 5 certified flaggers and 3 NYPD Traffic agents for the duration of the operation, as requested by DOT.

David Pond made a request for weekend work and a street closure for the ongoing construction at 184 Bedford Avenue. Chair Bruzaitis informed the applicant that the board has a longstanding embargo against weekend work and so would not be able to grant his request. Ms Drinkwater and others on the committee expressed an interest in reevaluating these types of requests, given the deep housing crisis and the need for rapid construction of more units. The committee agreed that this issue should be raised with the Land Use Committee for further discussion.

4. REQUESTING A LETTER OF NO OBJECTION FOR LOCATION CHANGE FOR A&S LIMOUSINE SERVICE (B02103).

Chair Bruzaitis asked if there was anyone to speak on behalf of this item. There wasn't. No one on the committee had any objections.

MOTION: COMMUNITY BOARD 1 TO DRAFT A LETTER OF NO OBJECTION TO TLC REGARDING LOCATION CHANGE FOR A&S LIMOUSINE SERVICE (B02103). (MS. ESPINAL)

SECOND: MR. KELTERBORN.

MOTION PASSED WITHOUT OBJECTIONS OR ABSTENTIONS, WITH ONE PUBLIC CMTE MEMBER.

5. DISCUSSION: Expansion of Sammy's Law & Redlight Camera Locations.

Mr. Kelterborn presented some background information about Sammy's Law and led the committee into a discussion about whether the board should request that all of CB1 be designated a "Regional Slow Zone" which would reduce the speed limit on nearly all the streets in the district to 20 MPH. The DOT has announced that a slow zone will be designated in each borough, except Staten Island. Committee members generally agreed that given the large population of children and seniors in CB1 as well as the presence of numerous schools, reduced speed limits would be appropriate and welcome.

MOTION: COMMUNITY BOARD 1 TO DRAFT A LETTER TO NYC DOT RECOMMENDING THE AGENCY CONSIDER COMMUNITY DISTRICT 1 AS A "REGIONAL SLOW ZONE" (MR. KELTERBORN)

SECOND: MS. BREITNER.

MOTION PASSED WITHOUT OBJECTIONS OR ABSTENTIONS, WITH ONE NON-BOARD MEMBER, WITH ONE PUBLIC CMTE MEMBER

Mr. Bruzaitis advised the committee that a discussion of Red Light Camera locations would be taken up in January.

6. DISCUSSION: Intersection Daylighting Locations.

The committee reviewed a Google map of recommended locations for intersection daylighting. The committee agreed that a productive next step would be to circulate the map and the request form to all board members so that they can provide input on additional suggested locations. These locations will be discussed and submitted for recommendation to the DOT at a future meeting.

7.. Old Business

Ms. Breitner reported that per DOT the installation of a new crosswalk is planned before the end of the year across Bedford, at the Automotive High School. This crosswalk was requested by the board because it connects two intensively used sections of McCarren Park.

Ms. Breitner presented a status update on the reconfiguration of McGuinness Avenue

7. New Business

Chair Bruzaitis presented 2025 meeting dates as follows:

January 23; February 27; March 27; April 30; May 22; June 17 (Dedicated to District Needs); July/August No Meeting; September 18; October 20; November 13; December 3; January 6 (2026)

Ms. Breitner asked if there was any update on Commercial Street as well as the Metropolitan/Grand/Morgan redesign. No one present had any updated information.

DOT is still saying sometime in 2025.

Boardmember Bella Sabel asked for improvements to the B44 bus. She expressed a need for more frequent service as well as for a bus shelter at Bedford/Flushing and restoration of a stop at Roebling/South 8th. Chair Bruzaitis offered to reach out to the MTA representative to discuss.

It was noted that a walkthrough is planned on 11/26 with Councilmember Gutierrez at Scott/Flushing, the site of a motorcyclist fatality.

Mr. Kevin LaCherra asked if there was a list of DOT plaza locations which are set to receive capital buildouts. Chair Bruzaitis said he would find out.

Adjournment. Meeting was adjourned at 8:57 PM.

MOTIONS

MOTION: COMMUNITY BOARD 1 TO DRAFT A LETTER TO COUNCILMEMBER JENNIFER GUTIERREZ IN SUPPORT OF THE CO-NAMING OF THE CORNER OF SOUTH 4TH STREET AND HOOPER STREET IN HONOR OF MR. AUGUSTINE “AUGIE” AYALA JR. (MR. VEGA)

SECOND: MS. DRINKWATER.

MOTION PASSED WITHOUT OBJECTIONS OR ABSTENTIONS, WITH ONE NON-BOARD MEMBER.

MOTION: COMMUNITY BOARD 1 TO DRAFT A LETTER OF NO OBJECTION TO TLC REGARDING LOCATION CHANGE FOR A&S LIMOUSINE SERVIE (B02103). (MS. ESPINAL)

SECOND: MR. KELTERBORN.

MOTION PASSED WITHOUT OBJECTIONS OR ABSTENTIONS, WITH ONE NON-BOARD MEMBER.

MOTION: COMMUNITY BOARD 1 TO DRAFT A LETTER TO NYC DOT RECOMMENDING THE AGENCY CONSIDER COMMUNITY DISTRICT 1 AS A “REGIONAL SLOW ZONE” (MR. KELTERBORN)

SECOND: MS. BREITNER.

MOTION PASSED WITHOUT OBJECTIONS OR ABSTENTIONS, WITH ONE NON-BOARD MEMBER.



COMMUNITY BOARD No. 1

435 GRAHAM AVENUE - BROOKLYN, NY 11211- 8813

PHONE: (718) 389-0009

FAX: (718) 389-0098

Email: bk01@cb.nyc.gov

Website: www.nyc.gov/brooklyn1

HON. ANTONIO REYNOSO
BROOKLYN BOROUGH PRESIDENT



SIMON WEISER
FIRST VICE-CHAIRMAN

DEL TEAGUE
SECOND VICE-CHAIRPERSON

GINA BARROS
THIRD VICE-CHAIRPERSON

DAVID HEIMLICH
FINANCIAL SECRETARY

SONIA IGLESIAS
RECORDING SECRETARY

PHILIP A. CAPONEGRO
MEMBER-AT-LARGE

DEALICE FULLER
CHAIRPERSON

JOHANA PULGARIN
DISTRICT MANAGER

HON. LINCOLN RESTLER
COUNCILMEMBER, 33rd CD

HON. JENNIFER GUTIERREZ
COUNCILMEMBER, 34th CD

December 12, 2024

The Honorable Jennifer Gutierrez
34th District Council Member, New York City Council
250 Broadway
Suite 1883
New York, New York 10007

**RE: Street Co-Naming Honoring
Mr. Augustine "Augie" Ayala Jr
(Corner of South 4th Street and
Hooper Street)**

Dear Council Member Gutierrez:

At the regular meeting of Brooklyn Community Board No. 1, held the evening of December 10, 2024, the Board Members received a report from the Transportation Committee (report is attached). Please be advised that the Board Members voted to support sending this letter.

Brooklyn Community Board No. 1 supports the co-naming of the Corner of South 4th Street and Hooper Street, in honor of Mr. Augustine "Augie" Ayala Jr.

The vote was as follows: 32 "YES"; 0 "NO"; 0 ABSTENTIONS

Working for a Better Williamsburg-Greenpoint.

Sincerely,

Dealice Fuller
Chairperson

CC: Brooklyn Borough President Antonio Reynoso
NYC DOT Brooklyn Borough Commissioner Keith Bray



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JOHANA PULGARIN
DISTRICT MANAGER

HON. LINCOLN RESTLER
COUNCILMEMBER, 33rd CD

HON. JENNIFER GUTIERREZ
COUNCILMEMBER, 34th CD

December 12, 2024

Commissioner David Do
NYC TLC
33 Beaver Street
New York, New York 10004

Dear Commissioner Do:

At the regular meeting of Brooklyn Community Board No. 1, held the evening of December 10, 2024, the Board Members received a report from the Transportation Committee (report is attached). Please be advised that the Board Members voted to support sending this letter.

Brooklyn Community Board No. 1 supports the location change of A & S Limousine Service License # B02103 from 712 Broadway, 2nd Floor Brooklyn, New York 11206 to 687 Broadway, 2nd Floor Brooklyn, New York 11206.

The vote was as follows: 32 "YES"; 0 "NO"; 0 ABSTENTIONS

Working for a Better Williamsburg-Greenpoint.

Sincerely,

Dealice Fuller
Chairperson



COMMUNITY BOARD No. 1

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HON. JENNIFER GUTIERREZ
COUNCILMEMBER, 34th CD

December 10, 2024

COMMITTEE REPORT

By Laws, Attendance Procedures (Parliamentary), Service Delivery Committee.

TO: Chairperson Dealice Fuller and CB1 Board Members

FROM: Mr. Austin Pferd, Committee Chair
Ms. Sonia Iglesias, Committee Co-Chair

RE: By Laws Committee Report of November 19, 2024

The Committee met on the evening of November 19, 2024, at 6:30 PM at CB1 District office, 435 Graham Ave. (Corner of Frost St), Brooklyn, NY. 11211

Present: Pferd (Chair); Chesler; Espinal; Klagsbald; Peterson.

Absent: Iglesias (Co-Chair); Goldstein; Heimlich; Mrowiec.

(A quorum was not achieved)

This meeting did not constitute a quorum at the time of the only motion made and voted upon.

Also attended:

- Lloyd Feng, Meryl Laborde, and William Vega, *non-committee members*.
 - Johana Pulgarin was present in her capacity as District Manager.
-

The meeting was convened to evaluate current bylaws and re-examine hybrid meeting potential.

The published agenda included three items:

1. Update published bylaws for accessibility
2. Hybrid Meeting Reassessment
3. Bylaws Wishlist Discussion

December 8th, 2024

The following documents, discussed at the Committee meeting, are attached to this report:

- Current CB1 Bylaws (Exhibit A)
- Digitized and formatted CB1 bylaws (Exhibit B)
- September 12, 2023 By-Laws Committee Report (Exhibit C)

MEETING

Comparison was made between printed copies of the current bylaws and formatted and digitized for accessibility bylaws and committee members confirmed exact text match.

Motion to Approve Update published bylaws for accessibility.

By Steve Chesler

Second by Rosemary Espinal

Yes Votes 4

Motion Carried

We discussed hybrid meetings.

Johana Pulgarin: Contractors to provide services for hybrid meetings are expensive. The Board is working on a letter with Mr. Chesler to engage Borough President Antonio Reynoso.

William Vega: Money to run hybrid meetings is the problem

Jan Peterson: The world is changing.

Rosemary Espinal: We shouldn't fall behind other community boards.

Steve Chesler: Quorum is not enforced for committees (speaking to the concerns that hybrid meeting would jeopardize quorum).

Meryl Laborde: Hybrid meetings would boost community participation.

William Vega: Pointed out that only board members can request the hybrid arrangement.

Committee sentiment was that there is interest in establishing hybrid meetings for committee meetings only at this time as the impact to quorum would not affect board activity, provided that the financial and technical demands of hybrid meetings can be met.

Discussion switched to a wider ranging discussion of community board structure and process, with the following considered:

- How can we protect the board's finances from the accruals of employees and is it even legal to put policy in place to limit this risk?
- Issues related to Elections in the bylaws were raised as current practices are not in compliance. *Elections shall be conducted by electronic voting and held during a scheduled meeting of the board designated for elections. Each present member shall cast a vote for a declared candidate by use of voice vote (viva voce).* At the most recent election, votes were handwritten on paper ballots.
- Requirements written into the bylaws for committee attendance and quorum. The current bylaws have clearly defined requirements for full board meeting attendance and do not address committee attendance.
- Other details of attendance, such as changing the measured absence period from calendar year to 12 months, board members not staying for the full meeting, combining committee and full board attendance requirements.
- The exclusive power of the Board Chair with regards to committee assignment was discussed, with suggestions to empower the executive board, committee chairs or full board to add or remove members.
- Individual committee autonomy to conduct their affairs (especially in regard to choosing their meeting location) was discussed.
- Alternatives to Roberts Rules of Order, with consensus building models proposed as a possible alternative.
- Requiring new members to introduce themselves and other ways to integrate newer members.

BY-LAWS OF COMMUNITY BOARD NO.1 BROOKLYN

I. OFFICERS

A. THE OFFICERS OF THE BOARD SHALL BE:

CHAIRPERSON, FIRST VICE CHAIRPERSON, SECOND VICE CHAIRPERSON, THIRD VICE CHAIRPERSON, FINANCIAL SECRETARY, RECORDING SECRETARY, AND MEMBER-AT-LARGE.

B. THE DUTIES OF THE OFFICERS SHALL BE AS FOLLOWS:

1. CHAIRPERSON

- a) THE CHAIRPERSON SHALL BE THE CHIEF EXECUTIVE OFFICER OF THE BOARD AND SHALL BE RESPONSIBLE FOR THE OVERALL CONDUCT OF THE AFFAIRS OF THE BOARD.
- b) CALL AND PRESIDE AT ALL REGULAR AND PUBLIC HEARING MEETINGS AND SPECIAL MEETINGS OF THE BOARD.
- c) APPOINT AND REMOVE THE CHAIRPERSON AND MEMBERS OF ALL STANDING AND SPECIAL COMMITTEES UNLESS OTHERWISE SPECIFIED IN THESE BY-LAWS.
- d) CARRY OUT THE DUTIES AND SERVE ON ALL COMMITTEES AND BOARDS AS PRESCRIBED BY THE CITY CHARTER.
- e) PREPARE AN ANNUAL REPORT AT THE END OF EACH CALENDAR YEAR FOR THE BOARD, BOROUGH PRESIDENT, AND CITY COUNCIL MEMBERS FROM THE COMMUNITY DISTRICT.
- f) RESPONSIBLE, ALONG WITH THE FINANCIAL SECRETARY, FOR THE ADMINISTRATION OF FUNDS OBTAINED FROM SOURCES OUTSIDE OF THE CITY GOVERNMENT.

2. FIRST VICE CHAIRPERSON

- a) SHALL ASSIST THE CHAIRPERSON IN CARRYING OUT THE DUTIES OF THE CHAIR.
- b) SHALL SERVE IN THE PLACE OF THE CHAIRPERSON WHEN THERE IS A VACANCY IN THE OFFICE OF CHAIRPERSON, OR WHEN THE CHAIRPERSON IS UNABLE TO PERFORM HIS/HER DUTIES.
- c) CHAIR THE COMMITTEE ON SERVICE DELIVERY COORDINATION WHICH SHALL MAKE REGULAR MONTHLY REPORTS TO THE BOARD ON THE WORK OF THE DISTRICT MANAGER, LOCAL DISTRICT SERVICE CABINET AND LOCAL SERVICE AGENCIES.
- d) MAY ATTEND ALL DISTRICT SERVICE CABINET MEETINGS AND SHALL ASSIST THE CHAIRPERSON OF THE BOARD IN WORKING WITH THE DISTRICT MANAGER AND THE DISTRICT SERVICE CABINET.
- e) SERVE AS AN EX-OFFICIO MEMBER OF ALL COMMITTEES.

3. SECOND VICE CHAIRPERSON

- a) SHALL PRESIDE AT MEETINGS IN THE ABSENCE OF THE CHAIRPERSON AND THE FIRST VICE CHAIRPERSON.

b) CHAIR THE COMMITTEE ON UNIFORM LAND USE REVIEW PROCEDURES (ULURP) WHICH SHALL BE RESPONSIBLE FOR ADVISING THE CHAIRPERSON AND THE BOARD OF ALL ACTIONS NECESSARY FOR THE BOARD TO COMPLY WITH THE TERMS OF THE UNIFORM LAND USE REVIEW PROCEDURE AS TO NOTIFICATION, CALENDARING OF ITEMS, AND HOLDING PUBLIC HEARINGS.

c) SHALL BE RESPONSIBLE FOR THE CARRYING OUT OF PROCEDURES ADOPTED BY THE BOARD FOR THE UNIFORM LAND USE REVIEW PROCEDURE (ULURP)

d) PREPARE REPORTS FOR SUBMISSION TO APPROPRIATE CITY AGENCIES ON ACTIONS TAKEN BY THE BOARD UNDER ULURP.

e) TOGETHER WITH THE THIRD VICE CHAIRPERSON, CONDUCT THE BOARD'S ANNUAL PUBLIC HEARING ON THE CITYWIDE STATEMENT OF NEED AND SUBMIT JOINT RECOMMENDATIONS TO THE BOARD.

f) PERFORM SUCH OTHER DUTIES CONCERNING ULURP AS THE BOARD OR CHAIRPERSON DIRECT.

4. THIRD VICE CHAIRPERSON

a) SHALL PRESIDE AT MEETINGS IN THE ABSENCE OF THE CHAIR, AND THE FIRST AND SECOND VICE CHAIRPERSON.

b) CHAIR THE COMMITTEE ON THE EXPENSE, CAPITAL AND COMMUNITY DEVELOPMENT BUDGETS AND BE RESPONSIBLE FOR ADVISING THE CHAIRPERSON AND THE BOARD OF ALL ACTIONS NECESSARY TO COMPLY WITH THE REQUIREMENTS OF THE CITY AND FEDERAL AGENCIES RELATIVE TO THE PREPARATION, APPROVAL AND IMPLEMENTATION OF THE EXPENSE, CAPITAL AND COMMUNITY DEVELOPMENT BUDGET INCLUDING HOLDING OF PUBLIC HEARINGS, NOTIFICATION AND CALENDARING.

c) SHALL PREPARE THE REPORTS FOR THE BOARD'S APPROVAL ON THE EXPENSE, CAPITAL AND COMMUNITY DEVELOPMENT BUDGETS AS THE CHAIRPERSON OR THE BOARD MAY DIRECT FOR SUBMISSION TO THE APPROPRIATE CITY AGENCIES.

d) TOGETHER WITH THE SECOND VICE CHAIRPERSON, CONDUCT THE BOARD'S ANNUAL PUBLIC HEARING ON THE CITYWIDE STATEMENT OF NEED AND SUBMIT JOINT RECOMMENDATIONS TO THE BOARD.

e) PERFORM SUCH OTHER DUTIES CONCERNING CAPITAL PROJECTS, EXPENSE ITEMS AND COMMUNITY DEVELOPMENT AS THE BOARD AND CHAIR DEEM APPROPRIATE.

5. FINANCIAL SECRETARY

a) SHALL BE RESPONSIBLE FOR KEEPING A FINANCIAL REPORT FOR THE BOARD AND FOR SUBMITTING MONTHLY FINANCIAL REPORTS IN WRITING TO THE BOARD.

b) SHALL CHAIR THE BUDGET COMMITTEE WHICH SHALL PREPARE THE BUDGET FOR SUBMISSION TO THE BOARD FOR APPROVAL.

c) MAKE RECOMMENDATIONS TO THE BOARD FOR APPROPRIATE ACTION OR COMMENTS BY THE BOARD.

d) SHALL ALONG WITH THE CHAIRPERSON, BE THE PERSON DESIGNATED BY THE BOARD FOR THE ADMINISTRATION OF ACCOUNTS OF FUNDS OBTAINED FROM SOURCES OUTSIDE CITY GOVERNMENT.

6. RECORDING SECRETARY

a) SHALL BE RESPONSIBLE FOR KEEPING A CLEAR, ACCURATE AND TIMELY RECORD OF THE PROCEEDINGS OF THE BOARD.

b) SHALL TAKE MINUTES OF ALL MEETINGS OF THE BOARD WHICH REFLECT THE SUBSTANCE OF DISCUSSION OF BOARD MEMBERS ALONG WITH THE POSITIONS TAKEN ON EACH ITEM; PREPARE THE INVITES FOR INCLUSION IN THE NOTICE OF THE MEETING AT WHICH THEY ARE TO BE APPROVED; ENSURE THAT AMENDMENTS TO THE MINUTES ARE REFLECTED IN THE ORIGINAL MINUTES.

c) SHALL KEEP AN UP TO DATE FILE ON MINUTES ON RECORD IN THE BOARD'S OFFICE.

7. MEMBER AT LARGE

II. EXECUTIVE COMMITTEE

A. THERE SHALL BE AN EXECUTIVE COMMITTEE WHICH SHALL CONSIST OF THE OFFICERS OF THE BOARD AS SPECIFIED IN THE BY-LAWS AND ONE MEMBER ELECTED AT LARGE WHICH, WILL MEET BEFORE EACH REGULAR MONTHLY MEETING OF THE BOARD TO PREPARE AN AGENDA FOR THE REGULAR BOARD MEETING AND THE PUBLIC HEARING MEETING FOR EACH MONTH.

B. IN CASE OF THE NECESSITY FOR BOARD ACTION BEFORE A MEETING CAN BE HELD, THE EXECUTIVE COMMITTEE MAY MEET AND ACT ON BEHALF OF THE BOARD PROVIDED THAT SUCH ACTIONS SHALL BE SUBJECT TO RATIFICATION BY THE BOARD AT THE NEXT REGULARLY SCHEDULED MEETING.

III. MEETING

A. THERE SHALL BE TEN (10) SCHEDULED MEETINGS OF THE BOARD IN EACH CALENDAR YEAR. ALL MEETINGS SHALL BE OPENED BY THE CHAIRPERSON AT THE APPOINTED TIME INDICATED IN THE NOTICE.

1. REGULAR MEETINGS SHALL BE HELD EACH MONTH (10).

2. PUBLIC HEARING MEETINGS SHALL BE HELD EACH MONTH AND COMBINED WITH THE REGULAR MEETING. IF THE BOARD FINDS NEED TO SCHEDULE A SEPARATE HEARING DATE IT SHALL DO SO BY A MAJORITY VOTE.

3. THE EXECUTIVE COMMITTEE SHALL ESTABLISH A CALENDAR OF THE DATES FOR THE TEN (10) REQUIRED MEETINGS AND PUBLIC HEARING MEETINGS OF THE BOARD, THAT WOULD BE HELD FOR THE FOLLOWING YEAR, FOR THE BOARD'S APPROVAL AT THE REGULAR DECEMBER MEETING. ONCE THE CALENDAR HAS BEEN APPROVED, A MAJORITY OF THE BOARD SHALL BE REQUIRED TO ALTER ANY DATE ON THE CALENDAR. ONCE APPROVED, THE CALENDAR SHALL BE FURNISHED IN WRITING TO EACH MEMBER OF THE BOARD.

4. NOTICE OF EACH INDIVIDUAL MEETING STATING THE DATE, TIME, PLACE AND AGENDA SHALL BE FURNISHED TO EACH MEMBER OF THE BOARD AT LEAST FIVE DAYS PRIOR TO EACH MEETING.

5. SPECIAL MEETINGS MAY BE CALLED BY THE EXECUTIVE COMMITTEE OR UPON THE REQUEST OF TEN MEMBERS OF THE BOARD.

6. WHEN NO SUBSTANTIAL BUSINESS IS SCHEDULED TO BE CALENDARED FOR A PUBLIC HEARING MEETING BY THE DATE OF THE MOST RECENT REGULAR MONTHLY MEETING, THE BOARD CAN, BY TWO-THIRDS VOTE, CANCEL THE MEETING.

7. AT EACH PUBLIC HEARING MEETING, TIME SHALL BE SET ASIDE FOR A PUBLIC SESSION, DURING WHICH TIME PUBLIC REMARKS SHALL BE RECEIVED FROM THE GENERAL PUBLIC. PUBLIC REMARKS SUBMITTED AT PUBLIC SESSIONS SHALL BE LIMITED TO THREE MINUTES PER SPEAKER AND MAY BE EXTENDED BY THE CHAIR. IN ADDITION, THE CHAIRPERSON SHALL BE AUTHORIZED TO IMPOSE SUCH ADDITIONAL REASONABLE LIMITATIONS UPON THE RECEIPT OF PUBLIC SESSION TESTIMONY, SUCH AS LIMITING THE NUMBER OF PERSONS RECOGNIZED TO SPEAK ON A PARTICULAR ITEM OR LIMITING THE TIME ALLOCATED TO DISCUSS A SPECIFIC TOPIC, IN ORDER TO ENSURE THAT SUFFICIENT TIME IS ALLOCATED TO STATED PUBLIC HEARING AGENDA ITEMS AND THAT THE BOARD CAN CONCLUDE THE PUBLIC HEARING AT A REASONABLE HOUR.

IV. QUORUM

A QUORUM SHALL CONSIST OF A MAJORITY OF THE APPOINTED MEMBERS AND SHALL BE NECESSARY TO CONDUCT BUSINESS, EXCEPT FOR PUBLIC HEARINGS CONDUCTED UNDER THE ULURP, WHEN A QUORUM CONSISTING OF 20% OF THE APPOINTED MEMBERS OF THE BOARD, BUT IN NO EVENT FEWER THAN SEVEN SUCH MEMBERS, SHALL BE REQUIRED.

V. ELECTION OF OFFICERS

A. PRE-NOMINATION PROCEDURES

1. AT THE REGULAR APRIL MEETING OF EACH YEAR THE CHAIRPERSON SHALL DESIGNATE AN ELECTIONS COMMITTEE COMPOSED OF FIVE MEMBERS.

2. PRIOR TO THE MAY MEETING, THE ELECTIONS COMMITTEE SHALL CANVASS THE BOARD MEMBER BY LETTER OR PHONE TO ADVISE THEM OF PROCEDURES TO BE FOLLOWED FOR THE ELECTION.

3. AT THE REGULAR MAY MEETING, THE ELECTIONS COMMITTEE SHALL MAKE A REPORT TO THE BOARD.

B. NOMINATIONS

1. AT THE REGULAR MAY MEETING, NOMINATIONS FROM THE FLOOR WILL BE ENTERTAINED. WITH THE EXCEPTION OF THE REGULAR MAY 2020 MEETING WHERE INSTEAD AT THE DECEMBER 2020 REGULAR MEETING, NOMINATIONS FROM THE FLOOR WILL BE ENTERTAINED. ALL NOMINATIONS FROM THE FLOOR MUST BE MADE AT THE MAY MEETING ONLY WITH THE EXCEPTION OF THE REGULAR MAY 2020 MEETING WHERE INSTEAD ALL NOMINATIONS FROM THE FLOOR MUST BE MADE AT THE DECEMBER 2020 MEETING ONLY. A MEMBER MAY NOMINATE ANY VALID MEMBER OF THE BOARD, INCLUDING HIMSELF OR HERSELF. NOMINATIONS WILL BE CLOSED BY VOTE AT THE MAY MEETING WITH THE EXCEPTION OF THE REGULAR MAY 2020 MEETING WHERE INSTEAD NOMINATIONS WILL BE CLOSED BY VOTE AT THE DECEMBER 2020 MEETING.

2. A MEMBER NEED NOT BE PRESENT TO BE NOMINATED.

3. NOMINATIONS NEED NOT BE SECONDED.

4. A BOARD MEMBER, WHO HAS BEEN NOMINATED, MAY DECLINE THE NOMINATION AT THE REGULAR MAY MEETING, OR IN WRITING TO THE ELECTIONS COMMITTEE AT LEAST 10 DAYS PRIOR TO THE ELECTION. (WITH THE EXCEPTION OF THE REGULAR MAY 2020 MEETING WHERE INSTEAD A BOARD MEMBER, WHO HAS BEEN NOMINATED, MAY DECLINE THE NOMINATION AT THE DECEMBER 2020 REGULAR MEETING, OR IN WRITING TO THE ELECTIONS COMMITTEE AT LEAST 10 DAYS PRIOR TO THE ELECTION). UNLESS A FORMAL DECLARATION OF NOMINATION IS MADE IN THE AFOREMENTIONED MANNER, THE NAME OF ANY PERSON NOMINATED AT THE REGULAR MAY MEETING WILL APPEAR ON THE BALLOT. (WITH THE EXCEPTION OF THE REGULAR MAY 2020 MEETING WHERE INSTEAD UNLESS A FORMAL DECLARATION OF NOMINATION IS MADE IN THE AFOREMENTIONED MANNER, THE NAME OF ANY PERSON NOMINATED AT THE DECEMBER 2020 REGULAR MEETING WILL APPEAR ON THE BALLOT).

C. ELECTIONS

1. THE PERSONS SERVING ON THE ELECTIONS COMMITTEE WILL ASSIST THE CHAIR IN THE CONDUCT OF THE ELECTIONS.

2. THE ELECTION WILL BE HELD AT THE REGULAR MEETING OF THE BOARD IN JUNE WITH THE EXCEPTION OF JUNE 2020 WHERE INSTEAD THE ELECTION WOULD BE HELD AT THE REGULAR MEETING OF THE BOARD IN JANUARY 2021.

3. TIME SHOULD BE SET ASIDE AT THE JUNE MEETING (WITH THE EXCEPTION OF JUNE 2020 WHERE INSTEAD TIME SHOULD BE SET ASIDE AT THE JANUARY 2021 MEETING) PRIOR TO THE ELECTION FOR CANDIDATES WHO CHOOSE TO ADDRESS THE BOARD. (REMARKS ARE TO BE LIMITED TO 5 MINUTES.) ANY INTERESTED CANDIDATE SHOULD CONTACT THE ELECTIONS COMMITTEE IN WRITING AT LEAST 20 DAYS PRIOR TO THE JUNE BOARD MEETING TO INFORM THEM OF THE CANDIDATE'S INTENTION TO ADDRESS THE BOARD (WITH THE EXCEPTION OF JUNE 2020 WHERE INSTEAD INTERESTED CANDIDATES SHOULD CONTACT THE ELECTIONS COMMITTEE IN WRITING AT LEAST 20 DAYS PRIOR TO THE JANUARY 2021 BOARD MEETING TO INFORM THEM OF THE CANDIDATE'S INTENTION TO ADDRESS THE BOARD)

4. THE NOTICE OF THE REGULAR JUNE MEETING SHALL CONTAIN IN ADDITION TO THE DATE, TIME AND PLACE OF THE MEETINGS, A LIST OF OFFICES AND NOMINEES FOR EACH OFFICE TO BE ELECTED (WITH THE EXCEPTION OF JUNE 2020 WHERE INSTEAD THE NOTICE OF THE REGULAR JANUARY 2021 MEETING SHALL CONTAIN IN ADDITION TO THE DATE, TIME AND PLACE OF THE MEETINGS, A LIST OF OFFICES AND NOMINEES FOR EACH OFFICE TO BE ELECTED).

5. ELECTIONS SHALL BE CONDUCTED BY ELECTRONIC VOTING AND HELD DURING A SCHEDULED MEETING OF THE BOARD DESIGNATED FOR ELECTIONS. EACH PRESENT MEMBER SHALL CAST A VOTE FOR A DECLARED CANDIDATE BY USE OF VOICE VOTE (VIVA VOCE).

6. IN ORDER TO BE ELECTED, A CANDIDATE MUST RECEIVE A MAJORITY OF THE VOTES CAST. IF NO CANDIDATE RECEIVES A MAJORITY ON THE FIRST BALLOT, THE TWO LEADING VOTE GETTERS SHALL OPPOSE EACH OTHER ON A SECOND, RUN-OFF, BALLOT.

7. THE ELECTIONS COMMITTEE SHALL PREPARE THE OFFICIAL BALLOT FOR USE AT THE JUNE MEETING WITH THE EXCEPTION OF JUNE 2020 WHERE INSTEAD THE ELECTIONS WILL BE HELD BY VOICE VOTE (VIVE VOCE) AT THE JANUARY 2021 MEETING) THAT BALLOT SHALL NOT BE

DISTRIBUTED PRIOR TO THE JUNE MEETING (WITH THE EXCEPTION OF THE JUNE 2020 WHERE INSTEAD THE ELECTIONS WILL BE HELD BY VOICE VOTE [VIVE VOCE]) AT THE JANUARY 2021 MEETING). THAT BALLOT SHALL NOT BE DISTRIBUTED PRIOR TO THE JUNE MEETING. NAMES SHALL APPEAR ON THE BALLOT IN ALPHABETICAL ORDER BY OFFICE.

8. THE DISTRICT MANAGER OR ASSISTANT DISTRICT MANAGER SHALL TABULATE THE VOTES CAST AT THESE ELECTIONS AND PROVIDE THE RESULTS TO THE BOARD. THE COMMITTEE SHALL ALSO PREPARE THE OFFICIAL REPORT OF THESE ELECTIONS THAT SHALL INDICATE THE VOTES CAST BY EACH MEMBER. THIS REPORT SHALL BE PART OF THE OFFICIAL RECORD AND BE ATTACHED TO THE MINUTES OF THE BOARD'S JUNE MEETING (WITH THE EXCEPTION OF THE JUNE 2020 MEETING WHERE INSTEAD THIS REPORT SHALL BE PART OF THE OFFICIAL RECORD AND BE ATTACHED TO THE MINUTES OF THE BOARD'S JANUARY 2021 MEETING).

9. THE TERMS OF ALL OFFICERS ELECTED AT THE BOARD'S ELECTION MEETING SHALL COMMENCE ON JULY 1ST OF THAT YEAR, AND EXPIRE ON JUNE 30TH OF THE FOLLOWING YEAR.

10. SPECIAL ELECTION(S) – IN THE EVENT OF AN “IN TERM” VACANCY, A SPECIAL ELECTION WOULD BE CALLED WITH NOMINATIONS AND THEN A SPECIAL ELECTION TO BE HELD AT THE NEXT AVAILABLE MEETING OF THE FULL BOARD FOLLOWING NOMINATIONS.

VI. COMMITTEE MEMBERSHIP

A. IN ADDITION TO THESE COMMITTEES OUTLINED IN THE BY-LAWS, THE CHAIRPERSON OR THE BOARD MAY ESTABLISH WHATEVER COMMITTEES ARE DEEMED NECESSARY TO CARRY OUT THE FUNCTIONS OF THE BOARD.

B. MEMBERSHIP ON COMMITTEES SHALL BE OPEN TO ANY RESIDENTS OF COMMUNITY DISTRICT NO. 1; HOWEVER, THE CHAIRPERSON OF EACH COMMITTEE MUST BE A MEMBER OF THE BOARD.

C. EACH MEMBER SHALL BE ASSIGNED TO AT LEAST ONE COMMITTEE AND SHALL TAKE AN ACTIVE PART IN ITS WORK.

D. NON-BOARD MEMBERS OF THE COMMITTEES MAY VOTE IN COMMITTEE, BUT THE COMMITTEE CHAIRPERSON SHALL REPORT THE VOTE OF BOARD MEMBERS AND NON-BOARD MEMBERS SEPARATELY, ALONG WITH THE COMPLETE TALLY. MINORITY REPORTS MUST BE PRESENTED ON THE FLOOR BY A BOARD MEMBER.

E. EACH STANDING COMMITTEE OF THE BOARD SHALL MEET, AT A MINIMUM, FOUR TIMES A YEAR, PREFERABLE AT LEAST ONCE DURING EACH QUARTER.

F. BY THE DATE OF THE BOARD'S DECEMBER MEETING EACH COMMITTEE CHAIRPERSON SHALL SUBMIT A PROJECTED COMMITTEE SCHEDULE FOR THE UPCOMING YEAR TO THE BOARD CHAIRPERSON. THESE SUBMISSIONS WILL BE REVIEWED BY THE EXECUTIVE COMMITTEE, WHICH SHALL ESTABLISH A COMPREHENSIVE PROJECTED COMMITTEE CALENDAR. THIS WILL BE MAILED TO EACH BOARD MEMBER BY DECEMBER 31ST AND DISTRIBUTED AT THE JANUARY BOARD MEETING.

G. A MONTHLY CALENDAR OF ALL SCHEDULED BOARD AND COMMITTEE MEETINGS INCLUDING PUBLIC HEARINGS, SHALL BE COMPILED BY THE DISTRICT MANAGER AND MAILED TO EACH BOARD MEMBER PRIOR TO THE FIRST OF EACH CALENDAR MONTH. ALL MEETINGS SPECIFIED IN THE CALENDAR SHALL BE CONDUCTED, UNLESS SPECIFICALLY CANCELED OR RESCHEDULED BY THE APPROPRIATE COMMITTEE CHAIRPERSON. NOTICE OF ALL SUCH CHANGES SHALL BE SENT TO EACH BOARD MEMBER AND AFFECTED COMMITTEE MEMBERS. IN ADDITION, MEETING

NOTICES AND AGENDA OF EACH SCHEDULE COMMITTEE MEETING SHALL BE SENT BY THE DISTRICT OFFICE TO EACH COMMITTEE MEMBER AT LEAST FIVE DAYS PRIOR TO THE SCHEDULED MEETING DATE.

VII. DECLARATION OF VACANCY AND ATTENDANCE COMMITTEE

A. SINCE A QUORUM IS NECESSARY TO DO BUSINESS, DILIGENT ATTENDANCE AT MEETINGS IS A PREREQUISITE TO CONTINUED MEMBERSHIP ON THE BOARD. SINCE THE CITY CHARTER PERMITS THE BOARD TO REMOVE MEMBERS, THE FOLLOWING PROCEDURES FOR REMOVAL DUE TO EXCESSIVE ABSENCES SHALL BE FOLLOWED.

1. WHEN A MEMBER FAILS TO ATTEND 5 OF THE COMBINED REGULAR/PUBLIC HEARINGS REQUIRED BY THESE BY-LAWS DURING THE COURSE OF THE CALENDAR YEAR, THEY SHALL BE SUBJECT TO REMOVAL PROCEEDINGS.

2. THERE SHALL BE AN ELECTED ATTENDANCE COMMITTEE OF THREE MEMBERS.

3. THE ATTENDANCE COMMITTEE SHALL KEEP A RECORD OF THE ATTENDANCE OF EACH MEMBER OF THE BOARD AT ALL REGULAR AND PUBLIC HEARING MEETINGS. IN ORDER TO ASSIST THIS EFFORT, ALL ATTENDING MEMBERS SHALL BE REQUIRED TO SIGN A SIGN-IN SHEET AT EACH MEETING IN ORDER TO DOCUMENT THEIR PRESENCE.

ALL MEMBERS, WHO DO NOT SIGN THIS SHEET BEFORE THE ADJOURNMENT OF THE MEETING SHALL BE LISTED AS ABSENT BY THE ATTENDANCE COMMITTEE, UNLESS THEY CAN INDEPENDENTLY VERIFY THEIR PRESENCE TO THE COMMITTEE'S SATISFACTION. ANY MEMBER, WHO KNOWINGLY PARTICIPATES IN A FORGERY INVOLVING THE SIGN-IN SHEET SHALL BE SUBJECT TO DISCIPLINARY PROCEDURES. THE PENALTY FOR KNOWINGLY PARTICIPATING IN SUCH ACTION SHALL BE REMOVAL FROM THIS BOARD.

4. MEMBERS WHO CANNOT BE IN ATTENDANCE BECAUSE THEY ARE ON OFFICIAL BOARD BUSINESS ELSEWHERE SHALL BE DEEMED TO BE PRESENT. ABSENCES DUE TO DEATH, ILLNESS, A FAMILY EMERGENCY, OR FOR SOME OTHER REASONABLE TYPE OF EXPLANATION ARE EXCUSABLE IF APPROVED BY THE EXECUTIVE COMMITTEE OR, IN THE CASE OF COMMITTEE MEETINGS, BY A MAJORITY OF THE BOARD MEMBERS PRESENT AT THE MEETING. THE ATTENDANCE COMMITTEE SHALL MONITOR SUCH ABSENCES. MEMBER MUST NOTIFY THE BOARD'S OFFICE PRIOR TO THE MEETING.

5. THE ATTENDANCE COMMITTEE SHALL NOTIFY A BOARD MEMBER, WHO HAS BEEN ABSENT FROM FOUR MEETINGS IN WRITING, BY PHONE OR IN PERSON WITHIN FIVE DAYS OF THE LAST ABSENCE. THE NOTIFICATION SHALL INFORM THE MEMBER THAT ONE ADDITIONAL ABSENCE WILL BE GROUNDS FOR REMOVAL FROM THE BOARD. SUCH NOTICE SHALL ALSO CONSIST OF A RECORD OF THE ATTENDANCE OF THE MEMBER AND NOTIFICATION OF THE NEXT MEETING DATE AND PLACE.

6. THE ATTENDANCE COMMITTEE SHALL MEET WITH THE BOARD MEMBER WHEN THE BOARD MEMBER ACCUMULATES 5 ABSENCES. AT THAT MEETING THE MEMBER SHALL BE INFORMED OF THEIR ATTENDANCE RECORD AND BE PROVIDED WITH AN OPPORTUNITY TO PROVIDE ANY JUSTIFICATIONS AND/OR EXCUSES FOR SAID ABSENCES. AFTER HAVING HEARD THE MEMBER'S RESPONSE, THE COMMITTEE WILL THEN VOTE ON WHETHER OR NOT TO RECOMMEND THE MEMBER'S REMOVAL. SHOULD THE COMMITTEE RECOMMEND THE MEMBER'S REMOVAL, THE ATTENDANCE COMMITTEE SHALL REPORT SAID RECOMMENDATION TO THE BOARD AT IT'S NEXT MEETING, AT WHICH THE BOARD SHALL DETERMINE BY MAJORITY VOTE WHETHER OR NOT TO ACCEPT THE RECOMMENDATION TO REMOVE THE MEMBER.

7. NOTICE OF DECLARATION OF VACANCY, ALONG WITH COPIES OF ALL RELATED MATERIALS, SHALL BE SENT TO THE BOROUGH PRESIDENT AND THE MEMBERS OF THE CITY COUNCIL REPRESENTING THE AREA.

8. THE MEMBER IN QUESTION MAY APPEAL TO THE EXECUTIVE COMMITTEE FOR REVIEW OF THE RECORDS OF ATTENDANCE.

9. THE ATTENDANCE COMMITTEE SHALL ISSUE A WRITTEN QUARTERLY REPORT IN APRIL, JULY, OCTOBER, AND JANUARY LISTING THE NUMBER OF MEETINGS HELD, MEETING DATES, AND THE ATTENDANCE RECORD OF EACH MEMBER. THE JANUARY REPORT SHALL PROVIDE THE FINAL ATTENDANCE RECORDS OF ALL BOARD MEMBERS FROM THE PREVIOUS CALENDAR YEAR, AND SHALL BE FORWARDED TO THE BOROUGH PRESIDENT AND THE LOCAL COUNCIL MEMBERS. COMMITTEE ATTENDANCE OF BOARD MEMBERS SHALL BE ISSUED QUARTERLY. COMMITTEE MINUTES SHALL SHOW THE BOARD MEMBERS PRESENT AND ABSENT FROM THE COMMITTEE MEETING.

VIII. AMENDMENTS

A. PROPOSED AMENDMENTS TO THESE BY-LAWS SHALL BE SUBMITTED IN WRITING TO THE CHAIR AND REFERRED TO THE BY-LAWS COMMITTEE.

B. THE BY-LAWS COMMITTEE SHALL REPORT TO THE BOARD AT THE NEXT REGULAR MEETING OF THE BOARD.

C. THE PROPOSED AMENDMENT SHALL BE MAILED TO EACH MEMBER OF THE BOARD WITH THE MEETING NOTICE FOR THE NEXT MEETING.

D. AMENDMENTS MUST BE APPROVED BY A TWO-THIRDS MAJORITY OF THE MEMBERS PRESENT AND VOTING.

IX. ROBERT'S RULES OF ORDER

ROBERT'S RULE OF ORDER SHALL GOVERN THE PROCEEDINGS OF THE BOARD IN ALL CASES EXCEPT WHERE OTHER RULES HAVE BEEN ESTABLISHED BY THE CITY CHARTER APPLICABLE CITY AND STATE LAW OR REGULATION, THESE BY-LAWS, OR OTHER RULING ESTABLISHED BY THE MAJORITY VOTE OF THE BOARD.

X. VOTING

A. ALL MEMBERS WHO ARE PRESENT FOR PURPOSE OF ATTENDANCE PER ARTICLE VIII MUST VOTE ON ALL MOTIONS, INCLUDING QUESTIONS OF ORDER. VOTES SHALL BE CAST AND RECORDED ONLY AS AFFIRMATIVE, NEGATIVE, ABSTENTION OR ABSTENTION FOR CAUSE. ONLY MEMBERS PREVENTED FROM VOTING FOR REASONS SPECIFIED IN ARTICLE XI OF THESE BY-LAWS OR ROBERT'S RULES OF ORDER CAN ABSTAIN FOR CAUSE.

B. UNLESS OTHERWISE PROVIDED, ALL ACTIONS TAKEN BY THE BOARD SHALL REQUIRE THE MAJORITY OF THOSE MEMBERS PRESENT AND ENTITLED TO VOTE, A QUORUM BEING PRESENT, IN ORDER TO BE ADOPTED. MEMBERS WHO ABSTAIN FOR CAUSE SHALL NOT BE CONSIDERED AS BEING ENTITLED TO VOTE, AND ALL SUCH VOTES SHALL BE SEPARATELY RECORDED AND SHALL NOT AFFECT THE RESULT OF ANY VOTE.

C. ALL ACTIONS TAKEN BY THE BOARD SHALL BE MADE BY OPEN VOTE. A RECORD OF THE POSITION TAKEN BY EACH MEMBER SHALL BE RECORDED AND MAINTAINED IN THE BOARD'S

OFFICIAL FILES, AND SHALL BE AVAILABLE FOR PUBLIC INSPECTION. THE BY-LAWS COMMITTEE SHALL RECOMMEND THE APPROPRIATE MECHANISM THROUGH WHICH THIS PROVISION SHALL BE IMPLEMENTED. ON VOICE VOTES (VIVA VOCE), OR A VOTE BY A "SHOW OF HAND," THE SECRETARY SHALL NOTE ALL "NEGATIVE" VOTES AND ABSTENTION VOTES IN THE MEETING MINUTES.

XI. CONFLICT OF INTEREST

A. BEFORE THE BOARD CONSIDERS ANY ITEM ON WHICH IT INTENDS TO MAKE A SUBSTANTIVE RECOMMENDATION, THE CHAIRPERSON SHALL ASK ALL MEMBERS WHO POSSESS A CONFLICT OF INTEREST ON THIS SUBJECT TO IDENTIFY THEMSELVES AND SPECIFY THE NATURE OF THE CONFLICT. ALL SUCH STATEMENTS SHALL BE INCLUDED IN THE BOARD'S OFFICIAL MINUTES.

B. ALL MEMBERS SHALL BE RESPONSIBLE FOR FAMILIARIZING THEMSELVES WITH THE RELEVANT CORPORATION COUNSEL (LETTER OF OCTOBER 2, 1984) RULINGS ON THIS SUBJECT AND SHALL, FURTHERMORE, BE RESPONSIBLE FOR INFORMING THE BOARD OF ALL CONFLICTS THAT AFFECT THEM.

TO PROVIDE NEEDED GUIDANCE, ALL BOARD MEMBERS SHALL RECEIVE COPIES OF THESE DOCUMENTS, AS WELL AS ALL OTHER RELEVANT RULINGS MADE IN THE FUTURE, THAT CONCERN THIS ISSUE.

C. ALL MEMBERS WHO POSSESS AN INTEREST ON AN ITEM BEFORE THIS BOARD ON WHICH THEY, OR ANY PERSONS ASSOCIATED WITH THEM, MAY REALIZE A PERSONAL AND DIRECT ECONOMIC GAIN CANNOT VOTE ON THAT ITEM BUT CAN PARTICIPATE IN THE DISCUSSION OF THAT ISSUE. IN ADDITION, ALL MEMBERS EMPLOYED BY THE CITY OF NEW YORK CANNOT VOTE ON ITEMS THAT INVOLVE THE ACTIVITIES OF THE AGENCY FOR WHOM THEY ARE EMPLOYED. ON ISSUES NOT RAISING THIS SPECIFIC VARIETY OF CONFLICT, MEMBERS CAN SATISFY THE REQUIREMENTS OF THE BY-LAWS BY DECLARING THEIR INTERESTS AND, HAVING DONE SO, MAY VOTE AND PARTICIPATE IN THE DISCUSSION OF THESE ISSUES.

D. ALL MEMBERS POSSESSING AN INTEREST ON AN ITEM THAT PREVENTS THEM FROM VOTING SHALL NOT BE CONSIDERED ENTITLED TO VOTE ON SUCH ITEM, AND THEIR ABSTENTIONS SHALL NOT BE TABULATED IN DETERMINING THE RESULT OF ANY SUCH VOTE.

E. THE VOTES OF ALL MEMBERS WHO ABSTAIN FOR CONFLICT OF INTEREST RELATED REASONS SHALL BE SEPARATELY RECORDED FROM THE VOTES OF THOSE MEMBERS WHO ABSTAIN FOR OTHER REASONS IN THE BOARD'S OFFICIAL TABULATION.

F. NO MEMBER SHALL APPEAR, EITHER DIRECTLY OR INDIRECTLY, ON BEHALF OF ANY PRIVATE INTERESTS IN MATTERS INVOLVING THIS BOARD, OF BEFORE ANY PUBLIC AGENCY AFFECTING MATTERS INVOLVING THIS BOARD.

G. MEMBERS OF THIS BOARD SHALL NOT BE PROHIBITED FROM HAVING AN INTEREST IN A FIRM WHICH MAY BE AFFECTED BY AN ACTION ON A MATTER BEFORE THE BOARD. ALL MEMBERS ARE HOWEVER PROHIBITED FROM HAVING AN INTEREST IN A FIRM DOING BUSINESS WITH THE BOARD ITSELF, E. G., BY CONTRACTING WITH OR OTHERWISE PROVIDING SERVICES TO THE BOARD.

XII. DISTRICT MANAGER AND OTHER BOARD STAFF

A. WITHIN BUDGETARY CONSTRAINS, THE BOARD SHALL HIRE A DISTRICT MANAGER AND SUCH OTHER STAFF AS MAY BE REQUIRED TO SERVE ITS NEEDS.

B. THE DISTRICT MANAGER SHALL:

1. DIRECT THE OPERATIONS OF THE BOARD'S DISTRICT OFFICE;
2. CHAIR MEETINGS OF THE DISTRICT SERVICE CABINET;
3. ADMINISTER A SYSTEM THAT PROCESSES SERVICE COMPLAINTS AFFECTING COMMUNITY DISTRICT NO. 1;
4. SUBMIT A MONTHLY REPORT REGARDING THE ACTIVITIES OF THE OTHER ITEMS THAT AFFECT THE COMMUNITY DISTRICT TO THE BOARD; AND
5. PERFORM SUCH OTHER DUTIES AS ARE ASSIGNED BY THE BOARD, THE CHAIRPERSON, OR THE EXECUTIVE COMMITTEE.

C. ALL PERSONS, EXCEPT CONSULTANTS, HIRED BY THE BOARD AND REIMBURSED BY ITS BUDGET, ARE EMPLOYEES OF THE CITY OF NEW YORK, AND AS SUCH, SHALL SERVE PURSUANT TO THE APPLICABLE PROVISIONS OF THE CIVIL SERVICE LAW. BEYOND THIS, THE BOARD SHALL ESTABLISH A PERSONNEL PRACTICE PROCEDURE GOVERNING ITS STAFF THAT IS CONSISTENT WITH CIVIL SERVICE POLICY AND OTHER APPLICABLE LAWS.

D. ALL BOARD EMPLOYEES SERVE AT THE PLEASURE OF THE BOARD AND CAN BE REMOVED FOR CAUSE, AS DETAILED IN THE PERSONNEL PRACTICE PROCEDURE OF COMMUNITY BOARD NO. 1 WHICH PROVIDES THE AFFECTED STAFF EMPLOYEE WITH DUE PROCESS OF THE LAW PROTECTION.

XIII. NOTIFICATION OF NEW MEMBERS

WHEN THE CHAIRPERSON RECEIVES NOTIFICATION OF THE APPOINTMENT OF A NEW MEMBER TO COMMUNITY BOARD NO. 1, HE/SHE SHALL SEE THAT THAT PERSON IS PROMPTLY CONTACTED BY CERTIFIED MAIL AND BE INFORMED OF THE DATE AND TIME OF THE BOARD'S NEXT REGULARLY SCHEDULED MEETING OR PUBLIC HEARING. ADDITIONALLY, TO BE FURNISHED IS A COPY OF THE BY-LAWS AND A COPY OF THE ESTABLISHED CALENDAR OF REQUIRED MEETING DATES. IF NEITHER OF THESE CONTACTS HAVE BEEN MADE BY THE DATE OF THE FIRST REGULARLY SCHEDULED MEETING OR PUBLIC HEARING FOLLOWING APPOINTMENT, THE NEW MEMBER SHALL NOT BE CONSIDERED ABSENT IF HE/SHE DOES NOT ATTEND.

(revised 11/10/2020)

<u>I. Officers</u>
<u>II. Executive Committee</u>
<u>III. Meeting</u>
<u>IV. Quorum</u>
<u>V. Election of Officers</u>
<u>VI. Committee Membership</u>
<u>VII. Declaration of Vacancy and Attendance Committee</u>
<u>VIII. Amendments</u>
<u>IX. Robert's Rules of Order</u>
<u>X. Voting</u>
<u>XI. Conflict of Interest</u>
<u>XII. District Manager and Other Board Staff</u>
<u>XIII. Notification of New Members</u>

BY-LAWS OF COMMUNITY BOARD NO. 1 BROOKLYN

I. Officers

- A. The officers of the board shall be:
Chairperson, First Vice Chairperson, Second Vice Chairperson, Third Vice Chairperson,
Financial Secretary, Recording Secretary, and Member-at-Large.
- B. The duties of the officers shall be as follows:
1. Chairperson
 - a. The Chairperson shall be the chief executive officer of the board and shall be responsible for the overall conduct of the affairs of the board.
 - b. Call and preside at all regular and public hearing meetings and special meetings of the board.
 - c. Appoint and remove the Chairperson and members of all standing and special committees unless otherwise specified in these by-laws.
 - d. Carry out the duties and serve on all committees and boards as prescribed by the city charter.
 - e. Prepare an annual report at the end of each calendar year for the board, borough president, and city council members from the community district.

- f. Responsible, along with the financial secretary, for the administration of funds obtained from sources outside of the city government.
- 2. First Vice Chairperson
 - a. Shall assist the Chairperson in carrying out the duties of the chair.
 - b. Shall serve in the place of the chairperson when there is a vacancy in the office of Chairperson, or when the Chairperson is unable to perform his/her duties.
 - c. Chair the committee on service delivery coordination which shall make regular monthly reports to the board on the work of the district manager, local district service cabinet and local service agencies.
 - d. May attend all district service cabinet meetings and shall assist the Chairperson of the board in working with the district manager and the district service cabinet.
 - e. Serve as an ex-officio member of all committees.
- 3. Second Vice Chairperson
 - a. Shall preside at meetings in the absence of the Chairperson and the First Vice Chairperson.
 - b. Chair the committee on uniform land use review procedures (ULURP) which shall be responsible for advising the Chairperson and the board of all actions necessary for the board to comply with the terms of the Uniform Land Use Review Procedure as to notification, calendaring of items, and holding public hearings.
 - c. Shall be responsible for the carrying out of procedures adopted by the board for the Uniform Land Use Review Procedure (ULURP).
 - d. Prepare reports for submission to appropriate city agencies on actions taken by the board under ULURP.
 - e. Together with the Third Vice Chairperson, conduct the board's annual public hearing on the citywide statement of need and submit joint recommendations to the board.
 - f. Perform such other duties concerning ULURP as the board or Chairperson direct.
- 4. Third Vice Chairperson
 - a. Shall preside at meetings in the absence of the chair, and the First and Second Vice Chairperson.
 - b. Chair the committee on the expense, capital and community development budgets and be responsible for advising the Chairperson and the board of all actions necessary to comply with the requirements of the city and federal agencies relative to the preparation, approval and implementation

of the expense, capital and community development budget including holding of public hearings, notification and calendaring.

- c. Shall prepare the reports for the board's approval on the expense, capital and community development budgets as the Chairperson or the board may direct for submission to the appropriate city agencies.
- d. Together with the Second Vice Chairperson, conduct the board's annual public hearing on the citywide statement of need and submit joint recommendations to the board.
- e. Perform such other duties concerning capital projects, expense items and community development as the board and Chair deem appropriate.

5. Financial Secretary

- a. Shall be responsible for keeping a financial report for the board and for submitting monthly financial reports in writing to the board.
- b. Shall chair the budget committee which shall prepare the budget for submission to the board for approval.
- c. Make recommendations to the board for appropriate action or comments by the board.
- d. Shall along with the Chairperson, be the person designated by the board for the administration of accounts of funds obtained from sources outside city government.

6. Recording Secretary

- a. Shall be responsible for keeping a clear, accurate and timely record of the proceedings of the board.
- b. Shall take minutes of all meetings of the board which reflect the substance of discussion of board members along with the positions taken on each item; prepare the invites for inclusion in the notice of the meeting at which they are to be approved; ensure that amendments to the minutes are reflected in the original minutes.
- c. Shall keep an up to date file on minutes on record in the board's office.

7. Member at Large

II. Executive Committee

- A. There shall be an executive committee which shall consist of the officers of the board as specified in the by-laws and one member elected at large which, will meet before each regular monthly meeting of the board to prepare an agenda for the regular board meeting and the public hearing meeting for each month.

- B. In case of the necessity for board action before a meeting can be held, the executive committee may meet and act on behalf of the board provided that such actions shall be subject to ratification by the board at the next regularly scheduled meeting.

III. Meeting

- A. There shall be ten (10) scheduled meetings of the board in each calendar year. All meetings shall be opened by the chairperson at the appointed time indicated in the notice.
1. Regular meetings shall be held each month (10).
 2. Public hearing meetings shall be held each month and combined with the regular meeting. If the board finds need to schedule a separate hearing date it shall do so by a majority vote.
 3. The executive committee shall establish a calendar of the dates for the ten (10) required meetings and public hearing meetings of the board, that would be held for the following year, for the board's approval at the regular December meeting. Once the calendar has been approved, a majority of the board shall be required to alter any date on the calendar. Once approved, the calendar shall be furnished in writing to each member of the board.
 4. Notice of each individual meeting stating the date, time, place and agenda shall be furnished to each member of the board at least five days prior to each meeting.
 5. Special meetings may be called by the executive committee or upon the request of ten members of the board.
 6. When no substantial business is scheduled to be calendared for a public hearing meeting by the date of the most recent regular monthly meeting, the board can, by two-thirds vote, cancel the meeting.
 7. At each public hearing meeting, time shall be set aside for a public session, during which time public remarks shall be received from the general public. Public remarks submitted at public sessions shall be limited to three minutes per speaker and may be extended by the chair. In addition, the Chairperson shall be authorized to impose such additional reasonable limitations upon the receipt of public session testimony, such as limiting the number of persons recognized to speak on a particular item or limiting the time allocated to discuss a specific topic, in order to ensure that sufficient time is allocated to stated public hearing agenda items and that the board can conclude the public hearing at a reasonable hour.

IV. Quorum

A quorum shall consist of a majority of the appointed members and shall be necessary to conduct business, except for public hearings conducted under the ULURP, when a quorum consisting of 20% of the appointed members of the board, but in no event fewer than seven such members, shall be required.

V. Election of Officers

A. Pre-Nomination procedures

1. At the regular April meeting of each year the Chairperson shall designate an elections committee composed of five members.
2. Prior to the May meeting, the elections committee shall canvass the board members by letter or phone to advise them of procedures to be followed for the election.
3. At the regular May meeting, the elections committee shall make a report to the board.

B. Nominations

1. At the regular May meeting, nominations from the floor will be entertained. With the exception of the regular May 2020 meeting where instead at the December 2020 regular meeting, nominations from the floor will be entertained. All nominations from the floor must be made at the May meeting only with the exception of the regular May 2020 meeting where instead all nominations from the floor must be made at the December 2020 meeting only. A member may nominate any valid member of the board, including himself or herself. Nominations will be closed by vote at the May meeting with the exception of the regular May 2020 meeting where instead nominations will be closed by a vote at the December 2020 meeting.
2. A member need not be present to be nominated.
3. Nominations need not be seconded.
4. A board member, who has been nominated, may decline the nomination at the regular May meeting, or in writing to the elections committee at least 10 days prior to the election. (With the exception of the regular May 2020 meeting where instead of a board member, who has been nominated, may decline the nomination at the December 2020 regular meeting, or in writing to the elections committee at least 10 days prior to the election). Unless a formal declaration of nomination is made in the aforementioned manner, the name of any person nominated at the regular May meeting will appear on the ballot. (With the

exception of the regular May 2020 meeting where instead unless a formal declaration of nomination is made in the aforementioned manner, the name of any person nominated at the December 2020 regular meeting will appear on the ballot).

C. Elections

1. The persons serving on the elections committee will assist the Chair in the conduct of the elections.
2. The election will be held at the regular meeting of the board in June with the exception of June 2020 where instead the election would be held at the regular meeting of the board in January 2021.
3. Time should be set aside at the June meeting (with the exception of June 2020 where instead time should be set aside at the January 2021 meeting) prior to the election for candidates who choose to address the board. (Remarks are to be limited to 5 minutes.) Any interested candidate should contact the elections committee in writing at least 20 days prior to the June board meeting to inform them of the candidate's intention to address the board (with the exception of June 2020 where instead interested candidates should contact the elections committee in writing at least 20 days prior to the January 2021 board meeting to inform them of the candidate's intention to address the board.)
4. The notice of the regular June meeting shall contain in addition to the date, time and place of the meetings, a list of offices and nominees for each office to be elected (with the exception of June 2020 where instead the notice of the regular January 2021 meeting shall contain in addition to the date, time and place of the meetings, a list of offices and nominees for each office to be elected).
5. Elections shall be conducted by electronic voting and held during a scheduled meeting of the board designated for elections. Each present member shall cast a vote for a declared candidate by use of voice vote (viva voce).
6. In order to be elected, a candidate must receive a majority of the votes cast. If no candidate receives a majority on the first ballot, the two leading vote getters shall oppose each other on a second, run-off, ballot.
7. The elections committee shall prepare the official ballot for use at the June meeting with the exception of Jun 2020 where instead the elections will be held by voice vote (vive voce) at the January 2021 meeting) that ballot shall not be distributed prior to the June meeting (with the exception of the June 2020 where instead the elections will be held by voice vote [vive voce]] at the January 2021 meeting). That ballot shall not be distributed prior to the June meeting. Names shall appear on the ballot in alphabetical order by office.

8. The District Manager or Assistant District Manager shall tabulate the votes cast at these elections and provide the results to the board. The committee shall also prepare the official report of these elections that shall indicate the votes cast by each member. This report shall be part of the official record and be attached to the minutes of the board's June meeting (with the exception of the June 2020 meeting where instead this report shall be part of the official record and be attached to the minutes of the board's January 2021 meeting).
9. The terms of all officers elected at the board's election meeting shall commence on July 1st of that year, and expire on June 30th of the following year.
10. Special election(s)--in the event of an "in term" vacancy. A special election would be called with nominations and then a special election to be held at the next available meeting of the full board following nominations.

VI. Committee Membership

- A. In addition to these committees outlined in the by-laws, the Chairperson or the board may establish whatever committees are deemed necessary to carry out the functions of the board.
- B. Membership on committees shall be open to any residents of community district no. 1; however, the Chairperson of each committee must be a member of the board.
- C. Each member shall be assigned to at least one committee and shall take an active part in its work.
- D. Non-board members of the committees may vote in committee, but the committee Chairperson shall report the vote of board members and non-board members separately, along with the complete tally. Minority reports must be presented on the floor by a board member.
- E. Each standing committee of the board shall meet, at a minimum, four times a year, preferable at least once during each quarter.
- F. By the date of the board's December meeting each committee chairperson shall submit a projected committee schedule for the upcoming year to the board Chairperson. These submissions will be reviewed by the executive committee, which shall establish a comprehensive projected committee calendar. This will be mailed to each board member by December 31st and distributed at the January board meeting.
- G. A monthly calendar of all scheduled board and committee meetings including public hearings, shall be compiled by the District Manager and mailed to each board member prior to the first of each calendar month. All meetings specified in the calendar shall be conducted, unless specifically canceled or rescheduled by the appropriate committee Chairperson. Notice of all such changes shall be sent to each board member and affected

committee members. In addition, meeting notices and agenda of each scheduled committee meeting shall be sent by the district office to each committee member at least five days prior to the scheduled meeting date.

VII. Declaration of Vacancy and Attendance Committee

- A. Since a quorum is necessary to do business, diligent attendance at meetings is a prerequisite to continued membership on the board. Since the City Charter permits the board to remove members, the following procedures for removal due to excessive absences shall be followed.
1. When a member fails to attend 5 of the combined regular/public hearings required by these by-laws during the course of the calendar year, they shall be subject to removal proceedings.
 2. There shall be an elected attendance committee of three members.
 3. The attendance committee shall keep a record of the attendance of each member of the board at all regular and public hearing meetings. In order to assist this effort, all attending members shall be required to sign a sign-in sheet at each meeting in order to document their presence.

All members, who do not sign this sheet before the adjournment of the meeting shall be listed as absent by the attendance committee, unless they can independently verify their presence to the committee's satisfaction. Any member, who knowingly participates in a forgery involving the sign-in sheet shall be subject to disciplinary procedures. The penalty for knowingly participating in such action shall be removal from this board.

4. Members who cannot be in attendance because they are on official board business elsewhere shall be deemed to be present. Absences due to death, illness, a family emergency, or for some other reasonable type of explanation are excusable if approved by the executive committee or, in the case of committee meetings, by a majority of the board members present at the meeting. The attendance committee shall monitor such absences. Members must notify the board's office prior to the meeting.
5. The attendance committee shall notify a board member, who has been absent from four meetings in writing, by phone or in person within five days of the last absence. The notification shall inform the member that one additional absence will be grounds for removal from the board. Such notice shall also consist of a record of the attendance of the member and notification of the next meeting date and place.
6. The attendance committee shall meet with the board member when the board member accumulates 5 absences. At that meeting the member shall be informed of their attendance record and be provided with an opportunity to provide any justifications and/or excuses for said absences. After having heard the member's response, the committee will then vote on whether or not to recommend the member's removal. Should the committee recommend the member's removal, the attendance committee shall report said recommendation to the board at its next meeting, at which the board

shall determine by majority vote whether or not to accept the recommendation to remove the member.

7. Notice of declaration of vacancy, along with copies of all related materials, shall be sent to the borough president and the members of City Council representing the area.
8. The member in question may appeal to the executive committee to review of the records of attendance.
9. The attendance committee shall issue a written quarterly report in April, July, October, and January listing the number of meetings held, meeting dates, and the attendance record of each member. The January report shall provide the final attendance records of all board members from the previous calendar year and shall be forwarded to the borough president and the local council members. Committee attendance of board members shall be issued quarterly. Committee minutes shall show the board members present and absent from the committee meeting.

VIII. Amendments

- A. Proposed amendments to these by-laws shall be submitted in writing to the Chair and referred to the by-laws committee.
- B. The by-laws committee shall report to the board at the next regular meeting of the board.
- C. The proposed amendment shall be mailed to each member of the board with the meeting notice for the next meeting.
- D. Amendments must be approved by a two-thirds majority of the members present and voting.

IX. Robert's Rules of Order

Robert's Rules of Order shall govern the proceedings of the board in all cases except where other rules have been established by the City Charter, applicable city and state law or regulation, these by-laws, or other ruling established by the majority vote of the board.

X. Voting

- A. All members who are present for purpose of attendance per Article VIII must vote on all motions, including questions of order. Votes shall be cast and recorded only as affirmative, negative, abstention or abstention for cause. Only members prevented from voting for reasons specified in article XI of these by-laws or *Robert's Rules of Order* can abstain for cause.
- B. Unless otherwise provided, all actions taken by the board shall require the majority of those members present and entitled to vote, a quorum being present, in order to be adopted. Members who abstain for cause shall not be considered as being entitled to vote, and all such votes shall be separately recorded and shall not affect the result of any vote.

- C. All actions taken by the board shall be made by open vote. A record of the position taken by each member shall be recorded and maintained in the board's official files and shall be available for public inspection. The by-laws committee shall recommend the appropriate mechanism through which this provision shall be implemented. On voice votes (viva voce), or a vote by a "show of hand," the secretary shall note all "negative" votes and abstention votes in the meeting minutes.

XI. Conflict of Interest

- A. Before the board considers any item on which it intends to make a substantive recommendation, the Chairperson shall ask all members who possess a conflict of interest on this subject to identify themselves and specify the nature of the conflict. All such statements shall be included in the board's official minutes.
- B. All board members shall be responsible for familiarizing themselves with the relevant corporation counsel (letter of October 2, 1984) rulings on this subject and shall, furthermore, be responsible for informing the board of all conflicts that affect them.

To provide the guidance needed, all board members shall receive copies of these documents, as well as all other relevant rulings made in the future that concern this issue.

- C. All members who possess an interest in an item before this board on which they, or any persons associated with them, may realize a personal and direct economic gain cannot vote on that item but can participate in the discussion of that issue. In addition, all members employed by the city of New York cannot vote on items that involve the activities of the agency for whom they are employed. On issues not raising this specific variety of conflicts, members can satisfy the requirements of the by-laws by declaring their interest and having done so, may vote and participate in the discussion of these issues.
- D. All members possessing an interest in an item that prevents them from voting shall not be considered entitled to vote on such item, and their abstentions shall not be tabulated in determining the result of any such vote.
- E. The votes of all members who abstain for conflict-of-interest related reasons shall be separately recorded from the votes of those members who abstain for other reasons in the board's official tabulations.
- F. No member shall appear, either directly or indirectly, on behalf of any private interests in matters involving this board, or before any public agency affecting matters involving this board.
- G. Members of this board shall not be prohibited from having an interest in a firm which may be affected by an action on a matter before the board. All members are, however, prohibited from having an interest in a firm doing business with the board itself, e.g., by contracting with or otherwise providing services to the board.

XII. District Manager and Other Board Staff

- A. Within budgetary constraints, the board shall hire a District Manager, and such other staff as may be required to serve its needs.
- B. The District Manager shall:
 - 1. Direct the operations of the board's district office.
 - 2. Chair meetings of the District Service Cabinet.
 - 3. Administer a system that processes service complaints affecting community district no.1;
 - 4. Submit a monthly report regarding the activities of the other items that affect the community district to the board; and
 - 5. Perform such other duties as are assigned by the board, the Chairperson, or the executive committee.
 - 6. All persons, except consultants, hired by the board and reimbursed by its budget, are employees of the city of New York, and as such, shall serve pursuant to the applicable provisions of the civil service law. Beyond this, the board shall establish a personnel practice procedure governing its staff that is consistent with civil service policy and other applicable laws.
 - 7. All board employees serve at the pleasure of the board and can be removed for cause, as detailed in the personnel practice procedure of community board no. 1 which provides the affected staff employee with due process of the law protection.

XIII. Notification of New Members

When the Chairperson receives notification of the appointment of a new member to community board no. 1, he/she shall see that that person is promptly contacted by certified mail and be informed of the date and time of the board's next regularly scheduled meeting or public hearing. Additionally, to be furnished a copy of the by-laws and a copy of the established calendar of required meeting dates. If neither of these contacts have been made by the date of the first regularly scheduled meeting or public hearing following appointment, the new member shall not be considered absent if he/she does not attend.

(revised 11/10/2020)

END OF BYLAWS



COMMUNITY BOARD No. 1

435 GRAHAM AVENUE - BROOKLYN, NY 11211- 8813

PHONE: (718) 389-0009

FAX: (718) 389-0098

Email: bk01@cb.nyc.gov

Website: www.nyc.gov/brooklyn1

HON. ANTONIO REYNOSO
BROOKLYN BOROUGH PRESIDENT



SIMON WEISER
FIRST VICE-CHAIRMAN

DEL TEAGUE
SECOND VICE-CHAIRPERSON

GINA BARROS
THIRD VICE-CHAIRPERSON

DAVID HEIMLICH
FINANCIAL SECRETARY

SONIA IGLESIAS
RECORDING SECRETARY

PHILIP A. CAPONEGRO
MEMBER-AT-LARGE

DEALICE FULLER
CHAIRPERSON

JOHANA PULGARIN
DISTRICT MANAGER

HON. LINCOLN RESTLER
COUNCILMEMBER, 33rd CD

HON. JENNIFER GUTIERREZ
COUNCILMEMBER, 34th CD

September 12, 2023

BY-LAWS COMMITTEE REPORT

TO: Chairperson Dealice Fuller; CB1 Board Members

FROM: Adam Meyers, Chair, By-Laws Committee

RE: By-Laws Committee Meeting Report, August 31, 2023

The Committee met in the evening of August 31, 2023, at 6:30 p.m., at the Community Board's District office at 435 Graham Avenue.

Those meeting did not constitute a quorum:

Present: Meyers (Chair); Iglesias (Co-Chair); Chesler; Heimlich; Klagsbald
Absent: Cuevas; Daly; Foster; Goldstein; Niederman; Peterson

William Vega, a non-committee member, also attended.

The meeting was convened at the request of the Executive Committee, which voted on August 16 that "the By-Laws Committee should have a meeting as soon as possible to work on a resolution regarding hybrid meetings to be presented at the September 12th Board Meeting."

The published agenda included three items:

1. Review Section 103-a of the Open Meetings Law
2. Discuss/propose resolution authorizing attendance at CB1 meetings by videoconferencing
3. Discuss/propose written procedures for videoconferencing

The following documents, discussed at the Committee meeting, are attached to this report:

- NY Open Meetings Law § 103-a (Exhibit A)
- NYS Committee on Open Government Q&A re: § 103-a (Exhibit B)
- Harisch Studios Proposals for Hybrid Meeting Equipment/Facilitation (Exhibit C)
- Draft CB1 Resolution and Procedures for Extraordinary Circumstances Videoconferencing (Exhibit D)

A. Executive Summary

In 2022, New York added Section 103-a to the Open Meetings Law, which allows public bodies like the Community Board to opt into a system allowing board members in “extraordinary circumstances” to appear and participate by videoconferencing in meetings that would otherwise be fully in-person. Generally speaking, board members who requested to appear by videoconferencing would be able to join in discussion and to vote, but they would not count toward a meeting’s quorum¹. If the Board granted a member’s request and accommodated their appearance by videoconferencing, it would be required to extend the same opportunity to participate virtually to the public at large, and to amend its notice of the meeting to reflect that option. If videoconferencing were in use, the Board would be required to ensure that board members could be “heard, seen and identified” throughout the meeting.

As noted above, we did not have a quorum at this meeting, so the By-Laws Committee was unable to establish any formal recommendation on this matter. **However, the members present unanimously agreed to recommend against adoption of the attached resolution at this time.** The members felt that until the Board were able to have a fuller discussion of the serious concerns identified at the committee meeting (and recited below), opting into this system would be legally and financially risky.

Nevertheless, per the request of the Executive Committee, a draft resolution and accompanying procedures are included with this report as Exhibit D.

B. Summary of Section 103-a

As the Board is aware, the Executive Orders under which the Board has been permitted to meet virtually throughout the COVID-19 pandemic have now expired, and so board and committee meetings are now assumed to revert to in-person at publicly accessible venues. Section 103-a of the Open Meetings Law does not change this default assumption that board members must meet in person. Rather, it is a modest change that allows community boards to permit certain members facing extraordinary circumstances to appear by videoconferencing. While the Board has some latitude to define “extraordinary circumstances” for our purposes, § 103-a provides that such circumstances include “disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which precludes the member’s physical attendance.” This definition

¹ The exception to this general rule is in cases where the request is based upon a disability that renders a member unable to be physically present at the designated meeting location. This exception—along with the logistical problems that it raises—is discussed below.

suggests a broad and flexible standard—one could imagine that a family vacation, working late in another neighborhood, or routine parental responsibilities all might fit into the stated categories.

While the definition of “extraordinary circumstances” suggests that many members might be able to take advantage of videoconferencing under § 103-a, it is important to note that the requirement of quorum would create problems if this option were used too broadly. While members with extraordinary circumstances can participate in discussions and votes as if physically present, they would generally not be counted toward a meeting’s quorum. The single exception to this rule is for members that were unable to attend in-person due to a disability within the meaning of Executive Law § 292(21)².

In the event that one or more members were permitted to appear by videoconferencing due to extraordinary circumstances, the board or committee meeting would then be subject to a number of additional requirements. It would be required to amend notice of the meeting so that the public could attend and participate by videoconferencing as well. It would need to employ cameras microphones and video displays such that throughout the meeting all members could be seen, heard, and identified by members of the public attending either in-person or by videoconference. The video recordings of the meetings would then need to be published online and retained for at least five years. Attendance records for the meeting would need to reflect whether members attended in-person or by videoconferencing.

C. Concerns Raised by Committee Members

While the Committee was generally sympathetic to the goal of allowing members a way of participating while their physical attendance was unavoidably prevented, members raised a number of concerns about opting into the hybrid meeting system authorized by § 103-a.

- As with all of its activities, the Community Board would need to execute its responsibilities under § 103-a rationally and in compliance with the law. It is unclear who would be responsible for vetting requests and making determinations as to whether a request constituted a disability or other “emergency circumstances” under relevant law. One could imagine cases where a rejected request might cause legal or political problems for the Board.
- Members were concerned with the potential cost of the technology necessary to facilitate hybrid meetings where everyone could be seen, heard, and identified. The bids received by the Board for this technology and staffing (see Exhibit C) add up to more than \$10,000 for the first year. While more affordable options may exist, it would take time to explore these alternatives, and until the systems were in place the Board would likely be unable to comply with the law regarding extraordinary circumstances requests.

² § 292(21) defines disability as “a physical, mental or medical impairment resulting from anatomical, physiological, genetic or neurological conditions which prevents the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques or (b) a record of such an impairment or (c) a condition regarded by others as such an impairment.”

- Related to the point above, there was concern that the proposal for in-person staffing of full board meetings was potentially in tension with § 103-a. The law as written describes the allowance of videoconferencing *only* where a request has been made by board member, and it contemplates these requests being received and accommodated up until only a few days before the scheduled meeting. This vision is inconsistent with scheduling contractors to staff hybrid meetings months in advance.
- There was a concern that some committees, due to the sizes of the committees and technological fluency of the chairs, might be better suited to hybrid meetings than others. Members discussed whether this consideration militated in favor of the Board deferring to the committees on whether extraordinary circumstances requests would be accommodated on a committee-by-committee basis.
- There was also concern about whether last-minute requests for attendance by videoconferencing might make it more difficult for the Board to comply with meeting notice requirements, again potentially subjecting the Board to legal or political liability.
- Members were concerned that the possibility of participating by videoconference might cause unintended problems with satisfying quorum requirements and might prolong meetings unnecessarily.

D. Recommendation

As noted above, we had no quorum at the By-Laws Committee meeting, and so that Committee can make no formal recommendation. However, the assembled members all had concerns with whether, how, and at what cost the Community Board would be able to comply with the various requirements of § 103-a without incurring liability. These members think that the matter bears further discussion and that the full Board should decline to pass the annexed resolution until the options are further explored.

EXHIBIT A

Public Officers

* § 103-a. Videoconferencing by public bodies. 1. For the purposes of this section, "local public body" shall mean a public corporation as defined in section sixty-six of the general construction law, a political subdivision as defined in section one hundred of the general municipal law or a committee or subcommittee or other similar body of such entity, or any entity for which a quorum is required in order to conduct public business and which consists of two or more members, performing a governmental function for an entity limited in the execution of its official functions to a portion only of the state, or a political subdivision of the state, or for an agency or department thereof. For the purposes of this section, a public body shall be as defined in subdivision two of section one hundred two of this article.

2. A public body may, in its discretion, use videoconferencing to conduct its meetings pursuant to the requirements of this article provided that a minimum number of members are present to fulfill the public body's quorum requirement in the same physical location or locations where the public can attend and the following criteria are met:

(a) the governing board of a county, city, town or village has adopted a local law, or a public body has adopted a resolution, or the senate and assembly have adopted a joint resolution, following a public hearing, authorizing the use of videoconferencing:

(i) for itself and its committees or subcommittees; or,

(ii) specifying that each committee or subcommittee may make its own determination;

(iii) provided however, each community board in a city with a population of one million or more shall make its own determination;

(b) the public body has established written procedures governing member and public attendance consistent with this section, and such written procedures shall be conspicuously posted on the public website of the public body;

(c) members of the public body shall be physically present at any such meeting unless such member is unable to be physically present at any such meeting location due to extraordinary circumstances, as set forth in the resolution and written procedures adopted pursuant to paragraphs (a) and (b) of this subdivision, including disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which precludes the member's physical attendance at such meeting. Notwithstanding the in person quorum requirements set forth in this subdivision, the public body may determine, through its written procedures governing member and public attendance established pursuant to and consistent with this section, to allow for any member who has a disability as defined in section two hundred ninety-two of the executive law, where such disability renders such member unable to participate in-person at any such meeting location where the public can attend, to be considered present for purposes of fulfilling the quorum requirements for such public body at any meetings conducted through videoconferencing pursuant to this section, provided, however, that the remaining criteria set forth in this subdivision are otherwise met; and provided, further, that the public body maintains at least one physical location where the public can attend such meeting;

(d) except in the case of executive sessions conducted pursuant to section one hundred five of this article, the public body shall ensure that members of the public body can be heard, seen and identified, while the meeting is being conducted, including but not limited to any motions, proposals, resolutions, and any other matter formally discussed or voted upon;

(e) the minutes of the meetings involving videoconferencing shall include which, if any, members participated remotely and shall be available to the public pursuant to section one hundred six of this article;

(f) if videoconferencing is used to conduct a meeting, the public notice for the meeting shall inform the public that videoconferencing will be used, where the public can view and/or participate in such meeting, where required documents and records will be posted or available, and identify the physical location for the meeting where the public can attend;

(g) the public body shall provide that each meeting conducted using videoconferencing shall be recorded and such recordings posted or linked on the public website of the public body within five business days following the meeting, and shall remain so available for a minimum of five years thereafter. Such recordings shall be transcribed upon request;

(h) if videoconferencing is used to conduct a meeting, the public body shall provide the opportunity for members of the public to view such meeting via video, and to participate in proceedings via videoconference in real time where public comment or participation is authorized and shall ensure that videoconferencing authorizes the same public participation or testimony as in person participation or testimony; and

(i) a local public body electing to utilize videoconferencing to conduct its meetings must maintain an official website.

3. The in person participation requirements of paragraph (c) of subdivision two of this section shall not apply during a state disaster emergency declared by the governor pursuant to section twenty-eight of the executive law, or a local state of emergency proclaimed by the chief executive of a county, city, village or town pursuant to section twenty-four of the executive law, if the public body determines that the circumstances necessitating the emergency declaration would affect or impair the ability of the public body to hold an in person meeting.

4. No later than January first, two thousand twenty-four, the committee on open government, created by paragraph (a) of subdivision one of section eighty-nine of this chapter, shall issue a report to the governor, the temporary president of the senate, the speaker of the assembly, the chair of the senate standing committee on local government, the chair of the senate standing committee on investigations and government operations, the chair of the assembly standing committee on local governments, and the chair of the assembly standing committee on governmental operations concerning the application and implementation of such law and any further recommendations governing the use of videoconferencing by public bodies to conduct meetings pursuant to this section.

5. Open meetings of any public body that are broadcast or that use videoconferencing shall utilize technology to permit access by members of the public with disabilities consistent with the 1990 Americans with Disabilities Act (ADA), as amended, and corresponding guidelines. For the purposes of this section, "disability" shall have the meaning defined in section two hundred ninety-two of the executive law.

* NB Repealed July 1, 2024

EXHIBIT B

NEW YORK STATE COMMITTEE ON OPEN GOVERNMENT

QUESTIONS AND ANSWERS CHAPTER 56 OF THE LAWS OF 2022

On April 9, 2022, Governor Hochul signed Chapter 56 of the Laws of 2022 relating to the New York State budget for the 2022-2023 state fiscal year. Included in the bill is an amendment to the Open Meetings Law (OML) to make permanent (until July 1, 2024) the expanded use of videoconferencing by public bodies to conduct open meetings, *under extraordinary circumstances*, regardless of a declaration of emergency.

As a threshold matter, it is our understanding that the new law is not meant to change or curtail what has always been required of public bodies complying with the Open Meetings Law. Public bodies may continue to operate now as they did *before* the onset of the pandemic in early 2020 when the “in person” aspects of the Open Meetings Law were first suspended. In other words, we believe that if a public body was permitted to do it before the pandemic, this law does not change that. As noted above, this law is intended to expand, in extraordinary circumstances only, the ability of public bodies to meet using remote access technology.

Below we have identified areas of the law that may require clarification.

Q. Are public bodies required to comply with the new videoconferencing requirements right away?

A. No. For sixty days after the effective date of Chapter 56 (April 9, 2022; accordingly through June 8, 2022), public bodies are authorized to meet and take such action authorized by law without permitting in public-in-person access to meetings and authorize such meetings to be held remotely by conference call or similar service, provided that the public has the ability to view or listen to such proceeding and that such meetings are recorded and later transcribed. This language closely models the language of Chapter 417 of the Laws of 2021 and [Chapter 1 of the Laws of 2022](#), the requirements of which have been in effect since September 2021.

Q. What is considered an “extraordinary circumstance” under which a public body may permit a member to participate remotely by videoconference from a location not open to the public?

A. Each public body that wishes to allow for remote attendance by its members at locations that do not allow for in-person physical attendance by the public is required to adopt a local law (governing bodies of counties, cities, towns and villages), adopt a joint resolution (New York State Senate and Assembly), or adopt a resolution (any other public body) authorizing such remote attendance, and must establish written procedures that set forth what they determine to be “extraordinary circumstances.” The Law includes a non-exhaustive list of examples of such circumstances, “including disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which precludes the member’s physical attendance at such meeting.”

Q. Are public bodies permitted to conduct its meetings at multiple physical locations from which members of the body may participate if those locations are open to in-person public attendance, regardless of extraordinary circumstances?

A. Yes. We understand that the intent of the amendments to the OML was to *expand* the authority of a public body to allow its members to participate in a meeting using videoconferencing under limited circumstances when the member’s location is not open to in-person public attendance. Before the onset of the pandemic in 2020, public bodies routinely held proper open meetings by videoconference from

multiple physical locations identified in the meeting notice that were open to the public, connected virtually together by videoconference. This remains proper. It was not the intent to limit the existing authority to virtually connect multiple public locations from which members and the public may attend through the use of videoconferencing technology.

Q. Which members of the public body may count toward a quorum?

A. Any member who participates at a physical location that is open to in-person physical attendance by the public (and which location has been included in the meeting notice) may count toward a quorum and may fully participate and vote in the meeting. If there is a quorum of members at a physical location open to the public, the public body may properly convene a meeting; a member who is participating from a remote location that is *not* open to in-person physical attendance by the public may not be counted toward a quorum of the public body (but may participate and vote if there is a quorum of members at a physical location open to the public).

Q. Can members of a public body participate remotely in a meeting, for any reason, without convening at least a quorum of members at a physical location (or locations) open to the public?

A. No. Chapter 56 states that members of the public body “shall be physically present at any such meeting unless such member is unable to be physically present at any such meeting location due to extraordinary circumstances.”

Q. Are public bodies *required* to allow their members to participate remotely, under extraordinary circumstances, at locations that do not allow for in-person physical attendance by the public?

A. No. Chapter 56 states that a public body “may, in its discretion” allow its members to participate remotely, under extraordinary circumstances and so long as there is a quorum of members gathered at a physical location or locations open to the public, at locations that do not allow for in-person physical attendance by the public.

Q. If a public body allows its members to participate remotely, under extraordinary circumstances, at locations that do not allow for in-person physical attendance by the public, must it afford members of the public the opportunity to view the meeting by videoconference as well?

A. Yes. If a public body uses videoconferencing to conduct a meeting, the public notice for the meeting must inform the public that videoconferencing will be used and must include directions for how the public can view and/or participate (if participation is permitted) in such meeting. The public body must provide the opportunity for members of the public to view the meeting, using remote technology or in person, in real time.

Q. If a public body allows for public comment or public participation by members of the public who attend its meetings in-person, must it allow the same for members who attend remotely?

A. Yes. The law requires public bodies to allow members of the public to participate in proceedings by videoconference in real time where public comment or participation is authorized and shall ensure that videoconferencing authorizes the same public participation or testimony as in person participation or testimony.

Q. Is participation by a member of a public body by teleconferencing (audio only) authorized by Chapter 56?

A. No. The Law requires that except in the case of executive sessions, a “public body shall ensure that members of the public body can be heard, seen and identified, while the meeting is being conducted, including but not limited to any motions, proposals, resolutions, and any other matter formally discussed or voted upon.” (Note that an executive session may only be properly convened after a successful motion made during an open session, and that but for the requirement to permit the public to attend and view the session, all other requirements of the Law continue to apply to executive sessions.)

Q. Must the meeting minutes reflect which members of the public body participated remotely?

A. Yes. The Law requires that “minutes of the meetings involving videoconferencing shall include which, if any, members participated remotely.”

Q. Are public bodies required to record and/or transcribe open meetings conducted using videoconferencing?

A. Yes. The Law requires that “each meeting conducted using videoconferencing shall be recorded and such recordings posted or linked on the public website of the public body within five business days following the meeting and shall remain so available for a minimum of five years thereafter. Such recordings shall be transcribed upon request.”

Q. Are public bodies required to record and/or transcribe the executive session portions of meetings conducted using videoconferencing?

A. No. In our view the obligation to record and transcribe upon request only applies to the open portions of the meeting that the public is entitled to attend.

Q. What if a local public body does not maintain an official website for purposes of posting the recording of its meetings?

A. Any local public body electing to utilize the “extraordinary circumstances” videoconferencing described in the Law to conduct its meetings *must* maintain an official website.

Q. Does the Law address the ability of a public body to hold fully remote meetings during a state of emergency?

A. Yes. The Law states that the “in person” participation requirements of the Law shall not apply during a state disaster emergency declared by the governor pursuant to section twenty-eight of the executive law, or a local state of emergency proclaimed by the chief executive of a county, city, village or town pursuant to section twenty-four of the executive law, if the public body determines that the circumstances necessitating the emergency declaration would affect or impair the ability of the public body to hold an in person meeting.

Resolution No. _____

[PUBLIC BODY]

WHEREAS, by passing Chapter 56 of the Laws of 2022 ("Chapter 56"), the New York State Legislature amended Section 103 of the Open Meetings Law; and

WHEREAS, Chapter 56 adds Section 103-a of the Open Meetings Law, permitting the [PUBLIC BODY] to authorize its members to attend meetings by videoconferencing under extraordinary circumstances; and

WHEREAS, Section 103-a(2)(a) requires the [PUBLIC BODY] to adopt a resolution following a public hearing authorizing the limited use of videoconferencing under such circumstances; and

WHEREAS, Section 103-a(2) allows for hybrid meetings by requiring "that a minimum number of members are present to fulfill the public body's quorum requirement in the same physical location or locations where the public can attend"; and

WHEREAS, Section 103-a(2)(c) requires that members be physically present at any such meeting "unless such member is unable to be physically present at any such meeting location due to extraordinary circumstances . . . including disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which precludes the member's physical attendance at such meeting"; and

WHEREAS, in accordance with Section 103-a(2)(d), any members attending by videoconference must, except during executive session, be "heard, seen and identified, while the meeting is being conducted, including but not limited to any motions, proposals, resolutions, and any other matter formally discussed or voted upon"; and

WHEREAS, Section 103-a(2)(g) requires that any meeting where a member attends by videoconference be recorded, posted to the [PUBLIC BODY] webpage within five business days, and transcribed upon request; and

WHEREAS, Section 103-a(2)(h) requires that members of the public be permitted to attend and participate, if authorized, in any meeting by videoconference when a member attends by videoconference.

BE IT RESOLVED, that the [PUBLIC BODY] authorizes its members who experience an extraordinary circumstance, as described above and further defined by any rules or written procedures later adopted, to attend meetings by videoconference: (i) as long as a quorum of the members attend in-person at one or more locations open to the public; (ii) as long as the member can be seen, heard, and identified while the open portion of the meeting is being conducted; and (iii) as otherwise permitted under Chapter 56 of the Laws of 2022; and be it further

RESOLVED, that the [PUBLIC BODY] shall create written procedures further governing its use of videoconferencing by its members in compliance with Chapter 56 of the Laws of 2022.

MODEL Procedures for Member Videoconferencing
Pursuant to Public Officers Law § 103-a

In compliance with Public Officers Law (POL) § 103-a(2)(a), the [PUBLIC BODY], following a public hearing, authorized by resolution on [insert date] the use of videoconferencing as described in POL § 103-a.

The following procedures are hereby established to satisfy the requirement of POL § 103-a(2)(b) that any public body which in its discretion wishes to permit its members to participate in meetings by videoconferencing from private locations – under extraordinary circumstances – must establish written procedures governing member and public attendance.

1. [PUBLIC BODY] members shall be physically present at any meeting of the [PUBLIC BODY] unless such member is unable to be physically present at one of the designated public meeting locations due to extraordinary circumstances.
2. For purposes of these procedures, the term “extraordinary circumstances” includes disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which precludes the member’s physical attendance at such meeting.
3. If a member is unable to be physically present at one of the designated public meeting locations and wishes to participate by videoconferencing from a private location due to extraordinary circumstances, the member must notify [REPRESENTATIVE OR CHAIR OF PUBLIC BODY] no later than four business days prior to the scheduled meeting in order for proper notice to the public to be given. If extraordinary circumstances present themselves on an emergent basis within four days of a meeting, the [PUBLIC BODY] shall update its notice as soon as practicable to include that information. If it is not practicable for the [PUBLIC BODY] to update its notice, the [PUBLIC BODY] may reschedule its meeting.
4. If there is a quorum of members participating at a physical location(s) open to the public, the [PUBLIC BODY] may properly convene a meeting. A member who is participating from a remote location that is not open to in-person physical attendance by the public *shall not* count toward a quorum of the [PUBLIC BODY] but may participate and vote if there is a quorum of members at a physical location(s) open to the public.
5. Except in the case of executive sessions conducted pursuant to POL § 105, the [PUBLIC BODY] shall ensure that its members can be heard, seen, and identified while the meeting is being conducted, including but not limited to any motions, proposals, resolutions, and any other matter formally discussed or voted upon. This shall include the use of first and last name placards physically placed in front of the members or, for members participating by videoconferencing from private locations due to extraordinary circumstances, such members must ensure that their full first and last name appears on their videoconferencing screen.
6. The minutes of the meetings involving videoconferencing based on extraordinary circumstances pursuant to POL § 103-a shall include which, if any, members participated by videoconferencing from a private location due to such extraordinary circumstances.

MODEL Procedures for Member Videoconferencing
Pursuant to Public Officers Law § 103-a

7. The public notice for the meeting shall inform the public: (i) that extraordinary circumstances videoconferencing will (or may) be used, (ii) where the public can view and/or participate in such meeting, (iii) where required documents and records will be posted or available, and (iv) the physical location(s) for the meeting where the public can attend.
8. The [PUBLIC BODY] shall provide that each open portion of any meeting conducted using extraordinary circumstances videoconferencing shall be recorded and such recordings posted or linked on the [PUBLIC BODY] website within five business days following the meeting, and shall remain so available for a minimum of five years thereafter. Such recordings shall be transcribed upon request.
9. If members of the [PUBLIC BODY] are authorized to participate by videoconferencing from a private location due to extraordinary circumstances, the [PUBLIC BODY] shall provide the opportunity for members of the public to view such meeting by video, and to participate in proceedings by videoconference in real time where public comment or participation is authorized. The [PUBLIC BODY] shall ensure that where extraordinary circumstances videoconferencing is used, it authorizes the same public participation or testimony as in person participation or testimony.
10. Choice 1:

Open meetings of the [STATE PUBLIC BODY OR AUTHORITY] conducted using extraordinary circumstances videoconferencing pursuant to the provisions of POL § 103-a shall be broadcast pursuant to the requirements of POL § 103(f) and shall utilize technology to permit access by members of the public with disabilities consistent with the 1990 Americans with Disabilities Act (ADA), as amended, and corresponding guidelines. For the purposes of this guideline, “disability” shall have the meaning defined in Executive Law § 292.

Choice 2:

Open meetings of the [ALL OTHER PUBLIC BODIES] conducted using extraordinary circumstances videoconferencing pursuant to the provisions of POL § 103-a shall utilize technology to permit access by members of the public with disabilities consistent with the 1990 Americans with Disabilities Act (ADA), as amended, and corresponding guidelines. For the purposes of this guideline, “disability” shall have the meaning defined in Executive Law § 292.
11. The in-person participation requirements of POL § 103-a(2)(c) shall not apply during a [state disaster emergency declared by the governor pursuant to Executive Law § 28 or a local state of emergency proclaimed by the chief executive of a county, city, village or town pursuant to § 24 of the Executive Law] if the [PUBLIC BODY] determines that the circumstances necessitating the emergency declaration would affect or impair the ability of the [PUBLIC BODY] to hold an in-person meeting.
12. These procedures shall be conspicuously posted on the [PUBLIC BODY] website.

EXHIBIT C



Harisch Studios, Inc.
Photography Above The Rest

57-44 Myrtle Avenue
Ridgewood, NY 11385
718-821-2390
www.harischstudios.com

August 14, 2023

Ms. Johana Pulgarin
District Manager, Brooklyn Community Board 1
435 Graham Avenue
Brooklyn, NY 11211

Dear Johana:

It was a pleasure meeting you on Wednesday to discuss your needs for hybrid meetings. Thank you for providing us with the opportunity to present a proposal for live streaming Community Board 1's full board meeting. We propose the following:

We are committed to providing two cameras for a full board monthly meeting, and will provide staffing/live streaming services for each full board meeting lasting up to 2.5 hours (from scheduled start time to adjournment of meeting) at a cost of \$350 per meeting. Each additional 30 minutes or portion thereof will be billed at a cost of \$35. In addition, if the meeting is required to be hybrid (you or we provide Zoom/Webex link; we manage Zoom/Webex meeting for presenters; integrate Zoom/Webex meeting into the live stream; and/or, show Zoom/Webex meeting for the on-site participants - there is an additional cost of \$75 for the first 2.5 hours; and, an additional \$20 per additional thirty minutes or portion thereof. This presumes Zoom/Webex sends the meeting to YouTube. There would be additional costs to have a separate YouTube feed directly from the on-site meeting (which would include the Zoom component). Audio equipment, if required, is an additional \$50 per meeting (regardless of duration). So, a 2.5 hour full board hybrid meeting, at Swinging Seniors (with their A/V equipment) would be \$425, plus \$55 each additional 30 minutes or portion thereof (from scheduled start time until final adjournment).

Our proposal is based on viable internet service available at the venue. Additional costs of \$25 per meeting will apply if we need to bring internet service (and if it is functional). If you have any questions, please feel free to contact me. Thank you again.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark J. Moss". The signature is stylized with a large, looped "M" and a cursive "J. Moss".

Mark J. Moss
President



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August 14, 2023

Ms. Johana Pulgarin
District Manager, Brooklyn Community Board 1
435 Graham Avenue
Brooklyn, NY 11211

Dear Johana:

It was a pleasure meeting you on Wednesday to discuss your in-office needs for hybrid meetings. Thank you for providing us with the opportunity to present a proposal for providing you with the necessary equipment and training for in-office hybrid meetings. We propose the following:

We will provide two (2) Meeting Owl 3 devices; one (1) desk stand for in-office use; two (2) tripods for the Owl 3 for remote hybrid committee meetings; two (2) soft-sided bags to transport Meeting Owl 3 devices, as well as cable and expansion mic; one (1) expansion microphone to extend the audio reach within a remote room (can also be used in office); one (1) configured laptop for remote meeting management (this laptop will be configured with the Meeting Owl devices; all necessary cables for devices to properly function; one (1) in office 45 minute training session (after we configure the devices); one (1) one hour presence at a remote or in-office committee meeting to ensure staff's full knowledge of the operation of the devices.

Total cost for this package would be \$4,625, all inclusive. Please let me know if you have any questions.

Thank you again.

Sincerely,

Mark J. Moss
President

EXHIBIT D

RESOLUTION

Brooklyn Community Board 1

WHEREAS, by passing Chapter 56 of the Laws of 2022 (“Chapter 56”), the New York State Legislature amended Section 103 of the Open Meetings Law; and

WHEREAS, Chapter 56 adds Section 103-a of the Open Meetings Law, permitting Brooklyn Community Board 1 to authorize its members to attend meetings by videoconferencing in extraordinary circumstances; and

WHEREAS, in connection with authorizing attendance by videoconferencing, Section 103-a(2)(a) requires the Community Board to adopt a resolution following a public hearing; and

WHEREAS, Section 103-a(2) allows for hybrid meetings where “a minimum number of members are present to fulfill the public body’s quorum requirement in the same physical location or locations where the public can attend”; and

WHEREAS, Section 103-a(2)(c) requires that members be physically present at any such meeting “unless such member is unable to be physically present at any such meeting location due to extraordinary circumstances . . . including disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which precludes the member’s physical attendance at such meeting”; and

WHEREAS, Section 103-a(2)(c) further provides that a member attending by videoconference on the basis that they are disabled within the meaning of Executive Law § 292(21) and that such disability prevents them from attending in-person at the location or locations where the public can attend may be counted toward a meeting’s quorum; and

WHEREAS, in accordance with Section 103-a(2)(d), any members attending by videoconference must, except during executive session, be “heard, seen and identified, while the meeting is being conducted, including but not limited to any motions, proposals, resolutions, and any other matter formally discussed or voted upon”; and

WHEREAS, Section 103-a(2)(g) requires that any meeting where a member attends by videoconference be recorded, posted to the Community Board’s website within five business days, and transcribed upon request; and

WHEREAS, Section 103-a(2)(h) requires that members of the public be permitted to attend and participate, if otherwise authorized, in any meeting by videoconference when a member attends by videoconference; and

WHEREAS, a public hearing was held regarding this Resolution on September 12, 2023; and

WHEREAS, following such public hearing a quorum of the Community Board voted upon and approved the instant resolution on September 12, 2023;

BE IT RESOLVED, that Brooklyn Community Board 1 authorizes its members who experience an extraordinary circumstance, as described above and further defined by any rules or written procedures later adopted, to attend meetings of the Board or its committees by videoconference: (i) as long as a quorum of the members attend either a) in-person at one or more locations open to the public or b) for members who are disabled within the meaning of Executive Law § 292(21) and prevented by such disability from attending in-person at the location or locations where the public can attend, by videoconference; (ii) as long as the member can be seen, heard, and identified while the open portion of the meeting is being conducted; and (iii) as otherwise permitted under Chapter 56 of the Laws of 2022; and be it further

RESOLVED, that Brooklyn Community Board 1 establishes the annexed written procedures further governing the use of videoconferencing by its members in compliance with Chapter 56 of the Laws of 2022.

Dated: Brooklyn, New York
September 12, 2023

Dealice Fuller, Chair

CB1 Procedures Governing Member Attendance by Video Conferencing in Extraordinary Circumstances

In compliance with Public Officers Law (POL) § 103-a(2)(a), Brooklyn Community Board 1 (the Community Board) following a public hearing, authorized by resolution on September 12, 2023 the use of videoconferencing as described in POL § 103-a. The following procedures are hereby established to satisfy the requirement of POL § 103-a(2)(b) that any public body which in its discretion wishes to permit its members to participate in meetings by videoconferencing from private locations – under extraordinary circumstances – must establish written procedures governing member and public attendance.

1. Community Board members shall be physically present at any meeting of the Community Board unless such member is unable to be physically present at one of the designated public meeting locations due to extraordinary circumstances.
2. For purposes of these procedures, the term “extraordinary circumstances” includes disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which precludes the member’s physical attendance at such meeting. The term “disability” is defined in Section 292(21) of the Executive Law as:

a physical, mental or medical impairment resulting from anatomical, physiological, genetic or neurological conditions which prevents the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques or (b) a record of such an impairment or (c) a condition regarded by others as such an impairment.

3. If a member is unable to be physically present at one of the designated public meeting locations and wishes to participate by videoconferencing from a private location due to extraordinary circumstances, the member must notify the Chairperson no later than four business days prior to the scheduled meeting in order for proper notice to the public to be given.
4. If there is a quorum of members participating at a physical location(s) open to the public, the Community Board may properly convene a meeting. A member who is participating from a remote location that is not open to in-person physical attendance by the public shall not count toward a quorum of the Community Board—except as allowed in Paragraph 5, below—but may participate and vote if there is a quorum of members at a physical location(s) open to the public.
5. Notwithstanding the in-person quorum requirement described above, a Community Board member whose disability, as defined above in Paragraph 2, renders such member unable to participate in-person at any such meeting location where the public can attend may be counted toward a quorum though they appear by videoconference. If a member requests to participate by videoconference and be counted toward quorum on the basis of a disability, the Community Board through its Chairperson may request documentation of the condition in order to determine whether it meets the definition of disability established by relevant law.

6. Except in the case of executive sessions conducted pursuant to POL § 105, the Community Board shall ensure that its members can be heard, seen, and identified while the meeting is being conducted, including but not limited to any motions, proposals, resolutions, and any other matter formally discussed or voted upon.
7. The minutes of the meetings involving videoconferencing based on extraordinary circumstances pursuant to POL § 103-a shall identify which, if any, members participated by videoconferencing from a private location due to such extraordinary circumstances.
8. The public notice for a meeting incorporating videoconferencing under these procedures shall inform the public: (i) that extraordinary circumstances videoconferencing will be used, (ii) where the public can view and/or participate in such meeting, (iii) where required documents and records will be posted or available, and (iv) the physical location(s) for the meeting where the public can attend.
9. The Community Board shall provide that each open portion of any meeting conducted using extraordinary circumstances videoconferencing shall be recorded and such recordings posted or linked on the Community Board's website within five business days following the meeting, and shall remain so available for a minimum of five years thereafter. Such recordings shall be transcribed upon request.
10. If members of the Community Board are authorized to participate by videoconferencing from a private location due to extraordinary circumstances, the Community Board shall provide the opportunity for members of the public to view such meeting by video, and to participate in proceedings by videoconference in real time where public comment or participation is authorized. The Community Board shall ensure that where extraordinary circumstances videoconferencing is used, it allows the same public participation or testimony as in person participation or testimony.
11. The in-person participation requirements of POL § 103-a(2)(c) shall not apply during a state disaster emergency declared by the governor pursuant to Executive Law § 28 if the Community Board determines that the circumstances necessitating the emergency declaration would affect or impair the ability of the Community Board to hold an in-person meeting.
12. These procedures shall be conspicuously posted on the Community Board website.



COMMUNITY BOARD No. 1

435 GRAHAM AVENUE - BROOKLYN, NY 11211- 8813

PHONE: (718) 389-0009

FAX: (718) 389-0098

Email: bk01@cb.nyc.gov

Website: www.nyc.gov/brooklyn1

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BROOKLYN BOROUGH PRESIDENT



SIMON WEISER
FIRST VICE-CHAIRMAN

DEL TEAGUE
SECOND VICE-CHAIRPERSON

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DISTRICT MANAGER

HON. LINCOLN RESTLER
COUNCILMEMBER, 33rd CD

HON. JENNIFER GUTIERREZ
COUNCILMEMBER, 34th CD

REVISED

December 6, 2024

EXECUTIVE BOARD

TO: CB#1 Board Members

FROM: Chairperson Dealice Fuller

RE: Executive Board Meeting Held on November 20, 2024

The Executive Board met on Wednesday, November 20, 2024, at 5:30 PM.

ATTENDANCE: Present: Chair Fuller; Barros; Heimlich; Iglesias; Teague.
Absent: Weiser; Caponegro.
(A quorum was achieved)

1. MEETING CALLED TO ORDER:

Chairperson Fuller opened the Meeting. and asked the committee members to review the agenda presentation requests list (See attached).

2. PREPARATION OF THE AGENDA FOR DECEMBER 10, 2024, COMBINED PUBLIC HEARING & BOARD MEETING.

The Executive Board committee members reviewed the various requests received for the presentation. Chairperson Fuller asked for approval of the agenda and all present approved.

All presentations will be limited to 20 minutes.

DM Pulgarin related that item # 1 listed for the agenda is not certified yet, but she was notified by DCP that it will be certified by November 27, 2024, this item is on the clock. The Executive Board would need to vote on it to be added on December 10, 2024, Combined Public Hearing & Board Meeting Agenda.

The vote was as follows: 5 “YES” Fuller; Barros; Heimlich; Iglesias; Teague. 0 “NO”, 0 “ABS”.

The Executive Board reviewed the following board member’s request to be excused from being absent at the Combined Public Hearing & Board Meeting on November 12, 2024.

- Gina Argento
- Lisa Bamonte
- Gina Barros
- Janice Peterson

The Executive Board made a motion to excuse the above Members.

The vote was as follows: 5 “YES” Fuller; Barros; Heimlich; Iglesias; Teague. 0 “NO”, 0 “ABS”.

3. **ADDITIONAL DISCUSSION:**

Ms. Sonia Iglesias requested training in Parliamentary Procedures in person for the Full Board. Ms. Iglesias expressed that the training would be beneficial for the Board Members.

DM Pulgarin requested the training in civic engagement, but she was informed by Mr. Benjamin Solataire that the training is one hour long.

Chair Fuller suggested that DM Pulgarin contact the Civic Engagement Agency and find out if the training can be done exclusively for the Board Members online at two different times so that the Board Members can take it at their convenience.

DM Pulgarin made the request to the Civic Engagement Agency for two different times in January 2025 after the holidays.

Motion to adjourn the meeting presented by Mr. Heimlich.

The meeting was Adjourned. (6:30 p.m.)



District Manager's Report

TO: All Board Members

FROM: Johana P. Pulgarin
District Manager

RE: DECEMBER 2024

1. District Service Cabinet Meeting Minutes from November 21, 2024.
2. Complaint Tally Sheet for November - December 2024.
3. NYC Parks Department RE: Berry Street Playground Construction
4. NYC Department of Sanitation (DSNY) - Announcement: When is DSNY Fall Leaf Collection? Every Week!
5. NYC Independent Budget Office (IBO) - Affordable Housing Report for your committee
6. NYC Department of Transportation (DOT) - End of Season: November 29 was the final day to remove roadway outdoor dining setups
7. Con Edison to Customers RE: Scams
8. Metropolitan Transportation Authority (MTA) Office of the Congestion Relief Zone - Congestion Relief Zone tolling begins January 5, 2025
9. NYC Parks and Recreation Department - Parks Greenways and Drives Input Tool
10. NYC Fire Department (FDNY) - FDNY Brush Fire Safety Education Tips
11. Commissioner Keith Bray, Brooklyn, NYC DOT RE: Open Street Notification on Penn Street from Williamsburg Street to Wythe Avenue
12. NYS Department of Public Service - RE: Workshop Winter Preparedness January 9, 2025
13. NYC Department of Social Services (DSS) - We need your help for HOPE 2025!
14. NYC Independent Budget Office (IBO) - DM Pulgarin attended IBO Budget Basics 101 presentation

15. NYC Department of Environmental Protection NYC DEP: Introducing: ADOPT-A-CATCH BASIN (Pilot Program)
16. Council Member Erik Bottcher - RE: Shed the Sheds: Reforming Sidewalk Scaffolding in New York City
17. NYC Economic Development corporation - NYC Ferry Sustainability Announcements.



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COMPLAINT TALLY

NOVEMBER 09, 2024 – DECEMBER 02, 2024

COMPLAINT TYPE	TALLY	COMPLAINT TYPE	TALLY
AIR		NATIONAL GRID	1
ANIMAL CONTROL		NOISE	8
APPLICATION	29	OTHER	
ARCADE / RIDES		PARKING	14
ASSISTANCE	31	PARKS DEPARTMENT	8
BASKET REQUEST		PEST CONTROL	
BUILDINGS DEPARTMENT	2	PLATES	
BULK PICKUP		POLICE DEPARTMENT	12
CATCH BASIN		POOLS	
CAVE - IN		POTHOLES	
CODE ENFORCE		PROTECTION	
COLLEGE		PRUNING	1
CON-EDISON	2	PUBLIC ASSISTANCE	
CRIME		REAL ESTATE	
DCA		RECYCLING	
DCAS		REFERRALS	
DEMO		REGULAR PICKUP	
DEP	6	RELOCATION	
DERELICT AUTO /BIKES		RENT CONTROL	1
DOCUMENTS		SANITATION	3
DOS		SCHOOL / PS	
DOT	17	SCHOOL REGION	
DRUGS		SEAL-UP	
EDUCTAION		SENIOR HOUSING	1
ELEVATOR		SERVICE	
ENFORCEMENT	3	SEWER BACKUP	
EQUIPMENT		SEWER BREAK	
FEDERAL		SIDEWALK	2
FIRE DEPARTMENT		SIGNS	1
FOOD STAMPS		SNOW REMOVAL	
GREEN STREET		SOCIAL SERVICES	
HEALTH DEPARTMENT		STATE	
HEAT / HOT WATER		STREETLIGHT	
HIGHWAYS		TRAFFIC LIGHTS	
HPD	6	TREE REMOVAL	2
HRA		TREE REQUESTS	
HS		TRENCH WORK (& DEP)	
HYDRANT		UNSWEPT STREET LIGHTER	
INFO REQUEST	51	VERIZON / CABLE	
JHS		WATER	
LEGAL			
LICENSE	32		
LOT CLEANING			
LOT CLEANING / BQE	1		
MEDICAID			
METERS			
MTA		TOTAL	234



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COUNCILMEMBER, 34th CD

DISTRICT SERVICE CABINET MEETING

NOVEMBER 21, 2024

435 GRAHAM AVENUE

BROOKLYN NY 11211

MEETING CALLED TO ORDER

District Manager, Ms. Johana P. Pulgarin called the District Service Cabinet Meeting to order and noted the agenda which included a round robin session.

ROUND ROBIN SESSION

New York City Fire Department (FDNY): Ms. Sandra Sanchez, Director of FDNY Community Affairs, mentioned that FDNY partnered with Smokey the Bear to address brush fires, and the increase in brush fires over the past two weeks has continued to rise.

Below are essential safety tips to ensure New Yorkers help reduce the risk of these incidents:

- Avoid outdoor burning, including campfires, bonfires, and any other open flames
- Grilling is banned in New York City parks while drought conditions persist
- If you smoke outdoors, be mindful and always dispose of cigarette butts and matches properly
- Stay on designated trails when enjoying our parks to protect surrounding vegetation and reduce the risk of accidental fires
- Remember, fireworks are illegal across New York City

- Remove litter and any excessive brush or leaves from sidewalks abutting residences and businesses.

Ms. Sanchez expressed her gratitude to the Community Boards for blasting the information to the Constituents about some of the tips that can be used to help reduce fires when it comes to some of our vegetated locations throughout New York City. For more information please visit (www.fdnysmart.org).

Furthermore, during the Thanksgiving season between prep day, Thanksgiving Day, and the day after Thanksgiving, which is considered Black Friday, there is a threefold chance of a cooking fire than on any other day of the year. Ms. Sanchez provided tips to keep safe on Thanksgiving: If you are keeping all the cooking indoors to be mindful of your children around, stand by your pans, or if you want to expand grilling or deep frying outside be mindful of those processes while cooking.

Ms. Sanchez provided FDNY statistics for Brooklyn Community Board No. 1 for the month of October:

49 Structural fires

30 Non-structural fires

646 Medical Emergency

564 Non-Medical Emergency

Total of incidents for Community Board No. 1: 1289 vs 16498 total for Brooklyn.

NYC Department of Health and Mental Hygiene (DOHMH): Ms. Afia McCausky, Community Liaison - Brooklyn North: Ms. McCausky had no updates.

District Manager Pulgarin reported that many complaints were received regarding rats in the neighborhood, especially in tree beds. District Manager Pulgarin asked who was responsible for rats in tree beds. Ms. McCausky responded that homeowners are responsible for maintaining tree beds on the sidewalk in front of their homes. She said the DOH would come and treat the tree if needed and leave a sign informing the homeowner that they were there and provided rat treatment. However, the homeowner will be charged for this service, which will be added to their tax bill. Homeowners weren't happy about being charged for the services.

District Manager Pulgarin asked if there was any training for homeowners on how to deal with the rats. Ms. McCausky stated that there is a Rat Academy (prevention training) that DOH provides to educate the community regarding hiring an exterminator and garbage maintenance. The local inspectors for the areas will host the hour-long workshop with a minimum of 30 people in attendance. Multiple organizations can join together to hold one workshop to get the 30 people required. In addition, a 10 – 20 minutes presentation is available to the community regarding public safety with rats. District Manager Pulgarin stated that there was a discussion about potential birth control measures for rats. Is there any update on this. Ms. McCausky stated that she was not aware about birth control for rats but will look into it and she will share any update once she has them.

NYPD 94TH Precinct: NCO Sergeant Seubert and NCO Sergeant D. Levy: Sergeant Seubert stated year to date that we continue to see a downward trend, with 7.5% decrease in all major crime statistics. In the last 28 days, there has been a slight uptick in robberies, but the numbers are down in burglaries and grand larcenies. Over the last two months burglaries and grand larcenies have been problematic, prompting NYPD to allocate personnel to address this. Fortunately, NYPD made some significant arrests, and it appears several key offenders are now incarcerated, contributing to the ongoing downward trend.

Sergeant Seubert recalls that during the last DSC meeting, scooters and mopeds were raised as a concern within the community. Recently, NYPD conducted a scooter operation with the 90th precinct. It issued around 30 summonses for mopeds and seized numerous scooters as part of the effort.

District Manager Pulgarin asked if DOT had updated the 94th Precinct on McGuiness Blvd. Sergeant Seubert stated that they had not received an update on the McGuiness Blvd.

District Manager Pulgarin stated that the Full Board met and voted on sending a letter to the Sheriff's department. This letter asked for information regarding illegal cannabis shops to update on what is happening.

District Manager Pulgarin also stated that 807 Manhattan Avenue will be review on November 25th, by the Cannabis Review Committee.

District Manager Pulgarin stated there are several complaints regarding construction site personnel using the designated assigned parking for construction machinery for their personal vehicles to park. DOT approved the "No Parking" permits, but they are only for construction machinery and not for the personal use of construction personnel. District Manager Pulgarin asked what was being done about this. In addition to talking to the construction site manager, Sergeant Seubert believes this would work best if DOB issued a fine. Sergeant Seubert expressed that by DOB/DOT stepping in, it would escalate and handle the issue of no parking for personal use. Sergeant Seubert said he stopped multiple times at the construction site on Graham Ave. He was concerned about workers parking their personal cars in designated areas reserved for construction vehicles. However, each time the site seemed inactive, and I was unable to talk to any of the workers. He had a similar situation with a construction site on Lorimer Street where construction workers were parking in the permitted area. They eventually had their permit revoked.

District Manager Pulgarin asked about a construction site on Manhattan Avenue. They have permits for both sides of the street in front of the construction site. However, they park the personal cars there and creates a hazardous condition for the school on the block, particularly between 9:00 am – 3:00 pm. Sergeant was not aware of this problem and will investigate it.

NYC Parks and Recreation Department: Mr. Arthur Megie representing Mary Salig, Park Administration - North Brooklyn: Mr. Megie advised that construction would start in December at Berry Playground. District Manager Pulgarin asked if there were any details on the work being done at Berry Playground. Mr. Megie stated that no other details were available.

NYPD 90th Precinct: Crime Prevention Police Officer Sierra and Sergeant Reilly: Officer Sierra stated that the 90th Precinct right now is up in robberies only two for the year to date. It when from 171 to 173. We are experiencing fewer felony assaults. Grand larcenies are down by 51% and burglaries are also down.

District Manager Pulgarin reported that the Full Board approved a letter to support EBT Cards having chips to reduce scams.

District Manager Pulgarin asked if there are any events scheduled. Officer Sierra related that the following events are happening:

The 90th Precinct will hold 2 events at Swinging Sixties Senior Center, 211 Ainslie Street.

1. Active Shooter seminar on December 18th
2. Holiday Safety seminar on December 13th

NYC Department of the Aging: Ms. Charise Lawrence Government Affairs: Ms. Lawrence announced that vouchers for the farmer's market will expire at the end of the month, which also marks the end of the farmer's market season. Ms. Lawrence mentioned that it's open enrollment season for Medicare, which will end on December 7th. The Department of the Aging is encouraging anyone that has questions about their current plans or wants to be counseled about their current plan to call their agent connect number at (212)244-6469.

Community Board No. 1: District Manager Pulgarin thanked everyone for attending and concluded the meeting. The District Manager advised all attendees that the next District Cabinet Meeting will be held on Thursday, December 19, 2024.

From: Salig, Mary (Parks)
Sent: Tuesday, November 26, 2024 10:31 AM
To: BK01
Subject: FW: Berry Playground - construction start

Good morning,

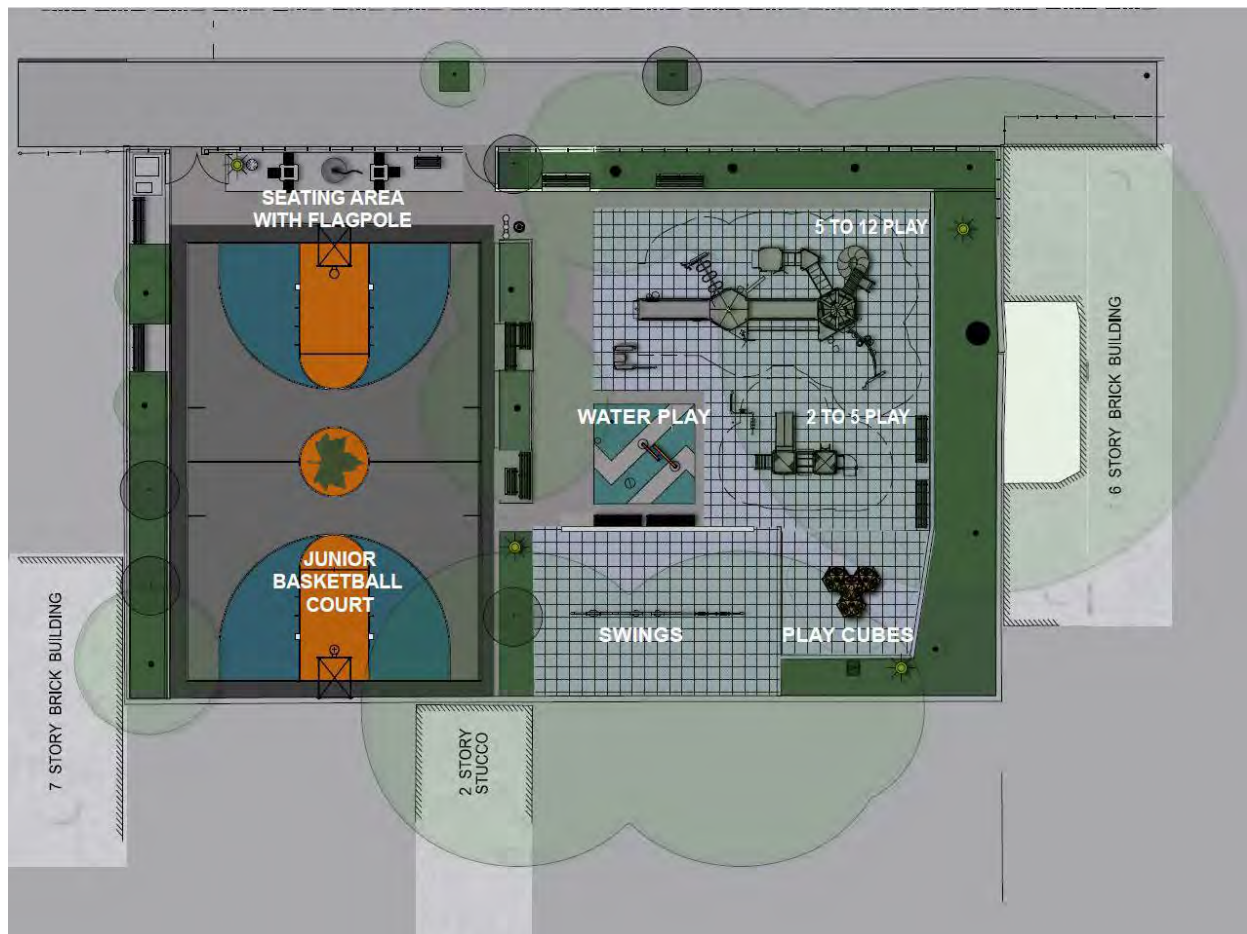
The full reconstruction of Berry Playground is scheduled to begin 12/3/2024. The playground will be closed for a year to allow for the construction work.

Please track the progress of the work through the [Parks Capital Tracker](#).

As always, please let me know if you have any questions.

Best,

Mary



Mary Salig-Husain (she/her/hers)

Park Administrator
North Brooklyn Parks

From: Customer Service (DSNY)

Sent: Thursday, November 21, 2024 4:21 PM

Subject: Service News: When is DSNY Fall Leaf Collection? EVERY WEEK!



sanitation

When is DSNY Fall Leaf Collection? EVERY WEEK!

Residents No Longer Must Wait for Special Leaf Collection; Leaves Now go with Compost Every Week on Your Recycling Day

New York City residents no longer must wait for special – and limited – yearly leaf collection. As curbside composting service is now available to every residential building in every borough, **EVERY resident has leaf collection EVERY week.**

City residents wanting to get rid of fallen leaves and other yard waste need only bag or bin the crunchy waste and set it out for collection on their weekly recycling day, when it will be collected alongside other compostable materials like food scraps and food-soiled paper products. Leaves can be placed in a brown compost bin, in a paper leaf/lawn bag, or in a clear plastic bag.

The city's curbside composting program – the largest and easiest program in the country – decreases greenhouse gases, keeps rats away from their food sources, and creates something useful from material we want to discard. After collection, the leaves, food scraps and food-soiled paper are turned into renewable energy or finished compost, a soil-additive.

For more information on curbside composting or leaf collection, visit nyc.gov/curbsidecomposting.

About the New York City Department of Sanitation

The Department of Sanitation (DSNY) keeps New York City clean, safe, and healthy by collecting, recycling, and disposing of waste, cleaning streets, attacking the scourge of illegal dumping, and clearing snow and ice. The Department operates 59 district garages and manages a fleet of more than 2,000 rear-loading collection trucks, 450 mechanical brooms, 705 salt spreaders, and several dozen bike lane operations machines. Under the Adams

Administration, the Department is aggressively cleaning more parts of the City than ever before, including over 1,000 long-ignored areas spread across every neighborhood. With the highest wintertime uniformed headcount in 20 years, DSNY is more equipped than ever to remove snow and ice from the approximately 19,000 lane-miles of City streets.

From: Xin-rui at **Sent:** Wednesday, November 20, 2024 1:30 PM

To: BK01 (CB)

Subject: NEW* Affordable housing report for your committee

**New York City
Independent
Budget Office**



Hi there Community Boards!

Given the volume of interest regarding Mayor Adams' City of Yes plan, I wanted to bring your attention to a report we [published today](#). Should you or your boards have follow-up questions or further report ideas regarding housing, please feel free to respond to this email, or reach out to me personally at xlee@ibo.nyc.gov.

The report is [***Inclusionary Housing And City Subsidies - A Review of Strategies For Creating New Affordable Housing From Bloomberg to Adams***](#). It pays particular attention to the two categories of City programs that frequently feature in housing plans. Namely (1) **direct city subsidies**, which provide City funds and financing to developers in exchange for affordable units, and (2) **inclusionary housing programs**, which leverage zoning density bonuses to encourage housing development.

IBO analyzes 14 years of data from the Department of Housing Preservation and Development (HPD) to examine affordable unit production, City spending on subsidies, and affordability levels of housing produced by these City programs. This historical lookback has implications

for understanding the Adams administration's City of Yes for Housing Opportunity which is expected to soon be brought to a City Council vote.

Below are some key takeaways from the report:

- The Adams administration's signature housing initiative, **City of Yes** for Housing Opportunity, proposes "universal affordability preference" (UAP), which shares similarities with existing inclusionary housing programs. UAP would likely need more funding for City subsidies than prior years in order to be implemented widely and effectively.
- The role of inclusionary housing programs has expanded in creating new units in recent years. Since the introduction of Mandatory Inclusionary Housing in 2017, over half of new affordable units from City housing programs have received inclusionary housing benefits.
- Though they are two separate tools, **HPD views inclusionary housing programs and City subsidy programs as working together to meet the City's affordable housing goals**. In 2022, 79% of City housing subsidies went to developments that also participated in inclusionary housing.
- **Inclusionary housing has produced few deeply affordable units without direct City subsidies**. 28% of units using inclusionary housing alone were deeply affordable, compared to 53% of units using both City subsidies and inclusionary housing benefits.
- The financing of new construction affordable units increased under the de Blasio administration and remain high under the Adams administration, while City spending on affordable housing has fallen slightly since a peak in 2018.

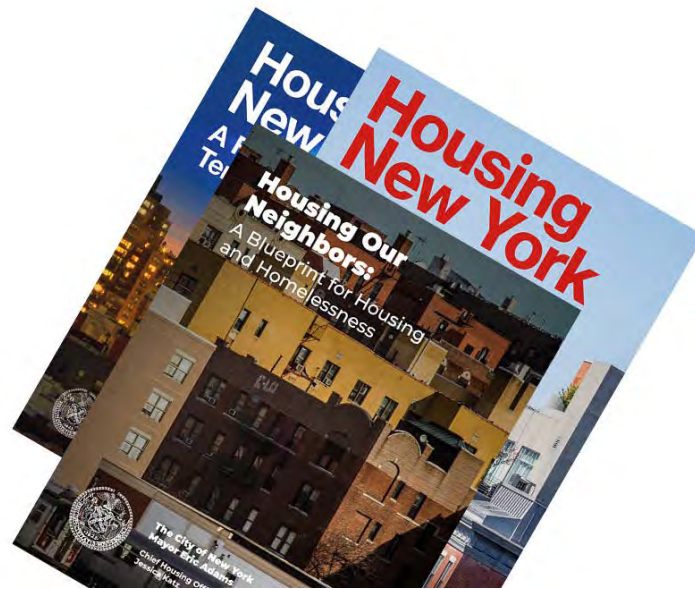
Past coupling of inclusionary housing with city subsidies to incentivize affordable housing development suggests that, if UAP is passed as part of the City of Yes for Housing Opportunity plan, future City capital funding will likely be tied to UAP projects.

Again, please do not hesitate to reach out, and I hope to hear from your boards soon!

Sincerely,

Xin-rui

Community Engagement Specialist



Inclusionary Housing And City Subsidies - A Review of Strategies For Creating New Affordable Housing From Bloomberg to Adams

[Read the full report here](#)



IBO's mission is to enhance understanding of New York City's budget, public policy, and economy through independent analysis.

From: Office of Government Relations

Sent: Monday, November 18, 2024 1:28 PM

To: Office of Government Relations, Con Edison

Subject: [EXTERNAL] Con Edison to Customers: Stay Informed & Alert To Avoid Scams

Con Edison to Customers: STAY INFORMED, ALERT TO AVOID SCAMS

NEW YORK - As part of [International Fraud Awareness Week](#) starting November 17, Con Edison is joining forces with more than 150 U.S. and Canadian energy and water companies to help protect consumers from fraud. The campaign is spearheaded by [Utilities United Against Scams](#), with November 20 recognized as *Utility Scam Awareness Day*.

Con Edison is urging customers to stay vigilant and learn to identify the tactics scammers use to pose as company employees. Scammers often demand personal information, and create a sense of urgency to trick their targets.

“As scammers become more sophisticated, we want our customers to know they can protect themselves,” said Michael Murphy, Con Edison’s vice president of Customer Operations. “If a customer feels pressured to share personal details, the best response is to stay calm, recognize that they are being scammed, and refuse to engage.”

Here are signs that the person contacting a Con Edison customer is a scammer:

- Scammers call customers and instruct them to buy a pre-paid card. Once the customer puts money on the card and provides the scammer with the card number, the scammer steals the money. **Con Edison does not accept payment by pre-paid debit cards, MoneyGram or similar transfers.**
- Scammers contact customers and demand payment via apps like Cash App, Venmo and Zelle. **Con Edison does not support these platforms for payment.** The company also does not accept payment via PayPal or bitcoin.
- Many scammers try to get customers to give up their Con Edison account number, Social Security number or other personal information. The customer should hang up and call 1-800-75-CONED or the local police department.

Phone scammers can manipulate caller ID to make it look like the call is coming from a legitimate Con Edison number.

Once a customer makes a payment, scammers often claim the transaction failed and

demand additional payments, leading some victims to lose thousands of dollars. To avoid these scams, customers should always use the [approved bill payment options](#) available on Con Edison's website.

Some utilities have reported an increase in utility impostor scams through digital methods, including search engine-related scams. Digital scam tactics include:

- Sponsored ads on search engines that lead to an identical - but fake - utility bill payment page.
- QR codes that scammers falsely claim link to a utility payment page.
- Texts from a scammer claiming to be a utility representative, with a link to an impostor payment page.

Con Edison is a subsidiary of Consolidated Edison, Inc. [NYSE: ED], one of the nation's largest investor-owned energy companies, with approximately \$15 billion in annual revenues for the year-end 2023 and \$69 billion in assets as of September 30, 2024. The utility delivers electricity, natural gas, and steam, and serves 3.7 million customers in New York City and Westchester County. For financial, operations, and customer service information, visit conEd.com.

From: MTA Office of the Congestion Relief Zone
Sent: Monday, November 18, 2024 2:03 PM
To: BK01 (CB)
Subject: [EXTERNAL] Congestion Relief Zone tolling begins January 5

Congestion Relief Zone tolling begins January 5.

On November 14, 2024, Gov. Kathy Hochul announced a phased-in approach to New York's Congestion Pricing program, which was previously on pause. Today, the MTA Board approved this plan. Now, Congestion Relief Zone tolling will begin on Sunday, January 5, at midnight.

When tolling begins, vehicles entering the Congestion Relief Zone in Manhattan—local streets and avenues at or below 60 Street—will be charged a toll.

The toll amount will depend on the type of vehicle, time of day, whether any crossing credits apply, and the method of payment. For example, passenger vehicles with E-ZPass entering the Congestion Relief Zone at 60 Street will be charged \$9 in the peak period and \$2.25 overnight, once daily. [Visit our website](#) for more details on toll rates.

[E-ZPass](#) is the best and cheapest way to pay the toll. Most drivers

will be able to pay with their existing E-ZPass tag and account.

If you already have an E-ZPass account, make sure it is up to date with your current license plate number as this will be needed for appropriate discounts, exemptions, and crossing credits.

If you do not have an account, you can sign up for one on the [E-ZPass website](#).



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You are receiving this email because you've contacted us about the Congestion Relief Zone Tolling Program and shared your email address.

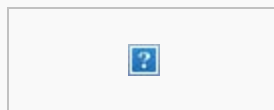
Our mailing address is:

MTA Bridges and Tunnels
2 Broadway
New York, NY 10004-2207

[Add us to your address book](#)

Want to change how you receive these emails?

You can [update your preferences](#) or [unsubscribe from this list](#).



From: Government Relations (Parks)
Sent: Monday, November 18, 2024 12:15 PM
To: Government Relations (Parks)
Subject: Parks Greenways and Drives Input Tool

Dear Friends,

NYC Parks is excited to announce our NYC Parks E-Pilot Map Input Tool! We are asking for park users to share thoughts on their experiences on NYC Parks' greenways and drives, especially related to the flow of bikes, e-bikes, e-scooters, pedestrians, or other park users, to improve conditions on these shared facilities.

As a valued partner of NYC Parks, we appreciate your help in sharing our input tool with your networks to help us gather as much feedback as possible.

Share your thoughts on the conditions of greenways and drives in parks! Use our [input tool](#) (available in various languages through the translate feature).

As we move into the second year of our NYC Parks Electric Micromobility Pilot, we are looking to gain additional insights, test new methods for e-micromobility management, and expand efforts to prevent heavier vehicles like mopeds from entering parks. The feedback from our input tool will help us create better experiences and manage the flow of traffic on greenways and park drives.

As parks are shared spaces, Parks expects all park users to be considerate of others, and operate their bikes, e-bikes, e-scooters, roller skates, or any other legal devices in a safe manner – especially on drives and greenways, which see a variety of uses and speeds. The pilot allows the same bicycles, e-bikes, and e-scooters that are legal to operate in NYC streets to also operate on park drives, such as the Central Park and Prospect Park loops, and greenways, such as the Manhattan Waterfront Greenway. These are spaces where bicycles are already permitted in parks. Class 1, 2, and 3 e-bikes, as well as lighter-weight e-scooters, are already allowed to operate on NYC streets and in bike lanes, and are allowed in parks as part of the pilot. The pilot does not allow any electric micromobility devices to be ridden on pedestrian paths, and does not

From: Sanchez, Sandra (FDNY)
Sent: Friday, November 15, 2024 8:15 AM
Subject: FDNY Brush Fire Safety Education Tips

FDNY Brush Fire Safety Education Tips

Brush fires can happen anywhere. While many think of brush fires as more common in dry, rural areas, the City's parks, greenways and other vegetated spaces can also be susceptible to fire, especially during prolonged periods of dry weather.

With the recent rise in brush fires, the FDNY is urging all residents to stay informed and prepared, as these fires can be highly dangerous and spread rapidly in dry conditions. Below are essential safety tips to ensure New Yorkers help reduce the risk of these incidents:

Help Reduce the Risk:

- Avoid outdoor burning, including campfires, bonfires, and any other open flames
- Grilling is banned in New York City parks while drought conditions persist
- If you smoke outdoors, be mindful and always dispose of cigarette butts and matches properly
- Stay on designated trails when enjoying our parks to protect surrounding vegetation and reduce the risk of accidental fires
- Remember, fireworks are illegal across New York City
- Remove litter and any excessive brush or leaves from sidewalks abutting residences and businesses.

Stay vigilant and help keep our community safe. To learn more safety tips please the share

following link [Brush Fires - FDNY Smart.](#)



Department of Transportation

Ydanis Rodriguez, Commissioner

November 14, 2024

Johana Pulgarin
District Manager, Community Board 1
435 Graham Avenue
Brooklyn, NY 11211

Dear Johana Pulgarin:

We are happy to inform you that an Open Streets location has been approved in your district. New York City's Open Streets program transforms streets into public space open to all. These transformations allow for a range of activities that promote economic development, support schools, and provide new ways for New Yorkers to enjoy cultural programming and build community. For more information about the program, visit the program's website at nyc.gov/openstreets.

The Open Street is located on PENN STREET from WILLIAMSBURG STREET EAST to WYTHE AVENUE and operates on the dates, days and times listed in the tables below. It is a Full Closure - Schools type of Open Street. The Department of Transportation will work Central UTA, the agency's community partner, on the safe and successful execution of this Open Street location.

Start Date	End Date
Thursday, January 2, 2025	Wednesday, December 31, 2025

Days of The Week	Start Time	End Time
Monday	13:00	14:30
Tuesday	13:00	14:30
Wednesday	13:00	14:30
Thursday	13:00	14:30
Friday	N/A	N/A
Saturday	N/A	N/A
Sunday	13:00	14:30

From the date of this notification, your office will have 45 days to offer any comments to the Department of Transportation for this Open Street location.

Location or program feedback can be directed to my office by calling 646-892-1350.

Thank You,

Keith Bray
Brooklyn Borough Commissioner

From: NYS Department of Public Service

Sent: Thursday, November 14, 2024 3:35 PM

Subject: [EXTERNAL] Important Information Regarding Winter Preparedness

CAUTION! EXTERNAL SENDER. Never click on links or open attachments if sender is unknown, and never provide user ID or password. If **suspicious**, report this email by hitting the **Phish Alert Button**. If the button is unavailable or you are on a mobile device, forward as an attachment to phish@oti.nyc.gov.



**Department
of Public Service**



Take the Chill out of

Winter Energy Bills

Energy affordability is a serious concern for many New Yorkers. In addition, winter bills may be particularly hard on vulnerable New Yorkers such as the elderly and households with fixed or low incomes since energy use can often be higher during heating months.

Heading into each winter season, the New York State Department of Public Service (DPS) prepares an outreach and education campaign designed to help consumers manage their energy bills while staying warm and safe during the cold weather months. We encourage consumers to take simple, low-cost energy savings measures to reduce energy use and to consider bill payment options and financial assistance programs to help manage energy costs.

Please help me share and promote our winter preparedness outreach and education messages and materials. Together, we can ensure consumers will be informed of steps they can take and the programs they can participate in to reduce their energy use and help control bills this winter. Our campaign includes:

- A webpage dedicated to winter preparedness information at www.dps.ny.gov/winter
- Virtual "one-stop-shopping" workshops
- Multi-agency In-Person Energy Fairs about resources available to help consumers this winter season
- Free publications related to the upcoming winter season

Please scroll below for more details.

Sincerely,

Richard Berkley

Consumer Advocate and Director

Office of Consumer Services

WINTER ENERGY WORKSHOPS

You are invited to attend “one-stop shopping” virtual workshops for consumer leaders and service organizations on November 21, 2024, and January 9, 2025, that include presentations from the following state agencies: Department of Public Service, Energy Research and Development Authority, Housing and Community Renewal, Office for the Aging, Power Authority, and Office of Temporary and Disability Assistance.

Topics include:

- Energy Affordability and Financial Assistance
- Weatherization Programs
- Energy Efficiency
- Services for Older Adults
- Consumer Rights and Protections

Below is information about joining a virtual workshop. Registration is not required but encouraged so the webinar can be added to your electronic calendar. We have also included a link to a downloadable Winter Workshop flyer you can share with colleagues and other organizations that may find the topics helpful.

[Winter Energy Workshop Flyer](#)

Join a Virtual Winter Energy Workshop

NOVEMBER 21, 2024	JANUARY 9, 2024
Register Here	Register Here
Or Visit MEETNY-GOV.WEBEX.COM	Or Visit MEETNY-GOV.WEBEX.COM
Access Code: 2825 466 7150	Access Code: 2831 015 3016

Password: Nov21-10am

Phone Only-Access:

1-929-251-9612

Access Code: 2825 466 7150

Password: 66821010

Password: Jan9-1pm

Phone Only-Access:

1-929-251-9612

Access Code: 2831 015 3016

Password: 52690176

Winter Preparedness Webpage

The Department's winter preparedness webpage has valuable resources for consumers such as controlling heating costs, consumer protections, energy efficiency and winter safety, as well as links to state and utility financial assistance programs.

Consider adding our winter preparedness webpage URL to your website and sharing it with your constituents.

www.dps.ny.gov/winter

Please download and share our Spanish and English Winter Preparedness flyer, [Winter Preparedness Flyer](#) which includes a QR code that opens directly to our webpage. Consider placing it in high traffic areas.

- Place it in a physical location like your office lobby area.
- Hand it out at exhibiting events or place on your table.
- Include it in digital or physical mailings to your community.



Order DPS Winter Publications

DPS winter-related publications are available free of charge. Printed copies can be ordered by using the online or downloadable order forms linked below. You can also visit our [publications webpage](#) to download digital copies and /or capture URLs to share on your website. We encourage you to distribute these publications by placing them in high traffic areas in your community.

Ordering Print Copies:

[Order Online](#)

[Downloadable Order Form](#)



From: The City of New York
Sent: Thursday, November 14, 2024 1:43 PM
To: BK01 (CB)
Subject: We need your help for HOPE 2025!

On the night of **Tuesday, January 28th, 2025**, DSS-HRA-DHS will conduct its annual Homeless Outreach Population Estimate (HOPE) Survey

HOPE 2024



Dear Colleagues,

We need your help!

On the night of **Tuesday, January 28th, 2025**, DSS-HRA-DHS will conduct its annual Homeless Outreach Population Estimate (HOPE) Survey, a point-in-time survey undertaken each winter that helps the City estimate the number of New Yorkers experiencing unsheltered homelessness on one of the coldest nights of the year. The results gathered through this survey provide the City with valuable information that helps better inform the allocation of resources to address homelessness in New York City. This is the 20th annual HOPE survey, and we hope you can join us for this special night!

We need your help to conduct this survey by canvassing streets, subways, and other public spaces. Volunteers are needed from approximately 10:00 p.m. to 4:00 a.m. on the night of January 28th. Just a few hours of your time will help us in our ongoing efforts to support New Yorkers experiencing unsheltered homelessness and encourage them to take that first important step to come off the streets and subways and accept the vital services and supports they need and deserve. New York City has one of the most comprehensive outreach programs in the nation, with outreach workers canvassing the five boroughs

24/7, and the City has heavily invested in specialized beds with robust services for this population. Thanks to the aggressive expansion of these resources, the City has been able to connect nearly 2,400 New Yorkers who were living unsheltered on city streets and subways to subsidized permanent housing. Your participation in HOPE will help us build on that progress.

As we work to address unsheltered homelessness across our city, one person at a time, this is a great opportunity to participate in an extraordinary citywide effort. If you have volunteered before, I encourage you to sign up again. If you have yet to experience how truly rewarding a night of HOPE can be, I invite you to join us for the first time. As I mentioned above, New York City has been conducting the HOPE survey for 20 years, and New York City's methodology has been recognized as the gold standard for this type of survey across the nation. While we work to address the systemic roots of homelessness, the help we can provide to every individual New Yorker with the resources we have right now still matters immensely, and participating in HOPE helps us do that more effectively, as well as gauging our progress.

Compensatory time may be available to you for participating – consult with your Agency and supervisor to see if this applies.

Please visit nyc.gov/hope to learn more and to register. Your participation is essential to helping us address the challenge of homelessness and support some of our City's most vulnerable residents as they get back on their feet.

Thank you,

Molly Wasow Park
Commissioner
Department of Social Services

THE NEW YORK CITY BUDGET

FALL 2024

New York City
Independent
Budget Office



OUR ROLE



What is IBO?

The Independent Budget Office is a **nonpartisan City agency providing data driven fiscal and policy insights** into how New York City's government and services operate.



What do we do?

IBO **provides charter mandated reports** in alignment with major budget actions **and answers questions from Council Members and the public.**

OUR WORK

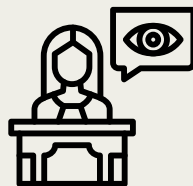


Three Charter-mandated reports projecting the City's revenues and expenditures, published in alignment with the City's budget timeline



Reports that answer questions from Council Members & the public

In addition to the three charter-mandated reports, IBO policy analysts publish dozens of reports throughout the year on subjects including Education, healthcare, city agency staffing and more.



Testimonies at City Council hearings to present our data findings

Some recent hearings our analysts have testified at include on Int. 991-B to License Hotel regarding Consumer and Worker Protection, and IBO's Research and Fiscal Projections for NYC Legal Cannabis Market



Presentations & general resources to teach New Yorkers about the budget, and how to participate

We've hosted Budget 101 presentations for community boards and other organizations, created a video series on **Demystifying the School Budget** for Community Education Councils and will begin delivering one-off NYC Budget Basics classes to High School students.





CITY BUDGET BASICS

THE IMPORTANCE OF NYC'S BUDGETS

Creating the City's budget is a process in which **many city policy decisions are made** and where policy objectives are articulated and implemented in concrete terms. **Budgets are a blueprint for...**



- ***Expenditures*** - How the city government will spend money on services and infrastructure
- ***Revenues*** - How much money the city will receive
- ***Balancing the budget***



PRIMARY BUDGET ACTORS



★
**Mayorality/Office of
Management & Budget:**

Draft and Propose financial plans to City Council. Manage city budget and oversee agency activities.



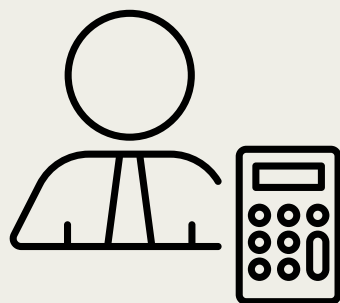
City Council:
Negotiate with Mayor then approve the budget before June 30. Holds public hearings to scrutinize and understand the financial plans.



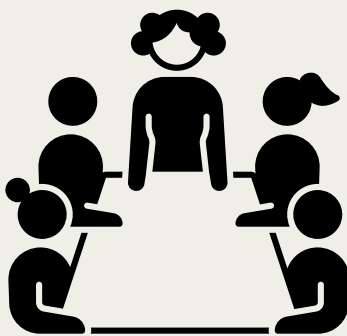
★
**Independent
Budget Office:**
Independently analyzes the budget and policy decisions of NYC.

↑ **More likely to interact with**

↓ **Less likely to interact with**

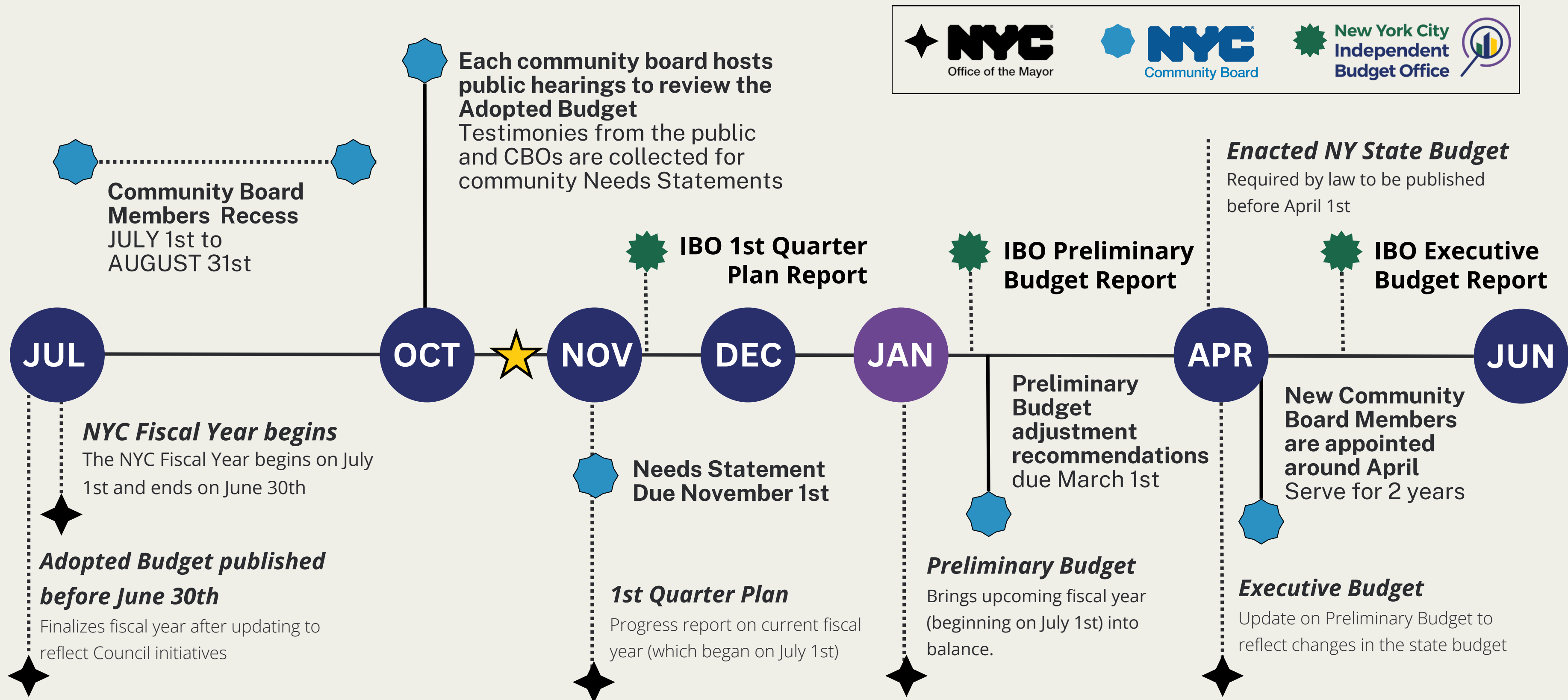


Comptroller:
Audits actual spending and compiles Annual Comprehensive Financial Report (ACFR).



Financial Control Board:
Review and oversight with respect to the financial management of NYC.

THE NYC BUDGET TIMELINE

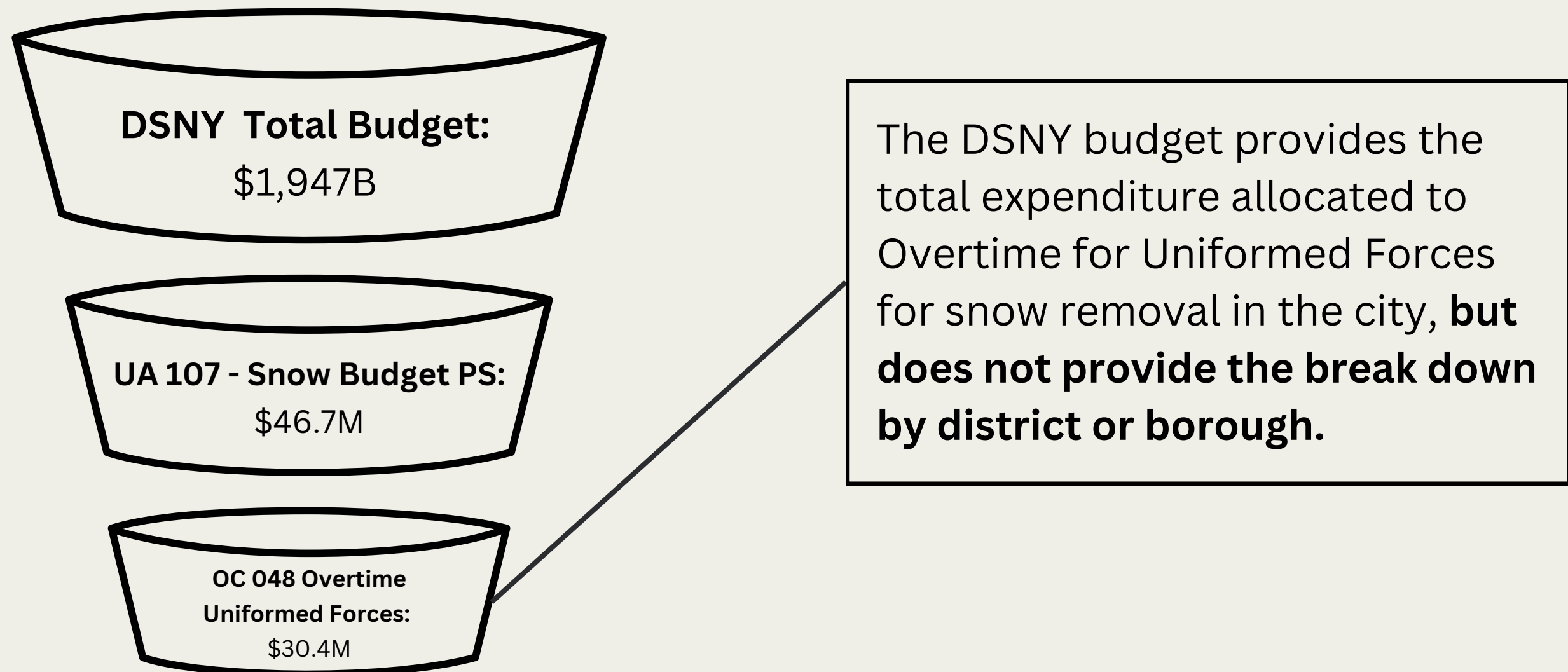


BUDGETS VS. PLANS/PROGRAMS/STRATEGIES

Budgets (1 year, binding)	Plans/Programs/Strategies (multi-year, “drafts”)
<p>Operating Budget (“Program Budget” or “Expense & Revenue Budget”) is for 1 year at a time. It is a binding commitment to a level of appropriations for a particular Fiscal Year. As of October 2024, the 2025 budget is the current budget, and 2026 is the budget to be approved by June 30, 2025.</p>	<p>Financial Plan is published with the Operating Budget and contains projections for the “out years”. The most recent financial plan (2024 Executive Plan) presents information on 2025 through 2030.</p>
<p>Capital Budget funds physical infrastructure for either government infrastructure or public use (roads, bridges, libraries, etc.). While these have a long-term focus, the Capital Budget is for 1 year.</p>	<p>Capital Program is like the capital version of the Financial Plan: it provides a multiyear plan detailing the funds needed for the current year and next three or four fiscal years. Ten-Year Capital Strategy is issued every other April with the physical infrastructure plans for the next decade.</p>

CAUTION: THE BUDGET DOESN'T HAVE IT ALL...

Some data are more readily available and more detailed than others, and some city agencies provide more granular looks at budget items than others. For example...

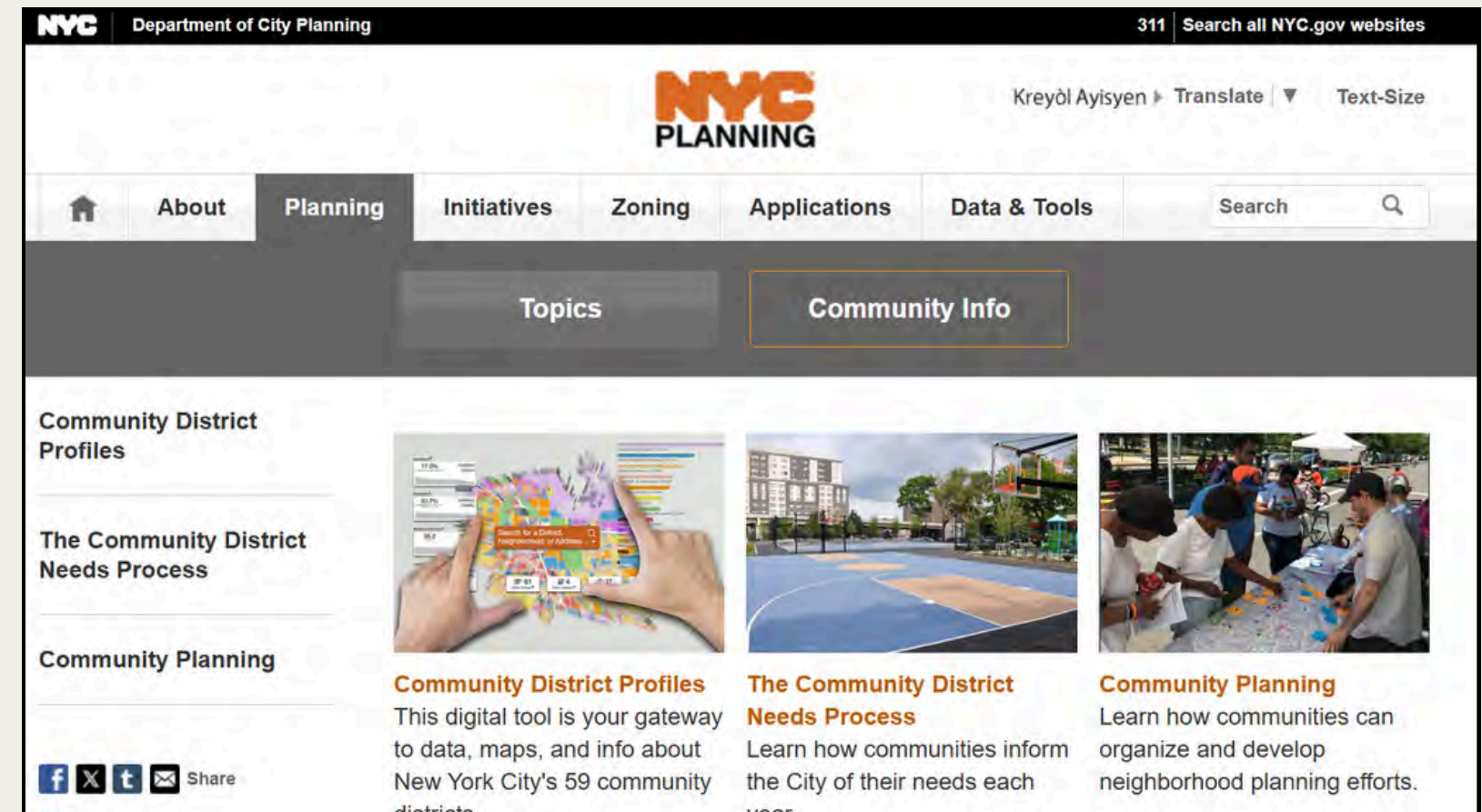


In contrast, you are able to see the *Cleaning and Collection* expenditure for uniformed personnel by district.

KEY OFFICES

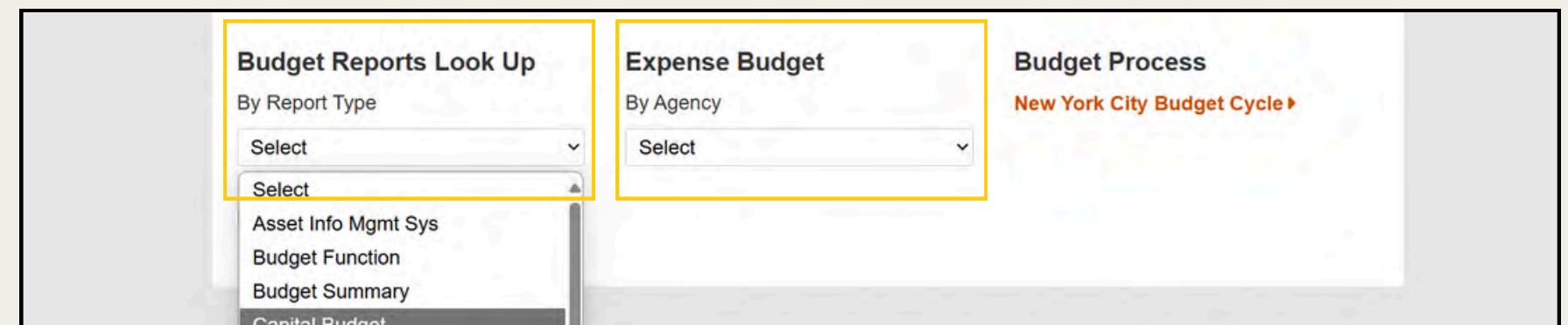
DEPARTMENT OF CITY PLANNING (DCP)

- Your **District's Needs Statement** will be submitted to DCP, then subsequently distributed to the appropriate city agency
- Website has resources like [zoning explainers](#) and data, [district profiles](#), application process walkthroughs



OFFICE OF MANAGEMENT AND BUDGET (OMB)

- Find city budgets by type and agency
- [Glossary of Terms](#) you will see in the NYC budget



KEY OFFICES CONT.

YOUR BOROUGH PRESIDENT'S OFFICE

- Provides training for new board members
- Advocates for the needs of your community

COMPTROLLER'S OFFICE

- Conducts audits
- Reports and resources

CIVIC ENGAGEMENT COMMISSION (CEC)

- Provides trainings and resources
- Hosts programs such as The People's Money where community members can submit ideas for the capital budget now till

November 22nd, 2024

INDEPENDENT BUDGET OFFICE

- Nonpartisan source of NYC budget forecasting
 - FY2025 Budget Reports
- Data reporting on crucial city topics such as
 - Education
 - Sanitation
 - Criminal Justice
 - and many more
- Budget basics i.e. resources on navigating the NYC budget
- Follow-along video series on navigating school budgets

SOURCES OF FUNDING FOR YOUR COMMUNITY

- **City Agencies** - Outside of submitting your District's Needs Statements, community members can reach out to the particular agency relevant to their particular community needs. **Pay attention to what programs the agency is funding in your district**, and see if they can align with your requests.
- **Council Member Discretionary** – Funding that is designated from sources that are specific to the Council District. (Local, Youth, Aging, Anti-Poverty & Community Safety)
- **Speaker Funding** – Funding designated by the Speaker, typically at the request or from the support of a Council Member(s), Delegation or Caucus.
- **Member Designated Initiatives** – Initiatives with a specific purpose and guidelines that are equally split and designated by each Council Member. (CASA, A Greener NYC, Food Pantries, Digital Inclusion & Literacy, Cultural Immigrant, Parks Equity, NYC Cleanup, Support Our Seniors & Neighborhood Development)
- **City-Wide Initiatives** - Initiatives created to address different needs across the city. These initiatives are typically designated by a specific committee or approved by the Council as a whole.
- **Borough-wide Initiative** – Funding that is designated by a Borough Delegation.

[View existing funding requests](#) to council members



FISCAL YEAR 2025 BUDGET

New York City
Independent
Budget Office



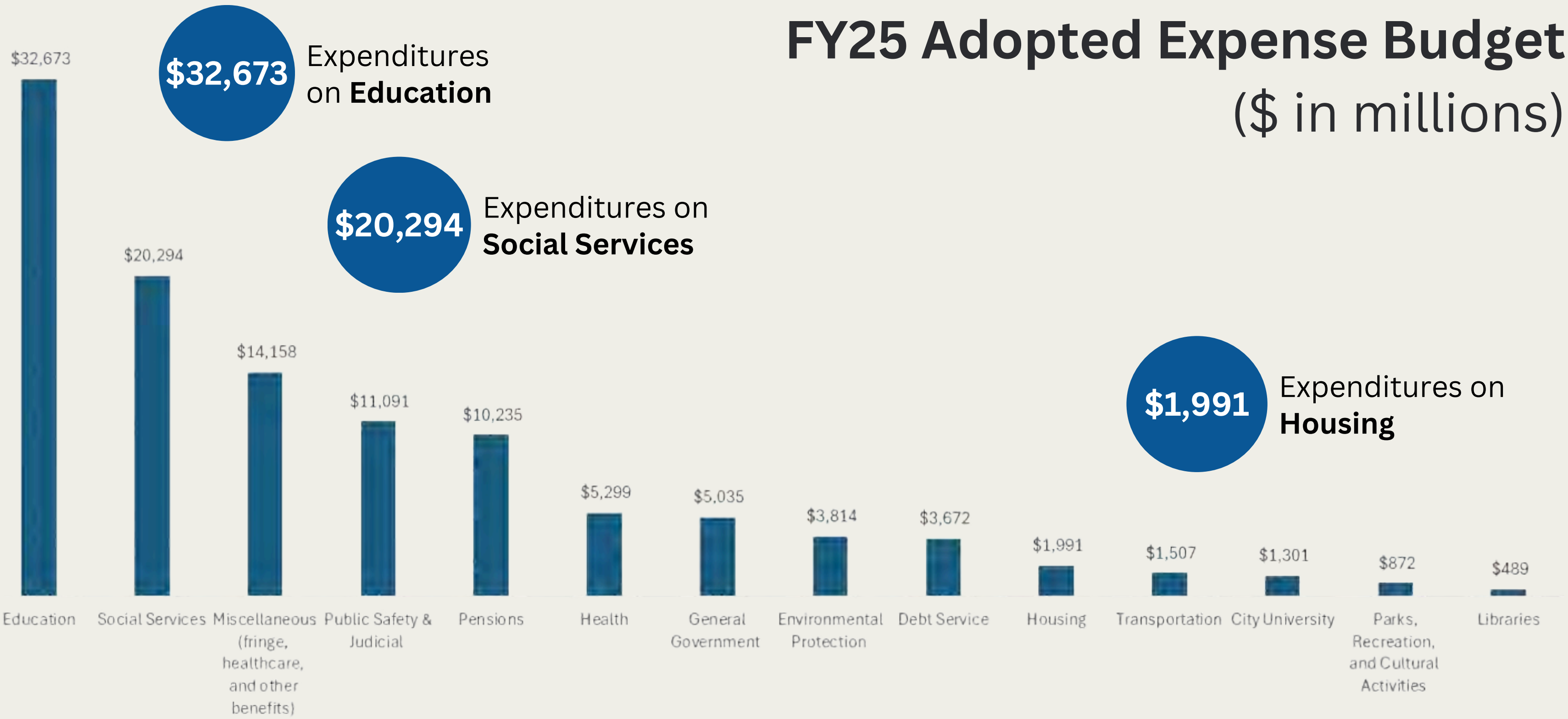
EXPENDITURES: WHERE THE MONEY IS GOING

EXPENDITURES (\$ in Millions)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Personal Service					
Salaries and Wages	\$ 32,682	\$ 32,899	\$ 33,867	\$ 34,859	\$ 35,813
Pensions	9,335	10,347	11,093	11,277	12,312
Fringe Benefits ¹	13,065	14,134	14,853	15,431	16,039
Subtotal: Personal Service	\$ 55,082	\$ 57,380	\$ 59,813	\$ 61,567	\$ 64,164
Other Than Personal Service					
Medical Assistance	6,326	6,743	6,583	6,733	6,883
Public Assistance	2,467	1,650	1,650	2,000	2,463
All Other	47,306	43,490	41,369	41,151	39,901
Subtotal: Other Than Personal Service	\$ 56,099	\$ 51,883	\$ 49,602	\$ 49,884	\$ 49,247
Debt Service ^{1,2}	7,346	8,069	8,887	9,605	10,430
FY 2023 Budget Stabilization and Discretionary Transfers ¹	(5,479)	-	-	-	-
FY 2024 Budget Stabilization ²	4,397	(4,397)	-	-	-
Capital Stabilization Reserve	-	250	250	250	250
General Reserve	20	1,200	1,200	1,200	1,200
Less: Intra-City Expenses	(2,383)	(1,953)	(1,932)	(1,928)	(1,928)
Total Expenditures	\$ 115,082	\$ 112,432	\$ 117,820	\$ 120,578	\$ 123,363
Gap To Be Closed	\$ -	\$ -	\$ (5,503)	\$ (5,592)	\$ (6,469)

REVENUES: WHERE THE MONEY IS COMING FROM

REVENUES (\$ in Millions)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Taxes					
General Property Tax	\$ 32,870	\$ 34,164	\$ 34,630	\$ 35,668	\$ 36,360
Other Taxes	40,028	42,111	42,640	44,395	45,999
Tax Audit Revenue	947	773	773	773	773
Subtotal: Taxes	\$ 73,845	\$ 77,048	\$ 78,043	\$ 80,836	\$ 83,132
Miscellaneous Revenues	8,894	8,123	7,980	7,930	7,965
Unrestricted Intergovernmental Aid	32	-	-	-	-
Less: Intra-City Revenue	(2,383)	(1,953)	(1,932)	(1,928)	(1,928)
Disallowances Against Categorical Grants	(15)	(15)	(15)	(15)	(15)
Subtotal: City Funds	\$ 80,373	\$ 83,203	\$ 84,076	\$ 86,823	\$ 89,154
Other Categorical Grants	1,044	1,107	1,105	1,105	1,104
Inter-Fund Revenues	747	762	771	772	772
Federal Categorical Grants	12,899	7,922	7,251	7,151	7,226
State Categorical Grants	20,019	19,438	19,114	19,135	18,638
Total Revenues	\$ 115,082	\$ 112,432	\$ 112,317	\$ 114,986	\$ 116,894

EXPENDITURES: WHERE THE MONEY IS GOING



Thank you!

SIGN UP FOR OUR NEWSLETTER AT WWW.IBO.NYC.NY.US

New York City
Independent
Budget Office



ADOPT - A - CATCH BASIN



You can help reduce flooding in your neighborhood!

Catch basins drain rainwater off of NYC streets and into the sewer system. When catch basin grates get blocked by leaves and litter, rainwater can flood streets.

Adopt-a-Catch Basin is a pilot program inviting community volunteers to take an active role to reduce flooding in their neighborhoods.

When you adopt a catch basin, NYC DEP will provide you with a free toolkit so you can safely clear your catch basin's grate.

Interested in participating? Email us at adopt@dep.nyc.gov with your full name, address, and telephone number. NYC DEP will contact you when the program is piloting in your area.

[View this email in your browser](#) * [Forward to a friend](#) * [Sign up for email list](#)



Dear Friends,

I'm excited to share my latest op-ed, where I outline solutions to a problem that every New Yorker knows all too well: **the overwhelming presence of scaffolding and sidewalk sheds in our city.**

As you stroll through our neighborhoods, you'll undoubtedly see sidewalk sheds that have been there for years. They obstruct pedestrian access, stifle small businesses, exacerbate public safety issues, and diminish the beauty of our communities.

That's why I've introduced three bills as part of a larger [legislative package with my colleagues](#), designed to cut through the red tape and reform this system:

[Intro. 661](#) would create penalties for property owners who fail to apply for corresponding work permits within 6 months of installing a sidewalk shed, penalties for failure to complete facade work, and set other time limits.

[Intro. 660](#) would increase the required level of lighting under sidewalk sheds to 90 lumens per watt or greater. It would also require that lighting under sidewalk sheds be provided specifically by LED lights.

[Intro. 659](#) would establish heightened design standards for scaffolding in public parks and playgrounds.

Thank you for reading and sharing my op-ed about how this policy shift would benefit our community.

To read the op-ed, [click here](#) or scroll down below.

Yours in service,

A handwritten signature in black ink, reading "Erik Bottcher". The signature is fluid and cursive, with a long horizontal stroke at the end.

Erik Bottcher

New York City Council Member
District 3



Op-Ed | Shed the Sheds: Reforming Sidewalk Scaffolding in New York City

by Council Member Erik Bottcher

October 24, 2024

If you were to approach a New Yorker on the street and ask what bothers them about the city, the prevalence of scaffolding and sidewalk sheds would probably be high on their list. With nearly 400 miles of public sidewalks covered by these structures, New York City stands alone in its reliance on this outdated practice. This is emblematic of failed policy decisions that prioritize short-term solutions over the long-term wellbeing of our communities, and it's time we confront this issue head-on.



Scaffolding has become a permanent fixture on our streets, obstructing pedestrian access, stifling small businesses, exacerbating public safety issues, and diminishing the beauty of our urban landscape. This pervasive presence is not just an inconvenience; it represents a fundamental flaw in how we manage construction and building safety. In contrast, other cities have successfully navigated these challenges with more effective regulations, proving that we can do better.

To address this pressing issue, a number of colleagues and I have introduced City Council legislation to reduce the prevalence of sidewalk sheds and improve them when they're necessary. Three of my bills are part of this legislative package, and I'm hopeful that we will pass them so that New Yorkers will get relief.

I've introduced legislation that will impose time limits on property owners who erect scaffolding. [Intro. 661](#) will require that Department of Buildings permits are pulled and that work is completed within 6 months of installing the sidewalk shed, in addition to other benchmarks, ensuring that our streets are not prohibited by prolonged construction projects. The Department of Buildings will be required to communicate any expected delay in distributing the work permits. Some scaffolding is up for many years because irresponsible property owners aren't taking the steps necessary to do the facade work. By establishing clear deadlines, with extensions given only when the property owner is making a good faith effort to complete the work, we can encourage efficiency and accountability, ultimately restoring the accessibility and charm of our public sidewalks.

Insufficient lighting beneath sidewalk scaffolding not only creates an atmosphere of unease but can also lead to accidents and public safety issues. I introduced [Intro. 660](#), which would improve lighting standards for scaffolding. Lighting technology has advanced beyond outdated fluorescent glass bulbs that are dim and not environmentally friendly. By requiring the installation of LED lights with higher lumens per watt, we can ensure these areas are well-lit and safe for pedestrians at all times while also saving energy. Bright, efficient lighting will foster a more inviting atmosphere beneath the structures that have become so common throughout our city.

Scaffolding can be particularly harmful in public parks and playgrounds, which is why I put forward [Intro. 659](#), which would establish heightened design standards for scaffolding in these spaces. A prime example of the need for this legislation can be found at Matthews-Palmer Playground, where scaffolding has obscured the basketball court for over five years. This ongoing obstruction not only deprives our youth of vital recreational space, but it also serves as a stark reminder of how ineffective policies can undermine community engagement and wellbeing. This legislative change will help beautify our neighborhoods and maintain the integrity of our public spaces.

Government needs to take a more active interest in addressing problems that subtract from the quality of life for New Yorkers. By addressing issues that impact daily living, like sidewalk obstructions, we can create a more livable and vibrant urban environment. Focusing on these essential aspects not only enhances residents' well-being but also fosters community engagement and pride, ultimately contributing to a healthier, more dynamic New York City.

The time for change is now. Let us work together to reclaim our streets from the shadows of scaffolding and sidewalk sheds, and create an urban environment that reflects the spirit and vitality of our great city.

Erik Bottcher represents the neighborhoods of West Village, Chelsea and Hell's Kitchen in the City Council.

[Click here](#) to read and share.

I would love to be connected with you on social media! Please give me a follow so we can keep you apprised of our work in real time:



Sent: Tuesday, October 22, 2024 10:02 AM

Subject: NYC Ferry Sustainability Announcements

Good morning,

We are very excited to share that EDC, joining DOT and DCAS, is committing to sustainability across the NYC Ferry fleet.

To start, the Staten Island Ferry and NYC Ferry will begin testing the use of renewable diesel fuel, a petroleum-free alternative to traditional diesel fuel. Renewable diesel reduces carbon emissions by 60 percent or more and its use in the ferries will help millions of annual riders navigate the city's waterways in a more sustainable way.

NYC Ferry will also launch a short-term plan to upgrade engines on thirteen 350-passenger vessels, ensuring that all its large boats in the fleet meet this Tier IV engine standards.

NYC Ferry is also looking towards a long-term plan of operating with zero emissions. To support that effort, this study will begin the development of a plan to transition NYC Ferry to zero emissions vessels focusing on two areas: the vessels and changes to shoreside infrastructure necessary to support their operation. We will assess the different zero emissions technologies available on the market today and look at how those might work, or not work, with our current service. The study will kick off this fall and is expected to be complete by late 2025.

To learn more, please check out the press release below and feel free to reach out with any questions: <https://www.nyc.gov/html/dot/html/pr2024/renewable-diesel.shtml>

All the best,

Assistant Vice President, Government & Community Relations
New York City Economic Development Corporation



Community Board 1 Monthly Parks Update – December 2024

Berry Playground Reconstruction has begun!

The planned reconstruction of Berry Playground began in early December. This plan will reconstruct the entire playground, and add new playground equipment, spray shower, and basketball courts. The playground will reopen in a year. Please use the link below to access the park's capital tracker page, to follow construction updates:

[Berry Playground Reconstruction : NYC Parks](#)

Exterior Demolition has begun at CitiStorage

Earlier we announced that the interior demolition began at CitiStorage. That phase of work is now complete and demolition on the exterior has begun. It will be complete by December 31, 2024.

Partnerships for Parks volunteer projects – Outreach Coordinator

Adrian Kalinowski is your new Partnerships for Parks Outreach Coordinator for park properties within Brooklyn Community Board 1. Please contact Adrian at 347.244.2890 (cell) or adrian.kalinowski@parks.nyc.gov.

CB1 currently has the following projects under construction:

- Berry Playground – construction began fall 2024 and will be complete fall 2025.
- Box Street Park –EDC contractors have begun on site work.
- Bushwick Inlet Park: CitiStorage Demolition – began summer 2024, and will be complete winter 2024.
- Bushwick Inlet Park: Motiva –construction began March 11, 2024 and will be complete fall 2025.

We have several projects awaiting construction start:

- American Playground – redesign and reconstruction of the playground.
- Ericsson Playground – in design.
- McCarren Park natural turf softball fields –construction anticipated to begin spring 2025 and be complete spring 2026.
- McCarren Park asphalt field.

Brooklyn Community Board 1, Cannabis Committee

Thank you for allowing me the time to address this board. As a CAURD licensee, I am immensely appreciative to the State of New York, and this Community, for the opportunity to create jobs, tax revenue, and safe access to lab tested cannabis products at 922 Manhattan Ave, Brooklyn.

I am appearing here today at the request of the OCM

For almost two years I have been depleting my savings with no income while performing every task that has been asked of me to remain compliant and legal while many illegal operators stayed open selling dangerous products to minors and the public with impunity.

In December of 2023 we secured a lease at 922 Manhattan Ave, which was literally surrounded by illegal smoke shops, with zero public desire to see yet another cannabis shop opened. Myself and my team have been renovating and paying rent on this location for a year now, bringing me to the brink of financial ruin as one barrier after another impedes our progress, including a targeted extortion attempt from an anonymous member of the community on June 18th (likely a disgruntled illegal smoke shop owner trying to scuttle our project), demanding a payment in Bitcoin or complaints would be filed with both this committee and the DOB in opposition to our project (please see attached). No payment was made, and as a result the extortionist did file complaints with both the DOB, and this community board.

I understand that after submitting the requested page of signatures of support from the community at the June 5th meeting as requested, more signatures were requested, and supplied at the following meeting on June 18th (attached), which I have been informed was too late to be considered for the denial letter sent to the OCM on June 20th. For this I would like to extend my sincere apology, and promise that given the opportunity, myself and my team will remain dedicated to working with this community board in any way required to be compliant with their rules.

If the opportunity arose for this denial to be reversed, we would greatly appreciate the blessing of this board to move forward, and given the fact that there is no legal bar to this committee reversing the denial, we respectfully request that this determination be reconsidered.

Sincerely,
Dehran Duckworth
DLD DH, Inc



+1 (646) 566-0882 >

Text Message

Today 11:56 AM

I'll be showing up at the meeting today with lots of photos.

Including ones of construction work starting at 8AM instead of 9AM, violating the DOB AHV permit. You are so fucked.

And the insurance fraud. I've reverse searched to get contact your insurance carriers.
TOTALLY FUCKED.

I read that your after hours variance was for debris removal. So not only did you start work before the AHV allowed but you did unauthorized work-concrete pouring.

SO here's the deal. I want Bitcoin today.

SAMPLE PETITION

The following undersigned (in order of premises and surrounding buildings) support the issuance of a
Adult Use CANNABIS RETAIL license to your premises.

I, the following sign(s) and establishment:

BLD DH INC

- Address of premise: **922 MANHATTAN AVE, BROOKLYN, NY**
- This business will be a Cannabis Retail
- The hours of operation will be **10 AM TO 10 PM - 7 DAYS PER WEEK**

Date	Name (Please Print)	Signature	Address	Are you a resident of the building? (Kindly indicate Yes or No)
06/04	Joshua Gonzalez	Joshua Gonzalez	1828 3rd Avenue 10029	NO
"	Stephanie Hanson	Stephanie Hanson	197 Forest St 11222	NO
"	Steven Lopez	Steven Lopez	157-12 4th Avenue	NO
"	WIOLETTA ZANDYSKA	WIOLETTA ZANDYSKA	25 HERRIN ST BLKN 11206	NO
"	ZANE MEGOLANA	ZANE MEGOLANA	177 JUNA ST BK	NO
"	Elan Dillingham	Elan Dillingham	202 HERR ST BK	NO

Brooklyn Community Board No. 1 will not consider signatures beyond the 500 foot radius.

APPLICANT SHOULD USE THIS FORMAT FOR THEIR PETITION SHEETS

SAMPLE PETITION

Date	Name (Please Print)	Signature	Address	Are you a resident of the building? (Kindly indicate Yes or No)
06/04	MARVYN WAMLEWSKA	MARVYN WAMLEWSKA	922 Manhattan Ave	Y
06/04	ROBERTO	ROBERTO	26-17 4th ST	N
06/04	NATHAN HILLYER	NATHAN HILLYER	106 Carlton Ave 11205	N
06/04	MANUEL MORALES	MANUEL MORALES	400 Division Ave	N
06/04	William Rodriguez	William Rodriguez	415 Humboldt St	N
06/04	Alexandre K	Alexandre K	415 Humboldt St	N
06/04	Victor Volkovskiy	Victor Volkovskiy	42-65 - 63rd Street	N
06/04	MARCELO ANDRE	MARCELO ANDRE	1141 1st ST	N
06/04	Isabel K	Isabel K	174 1st St 11222	N
06/04	Ronald Magda	Ronald Magda	203 1st Ave, BK 11222	N
06/04	Elizabeth Ornel	Elizabeth Ornel	134 India St, 11222	N
06/04	Robert Chiburski	Robert Chiburski	58 Manhattan Ave	N

Brooklyn Community Board No. 1 will not consider signatures beyond the 500 foot radius.

APPLICANT SHOULD USE THIS FORMAT FOR THEIR PETITION SHEETS

10:56



Signatures 922 Manhattan Av ▾ Done

SAMPLE PETITION

Date	Name (Please Print)	Signature	Address	Are you a resident of the building? (Kindly Indicate Yes or No)
6/10/24	BETTY KE SMITH		69 INDIA STREET BX 11232	NO
6/11/24	Sarah Cole		856 Manhattan Ave BX 1022	NO
6/10/24	Jessica Gullas		488 Broadway Ave	Yes (Mark)
6/10/24	Pura McGuire		313 Tenth Lane	NO
6/10/24	ARON LITVINSKY		84 India St.	NO
6/10/24	Natalya Karas		157 N 11th Ave 11232	NO
6/10/24	Thomas B. Bell		101 North St. 11222	NO
6/10/24	Ramon Reger		201 Townsend St. 11222	NO
6/10/24	Adam Kowalski		211 Kent Street, 11222	NO

Brooklyn Community Board No. 2 will not consider signatures beyond the 500 foot radius.

APPLICANT SHOULD USE THIS FORMAT FOR THEIR PETITION SHEETS

Dec 10 2024

To the Community Board 1 Brooklyn.

The tenants of 175 GRAND ST ARE attempting to obtain a Retail Cannabis license.

Many of my neighbors are strongly opposed

it has a negative impact on my community.

While they were open illegally they

had sofa's for loitering & encouraged people to sit & smoke weed.

they played incredibly loud misogynistic

Rap Music until I "intervened"

their website bragged about being

near schools & churches, about

not paying taxes, and thumbed

their nose at law Enforcement

the Governor & mayor.

the Landlord Susanna Infante

leased it to them as a deli -

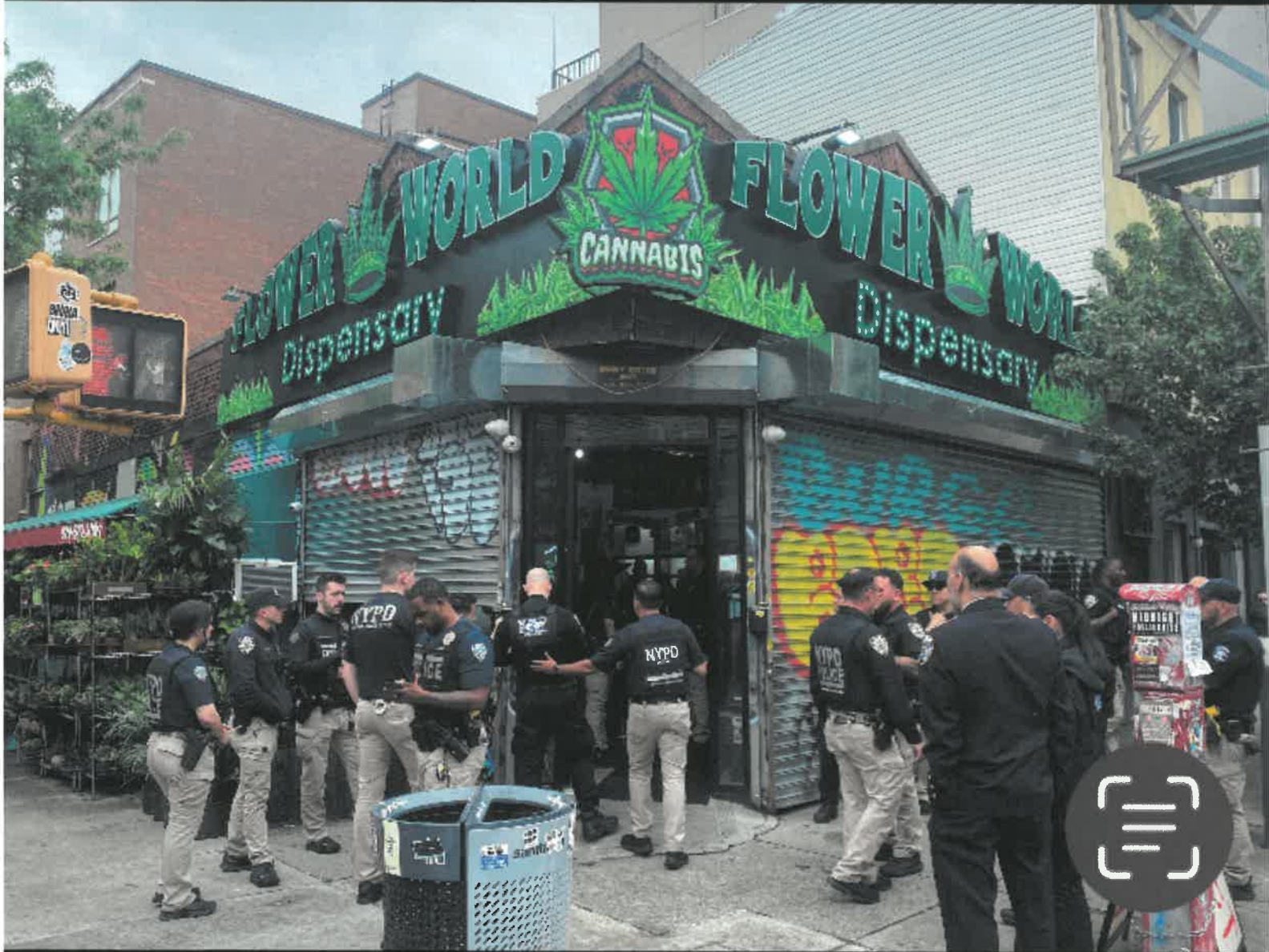
But they lied & opened a weed shop
and again after Being Shut Down
told her they were opening a coffee shop.

She does not even know who the
people applying for the license are!
nor if the existing tenant
has sublet ... or partnered or
payed someone to apply for the
license.

this location is a prime
corner & I can understand why
they are trying so hard to sell
weed. it's just not the RIGHT
Location. not for my neighborhood

OCMCAURD-2022-000388	SLG-DB, LLC
OCMCAURD-2022-000391	TCMA, LLC
OCMCAURD-2022-000393	Terrapin Greens 4-7, Inc.
OCMCAURD-2022-000407	CANNADREAMS, Inc.
OCMCAURD-2022-000409	Eco Sesh
OCMCAURD-2022-000417	Indoor Treez Corp.
OCMCAURD-2022-000431	Don Resources Unlimite





OATH/ECB Violation Summary

VIOLATION OPEN

OATH/ECB Violation Number: 39105693X

[View Image of Summons/Notice at OATH](#)

Severity: CLASS - 2

Certification Status: NO COMPLIANCE RECORDED

Penalty Balance Due: \$0.00

Hearing Status: DEFAULT

Respondent Information

Name: BEDFORD GRAND LLC

Mailing Address: 175 GRAND STREET, BROOKLYN, NY 11211

Violation Details

Violation Date: 02/09/2024

Violation Type: CONSTRUCTION

Served Date: 02/09/2024

Inspection Unit: SPECIAL OPERATIONS

Infraction Codes	Section of Law	Standard Description
201	28-105.1	WORK WITHOUT A PERMIT

Specific Violation Condition(s) and Remedy:

WORK WITHOUT PERMIT 4 BUSINESS ACCESSARY SIGN ON THE STORE 2 ILLUMINATED SIGN FACING GRAND STREET APPROX. 30FT W X 3FT H SIGN IS IN TOP OF THE STORE MENTION "FLOWER WORLD" IN BOTTOM SIGN APPROX. 25FT W X 2FT H M

Issuing Inspector ID: 2889

DOB Violation Number:

Issued as Aggravated Level: NO

Dept. of Buildings Compliance History and Events

Certification Status: NO COMPLIANCE RECORDED

Compliance On:

A Certificate of Correction must be submitted to the Administrative Enforcement Unit (AEU) for all violations. A violation that is not dismissed by OATH/ECB will continue to remain ACTIVE or "open" on DOB records until acceptable proof is submitted to the AEU, even if you have paid the penalty imposed by OATH/ECB.

OATH/ECB Hearing Information

Scheduled Hearing Date/Time: 04/17/2024 9:30

Hearing Status: DEFAULT

OATH/ECB Penalty Information

Penalty Imposed: \$6,250.00

Adjustments: \$140.24

Penalty Balance Due: \$0.00

Amount Paid: \$6,390.24

Court Docket Date: 07/31/2024

Severity - classification of the violation. See [Rules of the City of New York Section 102-01](#) for more information. Violations issued before July 2008 are classified as HAZ or NON-HAZ per the 1968 Building Code.

Severity	Description
Class 1 or HAZ	Immediately Hazardous violations must be corrected immediately. If an acceptable Certificate of Correction is not received, additional civil penalties may apply. See Administrative Code Section 28-202.1, 28-213.1, 28-219.1 and 28-207.2.6 that may impose \$1500 for each Class 1 violation. If the violating condition is an illegal conversion, additional daily penalties of \$1000 for continued violation are also applicable.
Class 2 or NON-HAZ	Major violations. See Administrative Code Section 28-201.2 .
Class 3 or NON-HAZ	Lesser violations.

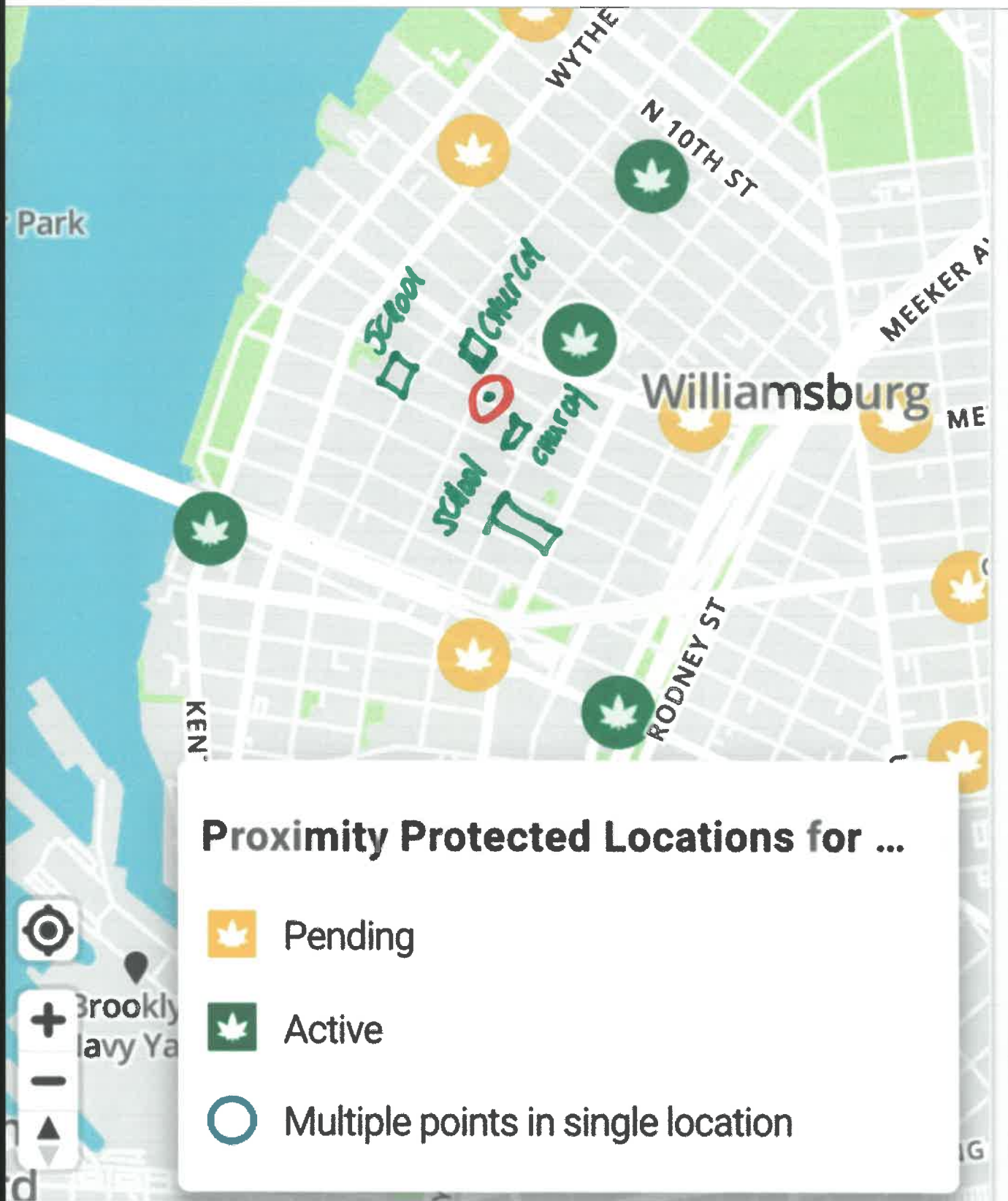
OATH/ECB Penalty Due - amount owed to OATH that can be paid at www.nyc.gov/citypay/oath. A penalty may still be due even if the violating condition has been corrected. A red banner on the Property Profile Page indicates that additional civil penalties are due.

Certification Status - see below chart to determine if a violation requires

4:16



 data.ny.gov



Legend 



Wine, Beer & Cider, Bar/Tavern)

. Stina Easton Inc, DBA TBA, 395 Wythe Ave. (Bar/Tavern)

. Taqueria El Torito Corp, 32 Varet St. (Renewal, L

. Williamsburg Thai Cuisine Inc, DBA Williams (Renewal, Wine, Beer & Cider, Rest)

CANNABIS LICENSES:

1. Better States LLC, 539 Metropolitan Ave. (Re
2. Fignolecar Inc, DBA Fignolecar Inc, 175 Gran
3. Yousaf Saleem DBA Seneca Cann LLC, 799 C
4. Salt City Naturals LLC, 200 Franklin St. Unit
5. Vincent Pezzulo, DBA Alka Life LLC, 145 Br



4:06



 cannabis.ny.gov

OCMCAURD-2022-000386	Stelios Zoumberakis
OCMCAURD-2022-000398	Bigflavor Entertainment Corp.
OCMCAURD-2022-000433	Best Sala
OCMCAURD-2022-000443	Fignolecar, LLC <i>Queens</i>
OCMCAURD-2022-000460	GROWTH INDUSTRIES, LLC