

**Testimony of Melissa Iachan to the New York City  
City Council Charter Revision Commission  
Manhattan Hearing, Dated September 27, 2018**

Good evening, my name is Melissa Iachan, and I am a Senior Staff Attorney in the Environmental Justice Program at New York Lawyers for the Public Interest. NYLPI works with communities across the New York City area, providing support and services to combat inequalities, injustices, and infringements on civil rights. Our Environmental Justice program has advocated and litigated on the subject of the inequities of the distribution of environmental burdens in our City for over two decades.

I am pleased to be here representing NYLPI and the EJ program to support the City Council's efforts to use their legislative authority to convene a Charter Commission with an eye on improving our City. We were instrumental in shaping the Fair Share reforms included in the Charter revision process almost thirty years ago. We are grateful that the Commission is allowing us to be a part of this once again today, in the hopes that we can ensure that equity is a bedrock value and principle in our City, its laws, and all of its processes.

NYLPI applauds the City Council's Progressive Caucus on its identification of guiding principles to drive the development of recommendations moving forward:

- **Fair share:** ensuring that all communities have equitable access to affordable housing, city services and amenities, and a healthy environment in which to live, work and raise their families—and ensuring that both burdens and benefits are equitably distributed throughout all communities;
- **Proactive and responsive plans and land use processes:** land use processes need to be simultaneously expanded and streamlined, need to account for projected growth and existing conditions and infrastructure needs, need to be more transparent, and expand the opportunities for affordable housing development;
- **Robust and inclusive engagement:** all New Yorkers should have access to participate in the City's planning decisions, regardless of geographic location, language, age, income, ability, gender, religion, color, race, or ethnicity;

- **Resiliency and sustainability:** New York must take proactive steps to protect our City and most vulnerable communities against climate change and mitigate the adverse impacts it causes;
- **Transparency and accountability:** ensure that all New Yorkers understand how and why decisions are made, how to participate in the process, and the ways in which those decisions affect their neighborhoods.

We look forward to working with the Progressive Caucus, this Commission, and communities across the City to develop specific and concrete recommendations. We believe it to be of the utmost importance to continue these hearings, listening sessions, and workshops throughout the City, devoting special attention to communities who have been underserved and where current burdens are clustered to hear their thoughts, ideas, and impressions of the best way to improve. If we are to meaningfully accomplish developing specific recommendations with which to revise the Charter reflecting these progressive values, we must do so by listening first.

One way that enhanced community input can be codified by this Charter revision is by reforming Community Boards; we believe Community Boards should receive more investment, *but that in order to receive more resources the Boards—meaning their composition and regulations—are in dire need of reform to ensure that they reflect the communities they represent and in which they serve.* We support most of the reforms proposed by the Mayor’s 2018 Charter Revision Commission—and in particular that the Community Board application and placement process should be reformed to better reflect the demographics in the communities they represent and reduce conflicts of interests. So long as this happens, we believe that Community Boards should be provided the resources to hire, contract or develop technical expertise to help advocate for the interests of local residents, and should be given formal opportunities to provide input prior to the certification of land use actions.

One other important specific revision we believe this Commission should consider is abolishing the current piece-meal process for re-zoning, siting facilities, addressing land-use questions, and responding to community needs and desires. The City must holistically assess the entire City’s need for housing—including supportive, transitional and affordable housing, public facilities, and neighborhood amenities. A critical step the City could take towards these goals is the development and implementation of a comprehensive plan to plan for the city’s





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long-term needs, including density targets, affordable and fair housing goals, schools, open space, infrastructure, and services to meet those needs city-wide and in specific districts. The targets should then be shared and met in collaboration with communities and elected representatives.

As communities are empowered to engage in this process, we hope to work with them and this Commission to ensure citywide and community goals are transparently met through mandated cross-acceptance of plans that originate in the communities that would be impacted—whether these are re-zonings, land use, environmental impact reviews, or community-based plans.

The City should also improve accountability, oversight and enforcement in the City Environmental Quality review process. The CEQR and EIS process must take into account primary and secondary displacement, track neighborhood outcomes after land use decisions are approved for lessons learned, and require mitigation in those areas where significant adverse impacts are identified.

Our current system is stacked against low income communities and communities of color; the exact communities who need to have a voice, and who have borne far more than their fair share of burdens. If we look at our City's waste processing system as an example of how the current processes are lacking, we will see that two thirds of our waste goes through three poor communities of color. The piecemeal effort to try and begin to staunch the flow of garbage into these neighborhoods was known as the Waste Equity Bill. Thirteen years after being introduced in this Council, it finally passed and was signed into law this past summer. We must learn a lesson from this, and not allow every single fight for equity to linger for years and require duplicative expenditure of resources in distinct silos. We must address the inequities in our City in one comprehensive plan, and with fair share, transparency, and community input as our prime objective.

We look forward to refining the proposals we have summarized today, as well as the many great ideas we are hearing from so many community representatives, and those coming from our elected leaders in the Progressive Caucus. Thank you to the Commissioners for your time and we look forward to working with you, the Council, and communities to together implement meaningful recommendations to



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reform the Charter and our City's guiding policies to reflect the values discussed today.



**TESTIMONY OF SUSAN LERNER, EXECUTIVE DIRECTOR  
COMMON CAUSE/NY BEFORE THE 2019 CHARTER COMMISSION  
Manhattan Public Hearing – September 27, 2018**

Common Cause is a nonpartisan, nonprofit organization founded to serve as a vehicle for citizens to make their voices heard in the political process. We work to achieve open, honest and accountable government at all levels. We thank the Commission for this opportunity to testify.

The purpose of this written testimony is to summarize the issues which we believe the 2019 Charter Commission should take up. Our research into how some of these issues should be addressed continues and we hope to supplement this summary testimony with more detailed recommendations as the Commission's work progresses.

### **Land Use Issues**

Our topline recommendation is a process one. There are many issues which this commission could take up. While this Commission has at this point just under a year to complete its work, we agree with the observation which CUNY Professor Doug Muzzio, made in his testimony to the City Council Committee on Government Operations when it was considering appointing a charter revision commission, that a full examination of the entire charter would take at least 3 years. Many of the issues that will have been or will be brought to your attention can and should be addressed by the Council in the normal course. This includes issues which the just-concluded Charter Revision Commission took up and which we will discuss later in our testimony.

We strongly urge the commission to devote most, if not all, of its focus on an essential issue that cannot effectively be addressed piecemeal and which is too detailed and politically fraught to be taken up in the normal course by the City Council: the reworking of the city's land use procedures.

We became most directly familiar with the significant limitations of public participation in the city's land use determinations as part of the NYCommons collaboration with the Community Development Project and 596 Acres, a collaboration supported by the NY Community trust and the LuEsther T Mertz Charitable Fund. Our experience seeking comment from neighborhood activists in all five boroughs and our 3 pilot projects in neighborhoods in 3 boroughs provided us, as good government advocates, with insight into the very real deficiencies of the current ULURP and other processes. We learned firsthand of the ever building frustrations of residents and neighborhood-based organizations as they watched the transformation of zoning and neighborhoods, and the repurposing or sale of valued public assets. These changes take place all too frequently over the objections of residents, who feel

that their input and comments were fruitless and solicited only after decisions were made, because of the way in which ULURP proceeds. It is time to re-examine and rework these processes and this Commission should, we believe, devote its time and resources to this daunting task.

Common Cause/NY is a participant in the Working Group which produced the [Inclusive City report](#). We subscribe to the recommendations in that report. We also support the more detailed recommendations made by our NYCommons partner, the Community Development Project, as set forth in the September 17, 2018 testimony of Paula Segal, a senior staff attorney in the Equitable Neighborhoods practice of the Community Development Project. The current land use processes of the city fall far short of the goal of open and equitable decision-making processes in which the public, and particularly effected neighborhoods, have a meaningful and collaborative role. The current processes all too often force residents and organizations into extreme, crisis mode, leading to bitter neighborhood splits and costly litigation that makes planning for development unnecessarily costly, protracted and unpredictable.

We are most supportive of the recommendations which deal with the disposition of public assets or properties. We strongly believe that efforts to repurpose, transform, develop or sell public properties and assets should be subject to a unique review process, which must recognize the non-monetary and unique benefits which publicly owned assets provide not only to neighborhoods but to the city as a whole, in addition to their immediate monetary value.

We look forward to collaborating with the commission in this essential work.

### **Voting Issues**

Should the commission decide to take up issues in addition to charter provisions regarding land use, we believe that the following issues relating to voting are uniquely suited to inclusion in the charter through the commission process.

#### ***A Right to Vote in the City Charter***

An ongoing issue is the unresolved conflict between New York City's well-defined public policy interest in strengthening and protecting its residents' right to vote in New York City elections and the New York City Board of Elections public position that it is not subject to the city's oversight. Interestingly, that public position has been contradicted by the Board in at least one lawsuit. *Gonzalez v. City of New York*, 2014 N.Y. Misc. LEXIS 3368 ; 2014 NY Slip Op 31963(U) (2014). The Commission should consider adding an express right to vote for New York City eligible residents to the City Charter, as well as a mechanism for city residents to enforce that right directly.

#### ***Use the Budget Process to Insure Greater Accountability of the Board of Elections***

While case law makes it clear that the Board of Elections has absolute discretion regarding the hiring and firing of Board employees, within the budget amounts allocated by the City Council, the statutory



or case law authority for the proposition that the Board is free to ignore all requirements regarding accountability for the manner in which city taxpayers money is spent on non-personnel items is questionable. The commission should consider adding specific reporting requirements to the Charter which would require the Board of Elections to report its performance goals and whether they are met, not simply report “through-put” (i.e., how many people voted, how many machines broke down, etc.) as part of the city budget process. For instance, the Board could be required to report the number and location of polling places where voters experience waiting times in excess of 30 minutes for city elections. The Charter should expressly authorize the City Council to include terms and conditions to its funding allocations for the Board’s operations other than employee hiring, firing and salaries.

#### ***Clarify That the City Conflicts of Interest Law Applies to the Board of Elections***

We recommend that you consider adding a provision to the Charter to expressly clarify that the Board of Elections is subject to the charter’s conflict of interest provisions, thus over-ruling the outdated and misguided opinion issued by the Corporation Counsel in 1996, Opinion 2-96, 1996 NYC Corp. Counsel Lexis 22.

#### **Unfinished Business from the 2018 Charter Revision Commission**

The 2018 Charter Revision Commission, in its final report, identified areas which it urged future charter commissions to consider. These included the city’s districting process and rank choice voting. Common Cause/NY made recommendations and submitted proposed charter language for ranked choice voting and collaborated with the Brennan Center on proposed districting provisions. We believe that these areas could be taken up by the City Council and do not require the commission’s attention. However, we will submit our earlier proposed charter language to this commission through this commission’s website. Summaries of those proposals are provided below.

#### ***Districting Process***

**Selection Process.** At present, members of the districting commission are appointed directly by elected officials. While we would not alter this structure, we recommend introducing a screening process to ensure that commissioners are qualified and sufficiently independent and impartial. To do this, we recommend that the New York City Campaign Finance Board be placed in charge of screening applicants (both for disqualifications and for fitness) and creating a pool of at least 75 diverse and qualified applicants. Elected leaders then would make their commissioner selections from pool created by the board.

If the members of the Charter Revision Commission wish to go further, they could follow the model used in California and Austin, Texas and allow elected officials to strike applicants from the pool but have the selection of commissioners occur through a randomized process. This type of arrangement, however, would require careful structuring to ensure commission is demographically and geographically representative.



**Disqualifications.** We recommend adding additional restrictions on who can be a member of the commission by excluding from eligibility certain persons who have connections with large donors.

**Transparency.** At present, there are no restrictions on the ability of commissioners to meet in private with interested stakeholders. We recommend requiring that all communications regarding the business of the commission be during commission meetings or other public forums. If a commissioner or commission staff conduct discussions regarding plans details with anyone not affiliated with the commission, he or she would be required to submit a disclosure form. We also recommend requiring making all comments and testimony, whether submitted formally or informally, available to the public via the internet.

**Public Participation.** While in 2011, the commission held a robust number of public meetings, it did so voluntarily, and there is no guaranty that future commissions will feel similarly bound. We recommend formalizing a requirement that the commission release a draft plan and hold public hearings relating to the draft plan before the commission adopts its final plan. Likewise, we recommend requiring draft plans to be made available to the public for at least 15 days before the commission takes any action in order to facilitate public input.

**Map drawing Criteria.** While the charter's map drawing rules are strong overall, they could be updated and enhanced. We recommend, for example, strengthening protections for communities of color in the charter's map drawing criteria, making clear for example that it is legitimate to consider the ability of different minority groups to coalitions with one another. We also recommend adding greater clarity to what constitutes a community of interest for purpose of redistricting and making clear that observing political boundaries and compactness are subordinate to other criteria.

**Census Data.** At present, the charter requires that districts be draw based on population data from the census. However, because there are growing concerns about a sizeable census undercount, we recommend authorizing city agencies to adjust the data using accepted statistical methods in order to ensure that hard-to-count groups are not underrepresented.

**Approval of Maps.** At present, maps are adopted by a simple majority of the commission. We recommend requiring a two-thirds supermajority (10 of 15 members). This will serve as an additional check on potential gamesmanship and help foster negotiation among the different stakeholders.

### **Rank Choice Voting**

Common Cause/NY strongly endorses adopting Rank Choice Voting for all New York City primary elections, not limiting the reform to run-offs or to top 2 or 3 finishers. We believe that such a configuration would garner the full benefits which the reform can provide to New York City's voters, given the unusually high proportion of multi-candidate races which New York city's primaries experience. .





# CROWDLAW MANIFESTO

FOR THE RECORD



1 To improve public trust in democratic institutions, we must improve how we govern in the 21st century.

2 CrowdLaw is any law, policy-making or public decision-making that offers a meaningful opportunity for the public to participate in one or multiples stages of decision-making, including but not limited to the processes of problem identification, solution identification, proposal drafting, ratification, implementation or evaluation.

3 CrowdLaw draws on innovative processes and technologies and encompasses diverse forms of engagement among elected representatives, public officials, and those they represent.

4 When designed well, CrowdLaw may help governing institutions obtain more relevant facts and knowledge as well as more diverse perspectives, opinions and ideas to inform governing at each stage and may help the public exercise political will.

5 When designed well, CrowdLaw may help democratic institutions build trust and the public to play a more active role in their communities and strengthen both active citizenship and democratic culture.

6 When designed well, CrowdLaw may enable engagement that is thoughtful, inclusive, informed but also efficient, manageable and sustainable.

7 Therefore, governing institutions at every level should experiment and iterate with CrowdLaw initiatives in order to create formal processes for diverse members of society to participate in order to improve the legitimacy of decision-making, strengthen public trust and produce better outcomes.

8 Governing institutions at every level should encourage research and learning about CrowdLaw and its impact on individuals, on institutions and on society.

9 The public also has a responsibility to improve our democracy by demanding and creating opportunities to engage and then actively contributing expertise, experience, data and opinions.

10 Technologists should work collaboratively across disciplines to develop, evaluate and iterate varied, ethical and secure CrowdLaw platforms and tools, keeping in mind that different participation mechanisms will achieve different goals.

11 Governing institutions at every level should encourage collaboration across organizations and sectors to test what works and share good practices.

12 Governing institutions at every level should create the legal and regulatory frameworks necessary to promote CrowdLaw and better forms of public engagement and usher in a new era of more open, participatory and effective governing.

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**Testimony to 2019 Charter Revision Commission by Paul Epstein at the September 27, 2018 Public Hearing**  
To contact Paul Epstein: E-mail: [paul@RTMteam.net](mailto:paul@RTMteam.net) Phone: 212-349-1719

**Bio/Qualifications:** Paul Epstein's 40+ years' experience include working for 2 NYC mayor's offices and being a consultant to governments at all levels, nonprofits, community collaborations, and the United Nations in projects across the U.S. and around the world. He has an engineering degree from the Massachusetts Institute of Technology and has taught graduate level public management courses at NYU, the University of Hartford, and Baruch College. He is the author or lead author of three books: *Using Performance Measurement in Local Government* (1984 & 1988), *Auditor Roles in Government Performance Measurement* (2004), and *Results That Matter: Improving Communities by Engaging Citizens, Measuring Results, and Getting Things Done* (2006).

***My oral testimony this evening is only on the first topic below. Additional topics that I believe should be in a charter revision follow.*** Please consider those topics as well. I will submit later written testimony through the commission's website to elaborate on the additional topics and perhaps also on the first topic.

**Recognize Communities' Alternative Plans in the City's Land Use Process.** The City's land use process is broken, heavily tilted in favor of whatever the City administration wants, and against local community interests. When a mayoral agency wants a project or neighborhood rezoning, they fully control the process and the content considered. Once ULURP starts, mayoral agencies are adept at running out the clock and leaving real community-driven alternatives on the sideline, up to activists to try to get Council Members to negotiate parts of the community plan into the final adopted plan. Even when Council—or really, the local Council Member—wants to include part of a community alternative plan, another barrier may arise: some or all changes may be ruled “out of scope” and not be allowed.

Take one example: Last year City Council produced the excellent report, “Planning for Retail Diversity” with recommendations that include store size restrictions to preserve spaces for small businesses. Forget about that during the de Blasio administration, which hates the idea. Because if, in a rezoning process, the lead agency does not include these restrictions in its plan, any attempt to add them through City Planning or Council changes will be considered “out of scope.” No matter how much support there is in the community for such restrictions, they'll always be out-of-scope if the proposing agency does not include them first.

The land use process needs many fixes. I offer one to help level the playing field for the community. This would apply to any City-proposed land use action and to any privately-proposed plan that covers more than a minimum area, say, more than a square city block. The charter should enable any alternative plan that garners enough signatures from the community to be recognized in the land use review process for consideration by City Planning and City Council. A signature deadline before the Borough President's public hearing will allow interested parties enough opportunity to comment on alternatives in the rest of the process. The number of signatures required—I'll suggest 200—should be set high enough to require significant volunteer effort, but not so high as to be very difficult without paying petitioners. Acceptable signatures should be allowed from voting age people who reside within, own businesses within, or are employed within a half mile of the initially-proposed project or plan. Then, at the City Planning and City Council stages, modifications to the agency's or sponsor's plan can include any component from a recognized alternative plan and not be considered “out of scope” by reason of being more restrictive than existing zoning or the initial proposal.

**Additional Topics that Should be Considered for Charter Revision (more on page 2):**

**Sunlight and Public Review for Land Use Negotiations Late in the Process:** Most significant land use proposals, such as a neighborhood rezoning or a large-scale project proposed by a developer of the City, involve negotiation with elected officials, such as the Borough President and local City Council Member. Some of those negotiations occur early in the process and the community has an opportunity to react. But often, especially with a neighborhood rezoning, some or all of the most significant changes happen in the last week



before Council committees vote. And they happen behind closed doors, often between the local Council Member and the lead City agency or private project sponsor, perhaps with staff assisting, but usually no one else involved. Then a pro-forma technical amendment is written with innocuous updates to the EIS, and there is no opportunity for public review. No public hearings, no comment period on the updated EIS or modified plan—it just goes right to a Council vote. The local Council Member may claim to be representing the interests of community members who have suggested alternatives, but those community members are not in the room and can easily be miss-represented by changes that run counter to their interests. But it will be too late for their review. This has to change. The Charter should mandate that when changes are made to a proposal, even at the last minute, a review period be added including an extension of the “ULURP Clock,” with new community engagement (at a minimum, a public hearing) on the revised proposal and a new comment period on expected environmental impacts including socio-economic impacts. This need not lead to an ever-extended set of added reviews. The process can be brought to an orderly end if community members are engaged and consulted as these final changes are made, rather than left “out of the room” and only allowed to comment, if at all. Community deliberation and collaboration, sorely missing throughout the land use process despite many meetings and public hearings, is actually most needed at the end, when final details are settled. Because in land use, as in many things, the devil is always in the details. *I may revise this discussion in later written testimony and cross-reference this topic with my “Community Engagement” testimony below.*

**Community Engagement:** The Charter should mandate “best practices” in community engagement, including “deliberation among” and “collaboration with” representative groups of community members at engagement points at or just before key decision points, including the final decision point, in a public process. *More to come in later written testimony ...*

**CEQR Process:** What will be assessed and how assessments will be done must be part of public debate and deliberation and subject to independent peer review. *More to come in later written testimony ...*

**Master Planning:** The Charter should mandate master land-use planning by the City, if not on a citywide basis, then on a borough by borough basis. *More to come in later written testimony ...*

**Strategic Planning:** The Charter should mandate community-driven strategic planning. *More to come in later written testimony ...*

**Public Measurement and Accountability:** The Charter should mandate that a significant part of what is measured and reported by the City on a regular basis (e.g., in the *Mayor’s Management Report*) clearly address what city residents and other stakeholders say matters most to them. What “matters most” will be determined by recognized community engagement processes that may include surveys but also must include significant *deliberative* processes among community members. *More to come in later written testimony ...*

Good evening, my name is Darlene Jackson and I'm a part-time city employee at Manhattan Community Board 11 in East Harlem. I am here today as a strong believer that local community boards can be the acting force to empower civic engagement throughout the 5 boroughs in NYC. That would take a serious overhaul and investment.

Starting with increasing the budget sufficient enough to address and meet the needs of the board and the community at large. All 59 community boards need an independent consultant to provide oversight as board members are community volunteers with other obligations outside of their two-year commitment and do not have the capacity to provide day to day support.

An independent consultant can establish the following that does not currently exist at CB11M.

- \* A healthy and productive work environment
- \* Communication among employed staff
- \* Employee supervision
- \* Inclusive staff meetings to plan effectively
- \* Employee Performance Evaluations to promote professional growth and compensation increases to guarantee a living wage
- \* Professional Development Trainings/Workshops
- \* Organizational structure and evaluation with mission statement and goals
- \* Procedures for Grievances and hold with integrity, urgency, to hold the Equal Employment Opportunity unit at the BP offices accountable.

This basic improvement will create accountability, transparency and serve as a nonpartisan liaison between community boards and borough president offices. Which brings me to the idea of term-limits, during an interview with NYC Council for the Outreach Liaison position for 2019 Charter Revision, I was asked about my thoughts on term-limits as a staff member working at a local community board. There are pros and cons:

- \* Not all 59 community boards (50) seats are filled, but with adequate investments towards robust outreach efforts for recruitment and advisement can resolve that.
- \* Board members attendance is not audited not only at full board meetings, but at the committee level as well. In addition, is not factored in during the reappointment process and not all staff members (liaisons to committee's) input are included. Nor does it provide an in-depth analysis to a board member active participation/contribution to the community board.
- \* All community board meetings are open to the public and should encourage community members from all levels of expertise to have a voice, a seat at the table and part of the decision making process and board membership should not be determined or dictate participation.
- \* BP training offered should be mandatory for all board members and offered in the fall and spring, attendance needs to be tracked via a database. Board members should be required to take a refresher every 6 months to provide them with the necessary tools and skills to advocate on behalf of their communities regarding land use, district needs, and budget priorities, etc.



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Term-limits would eliminate a conflict of interest, corruption, and biased politics, for example, I have yet to receive feedback/decision regarding my application for membership at my local community board 9 in the Bronx from the BP office and my council representative in District 18, and not all 50 seats are filled.

Elected officials agenda needs to solely operate around their constituent needs and establish a working coalition task-force that meets regularly and host public meetings. It needs to be mandatory that all 51 NYC Council members have participatory budgeting in their community district and work collaboratively with local community boards.



**New York City for CEDAW Act**  
*Convention on the Elimination of All Forms of Discrimination against Women*  
**Ensuring equal rights & protection for the women and girls of NYC.**

Testimony for New York City  
Charter Revision Commission  
September 27, 2018

**FOR THE RECORD**

I wish to thank the distinguished Commissioners for overseeing a process that allows citizens and residents of New York City to have a say in the governance of our city.

My name is Howard Katzman, I represent policy and strategy on the steering committee for New York City for CEDAW Act. New York City for CEDAW Act is a grassroots coalition of over three hundred organizations working for a women's bill of rights for New York City. I am here to speak about our effort to embed a human rights approach to gender into New York City's Charter.

I have spent the day riveted to the drama coming out of Washington and I can only conclude that we do not listen or consider the needs of women in the same way as we consider the needs of men.

In January 2017, over 400 thousand people marched in New York City protesting for women's rights. The next year, over 200 thousand marched again.

There is the #MeToo movement.

And there are the convictions of prominent men.

The ongoing theme is that women also need to be considered.

New York City for CEDAW Act's proposal is that the New York City government must consider the effects on women when City programs are formulated and assessed; when city funding is appropriated and disbursed; whether New York City, as an employer, treats women equally as men. We often assume the impacts on women, unconsciously playing on our biases as to the roles of women.

The name of our coalition incorporates CEDAW. CEDAW is the Convention on the Elimination of All Forms of Discrimination against Women, an international human rights treaty ratified by 189 countries. CEDAW is an international consensus on discrimination against women. Its 16 articles and optional protocols offer a means of creating a comprehensive framework to assess discrimination against women.

CEDAW is a document negotiated in the 1970s when there was an understanding of gender as a binary of women and men. We now have a fuller understanding of gender and we wish to ensure that a CEDAW framework incorporates gender as defined in New York City law – women and girls, transgender and non-conforming gender individuals.

We have been asked how this relates to racial and other forms of discrimination. Gender discrimination is different from other forms of discrimination. Women represent over half of the New York City population but, even more importantly, women are represented in virtually every household of New York City. Discrimination against women affects each of us New Yorkers. The most important people in my life are my wife, my daughter and my mother. I actively rebel against anything that stands in the way of my daughter fulfilling her complete potential.

Race discrimination is different from gender discrimination. Identifying it is different. The solutions are different. But race is recognized in this proposal. We recognize that gender discrimination does not

**New York City for CEDAW Act**

CEDAW – Convention on the Elimination of All Forms of Discrimination against Women  
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occur alone, other forms of discrimination layer upon gender discrimination. Members of our coalition can better explore this issue.

I wish to thank the Commissioners for considering this proposal and incorporating a human rights framework in New York City's Charter guided by the principles of CEDAW to identify gender discrimination and correct the structural problems that are identified.

Thank you.

Howard Katzman  
New York City for CEDAW  
steering committee, strategy & policy



## TREATY SUMMARY

The CEDAW Treaty contains 30 articles that provide a practical blueprint to promote basic human rights, achieve progress and overcome barriers of discrimination against women and girls, while recognizing that it is up to each country to determine how best to bring their policies and laws in line with ending discrimination against women. A summary of the key articles follow:

**Article 1: Definition of Discrimination.** Defines discrimination against women to cover all facets of human rights and fundamental freedoms.

**Article 2: Country duties.** Countries must eliminate discriminatory laws, policies, and practices in the national legal framework.

**Article 3: Equality.** Women are fundamentally equal with men in all spheres of life. Countries must take measures to uphold women's equality in the political, social, economic, and cultural fields.

**Article 4: Temporary special measures.** Countries may implement temporary special measures to accelerate women's equality.

**Article 5: Prejudice.** Countries agree to modify or eliminate practices based on assumptions about the inferiority or superiority of either sex.

**Article 6: Trafficking.** Countries agree to take steps to suppress the exploitation of prostitution and trafficking in women.

**Article 7: Political and public life.** Women have an equal right to vote, hold public office, and participate in civil society.

**Article 8: International work.** Women have the right to work at the international level without discrimination.

**Article 9: Nationality.** Women have equal rights with men to acquire, change, or retain their nationality and that of their children.

**Article 10: Education.** Women have equal rights with men in education, including equal access to schools, vocational training, and scholarship opportunities.

**Article 11: Employment.** Women have equal rights in employment, including without discrimination on the basis of marital status or maternity.

**Article 12: Health.** Women have equal rights to affordable health care services.

**Article 13: Economic and social life.** Women have equal rights to family benefits, financial credit, and participation in recreational activities.

**Article 14: Rural women.** Rural women have the right to adequate living conditions, participation in development planning, and access to health care and education.

**Article 15: Equality before the law.** Women and men are equal before the law. Women have the legal right to enter contracts, own property, and choose their place of residence.

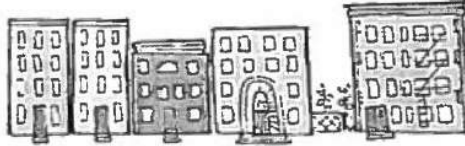
**Article 16: Marriage and family.** Women have equal rights with men in matters related to marriage and family relations.

**Articles 17-24: The Committee on CEDAW and reporting procedures.**

**Articles 25-30: Administration of the Convention.**



# NYC community land initiative



Fighting for vibrant, equitable and sustainable housing and neighborhoods through community ownership of land

## Public Comments of the New York City Community Land Initiative (NYCCLI) to the Charter Revision Commission 2019

September 27, 2018

The New York City Community Land Initiative (NYCCLI) appreciates the opportunity to offer its recommendations for revisions to the Charter of the City of New York. NYCCLI is an alliance of community, base-building, affordable housing, and economic justice groups, as well as long-standing and emerging community land trusts (CLTs) across NYC. Our alliance advocates for CLTs as a mechanism to support the creation and preservation of deeply and permanently affordable, community-controlled housing and other critical community needs.

Our recommendations for revisions to the City Charter are as follows:

### 1. Include a Right to Housing.

New York City's residents urgently need a right-to-housing provision in the City Charter. The City is currently subject to a right-to-shelter mandate deriving from the New York State Constitution's mandate that "[t]he aid, care and support of the needy are public concerns and shall be provided by the state." In response, the City has created one of the most extensive emergency shelter programs in the nation, an essential safety net for thousands of vulnerable New Yorkers.

Unfortunately, the City's right-to-shelter mandate has clearly had negative ramifications as well. Without an accompanying right to housing, the right-to-shelter mandate has resulted in a shelter system that has grown at an unprecedented rate, as housing costs have risen faster than incomes and as gentrification citywide has led to the displacement of thousands of New York City households. According to the Coalition for the Homeless, as of July 2018, about 32,000 households and 62,000 men, women, and children utilize the City's shelter system daily. For the past three years, this daily count has grown at an average of 2,000 households annually. During the same period, the City's rate of construction of new housing for households of extremely low income was roughly 1,360 units a year – hardly a dent in comparison with the enormous need for new housing for the homeless and those at risk of becoming homeless.

A parallel right-to-housing mandate in the City Charter would help to reverse this dynamic, by requiring the City to produce new, and preserve existing, housing that adequately meets the needs of our existing population. At present, more than 670,000 households in New York City earn less than \$20,000 per year. These households are part of the fabric that makes up our city; they include seniors and the disabled, low-wage and part-time workers, immigrants, students, and many more who contribute daily to the life of our communities. Yet our housing development agencies have consistently fallen short in providing housing affordable to these community members. Today, the City's public housing and Section 8 waiting lists are hundreds of thousands of names long; in every affordable housing lottery, tens of thousands of households vie for a small number of deeply affordable units. To truly address the overwhelming need for truly affordable housing, the City must provide universal access to housing for all its residents, including by allotting a significant share of new housing on the market to those most at risk of displacement and homelessness.

A right-to-housing mandate has both pragmatic and ethical implications for the City. On a practical level, the current state of affairs has led the City to allocate more than \$1.8 billion dollars to its growing shelter system, with about \$1 billion of that coming directly from the City's expense funds. This amounts to just over half of the City's total capital spending on housing this year, and many times more than what is invested in housing for those of extremely low income – i.e., those most at risk of displacement and homelessness. This allocation defies common sense, considering that, according to *Picture the Homeless*, “[o]ver the next 7 years, the city will spend more on operating shelters than the amount of city subsidy required to create new housing for every single homeless household in NYC.”

A right-to-housing framework would also enable the City to fulfill the New York State Constitution's requirement to provide “aid, care and support of the needy.” Whether or not someone has housing determines many other issues, including health outcomes, educational attainment, the ability to secure and maintain employment, and the ability to live in safety and free from violence. By failing to provide a right to housing, we ensure the perpetuation of a shelter system that destabilizes families, disrupts jobs and education, exacerbates medical and mental health issues, and otherwise increases New Yorkers' precarity.

Beyond the practical implications of the City's current policy, there is a broader moral and philosophical reason why a right to housing should be codified in our City Charter. So many of the rights that inhere in our personhood in this country, and which are codified in our U.S. and New York State constitution, become tenuous and exceedingly difficult to achieve for someone who has no home. The home is the bedrock upon which all other rights to engage and participate in our civic and political life rest; it is time that we give housing equal stature with those rights that depend on it. Put simply, the right to housing supports a functioning democratic city by ensuring all residents have an opportunity to put down and preserve roots in a community; to develop deep relationships with neighbors and community institutions including places of worship, schools, trade and cultural



organizations and more; to vote for local representatives that are responsive to their interests and needs – in short, to contribute to and fully enjoy the benefits of participation in the civic life of their communities. By enshrining a right to housing in the City Charter, New York City would not only affirm the rights of its residents to stable and affordable housing, but also anchor neighborhoods that are currently plagued by the displacement of those who contribute to local cultural, civic, and political identity. We urge the Commissioners to understand our call not only in terms of basic human needs, but also in terms of what neighborhoods, and their civic and cultural life, need to thrive.

## **2. Prioritize Public Benefit and Community Control in Disposing of Property.**

In addition to enshrining the right to housing in the City Charter, the City should reinforce its commitment to providing housing and other critical needs by revising its framework for disposing of property. Presently, the City Charter requires that City-owned property be leased or sold to the highest bidder, with key exceptions. NYCCLI believes that public benefit should prevail over profit when it comes to disposition of public assets, and that the City should be required to consider housing needs and the needs for other public facilities in all property dispositions. In addition, dispositions should prioritize community control over public assets, as well as permanent affordability for all sold and leased City property.

Thank you again for the opportunity to offer our recommendations. For more information or if you have any questions, please contact NYCCLI's Policy Working Group co-chairs, Susan Shin at New Economy Project (212-680-5100, [susan@neweconomynyc.org](mailto:susan@neweconomynyc.org)) and Oksana Mironova at Community Service Society (212-614-5412, [omironova@cssny.org](mailto:omironova@cssny.org)).

Testimony of  
Andy Morrison, New Economy Project  
On behalf of the Public Bank NYC coalition  
Before the 2019 New York City Charter Revision Commission  
City Hall, Manhattan  
September 27, 2018

Good evening Commissioner Benjamin and Members of the Commission. Thank you for holding this hearing. My name is Andy Morrison and I am campaigns director at New Economy Project. New Economy Project works with community groups to build a just economy, based on cooperation, equity, racial justice, and ecological sustainability. Since our organization's founding in 1995, we have worked with hundreds of grassroots to challenge Wall Street banks and other corporations that harm New Yorkers and perpetuate poverty, inequality, and segregation. We also work with groups to build democratically-structured, community-controlled initiatives, including community land trusts and mutual housing, worker and financial co-ops, and more.

I'm pleased to present testimony on behalf of Public Bank NYC, a broad-based coalition New Economy project co-founded and coordinates. Public Bank NYC is made up of community, civil rights, environmental, and economic justice groups fighting for the creation of a municipal public bank – chartered to serve the public interest, accountable to New Yorkers, and rooted in principles of racial and economic justice.

Ten years ago, Wall Street banks brought down the U.S. economy, wiping out trillions in household wealth and millions of jobs. Losses were especially devastating for people and communities of color, which have borne the brunt of predatory lending and foreclosures, abusive and illegal debt collection, and other fallout from the meltdown. The global financial crisis also sparked a growing movement to pursue systemic change and affirmative solutions to our unequal financial system and economy.

And yet, today, the big banks are bigger and more profitable than ever. Meanwhile, countless low-income and immigrant New Yorkers, New Yorkers of color, women, and seniors are struggling to get by. Upwards of 60,000 New Yorkers sleep in homeless shelters every night. The subway system is literally crumbling under the weight of crushing debt owed to predatory Wall Street banks. And NYC is losing affordable housing units at an alarming pace.

Amid the Trump administration's corporate tax giveaways, gutting of regulations, and attacks on immigrants and people of color, one thing is clear: We need bold, local action to strengthen our local economy and advance a truly progressive New York. Municipal public banking is a critical strategy to pursue racial and economic justice. There is a wave of support for public banking in cities and states across the country. From Oakland to Santa Fe to New Jersey, this movement is



growing. New York City should lead the way.

Each year, the City moves tens of billions of public dollars through Wall Street banks, which routinely exploit and extract wealth from low-income communities and neighborhoods of color – perpetuating racial and economic inequality. Through a public bank, the City could support vital sectors of our local economy and divest from banks that finance destructive corporate activities, including speculative real estate, fossil fuel extraction, private prisons, and much more.

By taking control of public money – divesting it from Wall Street and making it work for NYC neighborhoods – we can transform our economy and fundamentally change our approach to community development in New York City. The Public Bank NYC coalition is pressing for a public bank that would:

1. **Make equitable investments** that support low- and extremely low-income housing, union and living wage jobs for New York City residents, democratically-controlled clean energy, public infrastructure, cooperative ownership, and small businesses, prioritizing minority and women-owned businesses and locally-based enterprises.
2. **Foster community wealth-building and neighborhood-led development**, including by financing cooperative, not-for-profit and non-speculative models that provide long-term public benefit, such as community land trusts and worker co-ops.
3. **Expand high-quality, affordable financial services** to low-income and immigrant communities and communities of color, by partnering with nonprofit and mission-driven community development financial institutions, especially community development credit unions.
4. **Promote transparency and accountability in municipal finance**, including by providing comprehensive, non-extractive banking services and affordable municipal financing options to the City and its agencies.

The Public Bank NYC coalition urges the Commission to consider amendments to the City Charter to increase transparency and public accountability in our municipal finance system; strengthen standards for financial institutions with which the City does business; and remove barriers to public banking. Our coalition has initiated research to identify potential areas for review and revision, and we would be eager to speak with you further about such amendments.

Thank you for the opportunity to testify today. Please do not hesitate to contact me if you have any questions at 212.680.5100 x210. For more information, please visit: [publicbanknyc.org](http://publicbanknyc.org)

# PUBLIC BANK NYC

## MISSION AND VISION

The Public Bank NYC Coalition believes public money should work for the public good, not private gain.

*The City of New York places billions of public dollars in Wall Street banks that routinely exploit and extract wealth from low-income communities and neighborhoods of color, perpetuating racial and economic inequality. Through a public bank, New York City can support vital sectors of our local economy and divest from banks that are financing destructive corporate interests, including speculative real estate, private prison and immigrant detention companies, the global arms trade, and the fossil fuel industry.*

We are pressing for the creation of a public bank for NYC, as part of a broader vision for economic and racial justice. An NYC public bank must:

- **Make equitable investments** that support low- and extremely low-income housing, union and living wage jobs for New York City residents, democratically-controlled clean energy, public infrastructure, cooperative ownership, and small businesses, prioritizing minority and women-owned businesses and locally-based enterprises.
- **Foster community wealth-building and neighborhood-led development**, including by financing cooperative, not-for-profit and non-speculative models that provide long-term public benefit.
- **Expand high-quality, affordable financial services** to low-income and immigrant communities and communities of color, by partnering with nonprofit and mission-driven community development financial institutions, especially community development credit unions.
- **Promote transparency and accountability** in municipal finance, including by providing comprehensive, non-extractive banking services to the City of New York and City agencies.

We believe a public bank, with a clear mission to serve critical neighborhood needs, will help achieve economic security and shared prosperity for all New Yorkers. Through direct actions, political advocacy and other joint efforts we will make this dream a reality!

Please contact Ali Issa at New Economy Project to learn more: 212-680-5100 x125.

# PUBLIC BANK NYC

## MEMBERS

(list in formation)

The Black Institute  
Brooklyn Cooperative Federal Credit Union  
Brooklyn Legal Services  
Brooklyn Stone & Tile  
Chhaya CDC  
The Debt Collective  
Enlace  
Lower East Side People's Federal Credit Union  
Murphy Institute  
National Federation of Community Development Credit Unions

### **New Economy Project**

### **New York Communities for Change**

New York Public Research Interest Group

### **New York Working Families**

Pan-African Community Development Initiative

Picture the Homeless

### **Queens Legal Services**

South Bronx Unite

University Neighborhood Housing Program

The Working World

## ENDORSERS

Democratic Socialists of America - NYC

Food & Water Watch

Metropolitan Council on Housing

*\*Boldface indicates founding Steering Committee member*

*\*\*List current as of 8/29/2018*

To learn more, please visit: [publicbanknyc.org](http://publicbanknyc.org)



**RUTENBERG**  
THE SMART BROKERS

**JUDITH L. LUSTGARTEN**  
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**Charter Committee Hearing**  
**RE: NYC Animal Control Center**

**SOLUTION: THE CAPA BILL: Companion Animal Protection Act**

This bill is getting passed one by one across our country.

Before an animal is killed, all of the following conditions must be met:

- 1) There are no empty cages, kennels, or other living environments in the shelter;
- 2) The animal cannot share a cage or kennel with another animal;
- 3) The shelter has made a plea to foster homes and a foster home is not available;
- 4) Rescue groups, the former "owner," or the finder has been notified and are not willing to accept the animal;
- 5) The animal cannot be transferred to another shelter with room to house the animal;
- 6) The animal is not a healthy community cat (healthy community cats shall be sterilized and returned to their habitats in lieu of killing);
- 7) The animal has been determined to be medically untreatable by a veterinarian or a dog is determined to be vicious to people and the prognosis for rehabilitation is determined to be poor to grave by a trainer or behaviorist.

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Nathan Winograd, President of NKAC, would welcome speaking with you.

He, an attorney himself, works with the shelters and politicians in converting shelters from kill pounds to NO KILL.

<https://www.nokilladvocacycenter.org/companion-animal-protection-act.html>  
<https://www.nokilladvocacycenter.org/uploads/4/8/6/2/48624081/capa2017.pdf>

**Best States for Animal Protection**

1. Illinois 2. Oregon 3. California 4. Maine 5. Rhode Island 6. Michigan 7. West Virginia  
8. Nevada 9. New Jersey 10. Colorado

**Where is NYC?**

**If it can be better ... as we KNOW and IS PROVEN it can be ...  
there's no other moral and correct choice.**

**NYC IS 8X'S THE SIZE OF AUSTIN ...YET #'s****NEW YORK CITY****AUSTIN & TRAVIS COUNTY**

<b>POPULATION</b>	8.6 MILLION	1.1 MILLION
<b>TOTAL SHELTER INTAKE</b>	21,848	16,286
<b>TOTAL ADOPTIONS</b>	6,780	8,093
<b>ANIMALS KILLED/ EUTH OR DIED IN SHELTER</b>	3,143	432
<b>DIED IN KENNEL</b>	285	127
<b>PETS RETURNED TO OWNERS</b>	1,920	3,363
<b>ANIMALS CURRENTLY IN FOSTER</b>	117-215*	758
<b>HOURS DONATED BY VOLUNTEERS</b>	38,000	48,996

**Please note:** PER CAPITA ... AUSTIN'S intake is FAR GREATER than NEW YORK CITY.  
 NYC is 8x's the size of AUSTIN. These numbers should look VERY different.

\* Results of a recent FOIA inquiry appear to indicate 215 animals are in NYC ACC Foster; however, a friendly employee familiar w/ the program recently revealed that ACC is "DESPERATE FOR FOSTERS" and that the FOIA included animals who are no longer in foster. According to this confidential source, the actual current total of animals in ACC Foster is only 117.

**SOURCES:AUSTIN**

[http://www.austintexas.gov/sites/default/files/files/Animal\\_Services/Monthly\\_Reports/CYReport2017.pdf](http://www.austintexas.gov/sites/default/files/files/Animal_Services/Monthly_Reports/CYReport2017.pdf)

**NEW YORK CITY**

<https://nycacc.org/sites/default/files/2018-01/Year%202017%20Asilomar.pdf>

**NYC - DOGS ADOPTED 2016, 2017, JAN 1 - JUNE 30, 2018**

**Please note:** NYC: LESS dogs are adopted each year. This year is even worse at the halfway point.

	2016	2681
	2017	2622
<b>1st Half of 2018 - Jan 1 thru June 30th</b>	2018	Only 1209

THIS RESULT ... in a city of nearly 9 MILLION people.

NYC % LIVE RELEASE RATE (LRR) is going up because it's relative to intake. Far less animals are coming in  
 It is **not** because they're adopting more out.

Also, most animals are getting out via the RESCUES ... NOT via ACC adoptions.

Many animals die once out due to the rampant disease in the shelters which has NEVER been handled in all these years. Yet it's overseen by the Dept of Health.



significantly less than men for the same work (55 cents and 46 cents); NYC has high rates of sexual abuse and violence against women; and women are inadequately represented in politics or decision making positions.

We must recognize that all issues are women's issues and women's lives are affected by all policies, programs and services of the city. **We recommend that The New York City Charter incorporate a human rights framework based on the principles of CEDAW to prevent discrimination and ensure equal rights and opportunities for all women.** CEDAW provides the tools to guide the city through an analysis of how proposals, budgets, and employment practices may inadvertently discriminate by gender. Training and these tools for gender analysis and budgeting would enable all city departments to fully incorporate gender into their planning, policies and programs and pave the way to ensure that gender discrimination, intentional or unintentional, is eliminated.

#### **Specific Recommendations under Civic Engagement :**

##### **Foster civic engagement through participatory planning and gender-responsive budgeting**

###### **1. Inclusion of Civil Society in planning and evaluation of programs**

Ensure participation of women, LGBTQ, transgender, Cisgender people in the planning and evaluation of policies and programs. Civil society can contribute to planning and improving programs to meet the needs of women and diverse communities by reviewing reports to assess the impact of programs on women and recommend improvements. Such reports should be based on gender assessment, using sex-disaggregated data.

###### **2. Foster civic engagement through a participatory gender-responsive budgeting**

Gender-responsive budgeting is not about creating separate budgets for women, or solely increasing spending on women's programs. Rather, gender-responsive budgeting seeks to ensure that the collection and allocation of public resources is carried out in ways that are effective and contribute to advancing gender equality and women's empowerment.

Gender-responsive budgeting should be based on in-depth analysis that identifies effective interventions for implementing policies and laws that advance women's rights. The analysis should address also the different needs and contributions of men and women and all genders within the existing revenues, expenditures and allocations.

Gender-responsive budget analysis, along with legislation, and other practical policy measures can address gender bias and discrimination. It is a step not only towards accountability to women's rights, but also towards greater public transparency and can shift economic policies leading to gains across societies.

### 3. Ensure gender parity in appointments to Commissions and boards

Achieving gender parity is an urgent priority not only as a basic human right, but also as it is essential to an organization's efficiency, impact and credibility. It is important to create an environment at all levels, that embraces equality, eradicates bias and is inclusive

As new processes are developed to expand civic engagement in the city, women must have equal access to and representation on city board and commissions. Training and mentoring and opportunities for prepare women to participate would encourage more women to engage actively and step up in leadership positions.

Having diverse boards and commissions is of particular importance to ensure that gender equality is integrated into the planning and budgeting processes and that public budget revenues and expenditures benefit women and men equally.

As Mayor Bill de Blasio stated on the release of a report to the UN on social goals: "New York is on track to become one of the more equitable, healthier and safer cities in the world". By using a human rights framework as a fundamental basis for the revised City Charter, New York, an international city and home to the United Nations, will establish itself as a premiere city in the United States, which affirms that **gender discrimination holds no place in New York City.**

Eleanor Roosevelt summed up the importance of citizen action to uphold human rights in the community.

"Where after all do universal human rights begin? In small places, close to home- so close and so small that they cannot be seen on any map of the world. Yet they are the world of an individual person: The neighborhood he lives in: the school or college he attends; the factory, firm or office where he works. Such are the places where every man, woman, and child seek equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere. Without concerned citizen action to uphold them close to home, we shall look in vain for progress in the larger world."

Honorable Commissioners, I thank you again for this opportunity and together let us work to make OUR City the preeminent CEDAW City in the United States.

Mary M. Luke 9/27/2018



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INTERNATIONAL UNION  
CTW, CLC

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**New England District 615**  
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**New Jersey District**  
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**Western Pennsylvania District**  
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[www.seiu32bj.org](http://www.seiu32bj.org)

## Written Testimony of Kyle Bragg, Secretary Treasury

### Charter Revision Commission

September 27, 2018

FOR THE RECORD

On behalf of our 85,000 members in New York City, the union expresses its appreciation to the Commission's members for holding these hearings and for giving their time and expertise to this important process.

This review of the City's Charter comes at a time when New York is playing a leading role in forging a better path for the nation. The City has moved forward with some of the post progressive pro-worker legislation in the country at a time when unions are under attack from the Supreme Court; the City has made clear it welcomes all immigrants at a time when anti-immigrant rhetoric and policies stem from the highest elected office in the land; and the City has successfully reduced the rate of people experiencing poverty at a time when inequality remains a challenge nationally.

The Charter review process is a further opportunity for New York to express its values in the laws it passes and to embed them in the operations of our city government.

32BJ believes this process presents a unique opportunity to improve the City's land use and procurement policies and to leverage each to create quality jobs and strong communities.

With the economy and population of the City growing strongly, there is an urgent need to structure our land use decision-making to ensure that the interests of working people are recognized. As the union that represents the majority of workers in the property services industry, we support development that expands economic opportunity and creates good living wage jobs. At the same time, we are acutely aware of the affordable housing crises squeezing families across the five boroughs and the need to ensure that low and moderate-income people, which includes the workforce this city relies on, can stay in the neighborhoods that they love.

There are a number of areas that we believe the commission should explore in order to achieve the right balance in this area.

- **Expand discretionary public review to cover more new development, especially larger projects.** Much of New York City's new development, and the majority of new housing, is constructed as of right. This means that comparatively few projects come with opportunities for community stakeholders to weigh in about their impacts, and advocate for important benefits like good jobs and affordable housing.

Residential and commercial projects that exceed 100,000 square feet or 100 units stand to impact workers and the standards they have fought for. Projects that exceed this size threshold should be required to go



through a discretionary land use review with opportunities for public participation.

We also want to specifically raise new construction on NYCHA land as meriting a full Uniform Land Use Review Procedure (ULURP) requirement. The City is proposing to build thousands of additional infill units on NYCHA property. But, although NYCHA is the City's largest landlord, dispositions of NYCHA land don't have to go through ULURP. We are encouraging the Commission to mandate that new structures on NYCHA land be subject to ULURP so that the communities that are impacted have a meaningful opportunity to weigh in.

We are also examining other types of land use actions where it may make sense to mandate ULURP or special permits. These include large projects that rely on zoning lot mergers (ZLMs) and "minor modifications" to previous zoning decisions that lead to significant numbers of new units.

- **Make the land use approval process more transparent.** Through our engagement in ULURP and at the Board of Standards and Appeals (BSA), we have learned first-hand how difficult it can be for members of the public to access complete information about proposed development projects and track where they are in the approval process. This limits opportunity for important public discussion about development, and chances to raise and address legitimate community concerns. We suggest the Commission consider the following measures to promote public awareness of and engagement with the land use approval process:
  - Create a central public database for all land use applications and permits, including ULURP pre-application statements and BSA applications; and
  - Require all ULURP and BSA projects to age in a publicly available online system before they can be certified and/or heard (for example, a 30 day minimum).
- **Attach the building service prevailing wage when the City disposes of public property.** The City currently requires that building service workers such as janitors, security officers and residential building workers are paid a prevailing wage when the City contracts for these services or provides economic development subsidies (with some exceptions). We believe that there is a compelling and legitimate interest for this same prevailing wage mandate to cover all dispositions of municipal land — whether via sale or ground lease — as well as dispositions of municipal development rights. City property is a scarce resource that should deliver maximum benefits to working people when it is disposed. We strongly encourage the Commission to recommend strong employment standards for all dispositions.
- **Improve the integrity and democratic oversight of the Board of Standards and Appeals.** The BSA offers an alternative for developers to win land use approval decisions. Unfortunately, this forum can be used to avoid the public accountability of a ULURP, as well as the obligations of Mandatory Inclusionary Housing. The current accounting methodology used within the BSA process to show that it is not feasible to develop a site under current zoning, makes this alternative route more attractive, as it relies on comparing parcels of land which may have widely varying underlying features that impact their true value. We suggest the Commission consider recommending the following measures to ensure greater accountability and appropriate use of the BSA:
  - Empower the City Council to review and veto BSA-approved variances;
  - Require that a licensed appraiser make the appraisal in the BSA financial analysis and create a dedicated seat for a licensed appraiser on the BSA;
  - Adopt a valuation methodology in which land value is calculated by capitalizing the projected income of the best use of the property under current zoning and subtracting the cost of the

development. The BSA economic analysis should be the lesser of the best use value under or the actual land acquisition cost.

Given the critical nature of building service work and the City's interest in ensuring that tax-payer dollars are used to support family-sustaining jobs, it is critical that City follow best procurement practices when it comes to subcontracting for security and janitorial service. Subcontracted building service work creates thousands of middle class jobs for working class people, particularly immigrants and people of color. Higher standards in building service subcontracting, which take into account the importance of contractor experience and capacity, creates good jobs for our communities. Without these standards, low-bid contracting creates a race-to-the-bottom amongst bidders. When bid prices are driven down, contractors may cut corners in order to offer services at the lowest price possible. In this scenario, contractors can even lack the capacity to meet payroll and they may use lower quality healthcare and retirement plans, leaving workers and their families vulnerable.

As we work to strengthen our City through Charter revision, the following proposals are critical to ensure our dollars are used wisely and to ensure that our City's subcontracted building service jobs are good, family-sustaining jobs.

- **Uniformity and High Standards in Subcontracted Security Work**

Currently, not all government spending on the City's subcontracted security work is held to the same uniform high standard. However, we believe firmly that it should be in order to ensure quality security services. The Charter should be amended to require that the DCAS is the lead agency to procure all security services required by agencies. Additionally, the Charter should require that all security procurements are issued through RFP's with good job standards. All security contracts should include minimum training requirements of 40 hour enhanced security training with an annual refresher. All security solicitations should include meaningful capacity and experience requirements as well as clear indication of intent and ability to comply with prevailing wage requirements and other job standards. This should be the policy and not low bid contracting.

Additionally, when purchasing off the DCAS master contract, agencies should be subject to transparency and accountability requirements.

- **City Reimbursements**

When non-governmental entities – such as non-public schools, city funded private homeless shelters, and other entities – receive reimbursements for security service contracts, those contracts should be held to the same standards of accountability with respect to capacity, qualifications, responsibility and compliance with job standards and city contracts. Ideally, the non-governmental entities should be required to purchase off the DCAS master contract. Alternatively, they should be required to follow a similarly vigorous vetting standards and the spending should be subject to careful monitoring and accountability standards. There should be an ongoing expectation that all such jobs should have prevailing wage requirements.

- **City Council Review of Certain Contracts**

Some jurisdictions require City Council approval of certain subcontracted services. For example, in Washington D.C., Council review is required before the award of a multiyear contract or a contract in excess of \$1 million during a 12-month period D.C. Code § 2-352.02. In order to ensure adequate oversight of subcontracted security services, the Charter should be amended to require City Council review of security contracts at an appropriate designated threshold.

- **Additional Seats on the PBB**

Currently, there are 5 members on the Procurement Policy Board (PBB). Three of the seats are appointed by the Mayor and two seats are appointed by the Comptroller. We recommend the Commissions explore adding seats to the PPB in order to give Council a voice on the Board. This will ensure that a broader range of stakeholders have deeper engagement in the full life-cycle of our City's procurement process.

The union offers our full cooperation to the Commission to further explore these recommendations. It is vital that we take this opportunity to shape the City's laws and institutions of government to ensure they are functioning for working families.

Thank you again to the Commission members and staff for their hard work and we look forward to collaborating throughout the future stages of this process.



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Brooklyn, N.Y. 11208  
Phone: 718-235-5417  
Email: jgcitygin@aol.com  
September 27, 2018

The New York City Charter Revision Commission 2019  
City Hall  
New York, N.Y. 10007

FOR THE RECORD

Honorable Madam Chairperson, Honorable Commissioners,

Hello. My name is Joy E. Goldberg, and I live at 114 Crescent Street, Apt. 1N, Brooklyn, N.Y. I retired April 1, 2016 as a distribution and window clerk in the U. S. Post Office, New Lots Station, Brooklyn, 11208.

For around the last 2 years of my postal career, give or take, I waited on an average of 2 customers per day at my window alone, who presented the 2 envelopes with Certificates of Mailing. These are replies to eviction notices: one envelope goes to the Marshal, one to the attorney handling the eviction.

This included the elderly.

Multiply my window by 3 or 4 windows open, times every station in Brooklyn, times every station in New York City, times every station in the United States. That's a serious problem.

I have friends in the housing project across the street from the Post Office. A couple years back, their rent increased drastically. And they took a hit in their food stamps.

A former co-worker of mine studied hard to get a real estate broker's license and passed. Congratulations seemed in order. Then I learned that this same person was working for a firm that bought buildings that needed care, fixed them up and resold them.

My first gut reaction was: after they do this to every building, whose playground will the greatest city, the "apple" become? Who is behind gentrifying every neighborhood? I doubt, the people with the 2 envelopes and Certificates of Mailing. Looks as how forces are at work who would make it impossible for anyone except the rich to live in New York City.


I also wonder how many of these owners of brand spanking new gentrified buildings live in the community and sustain it? And how are the property taxes off the blood of the now-evicted poor sustaining the community? "Bettering" New York City for whom?

The Bible decries "dividing the land for gain." It is incongruous, inhuman, monstrous to take the bread and shelter from those who need it most and part and parcel it to those who need it least. In short, it is evil.

GOD is watching closely over "the apple of His Eye," over how the measuring lines are drawn, what "rezoning" takes place, and who will benefit. You are authorities anointed with a <sup>and</sup> stewardship, with which it is incumbent upon you to do the right thing. For this, I implore <sup>and</sup> you.

Begin with those who need it first.

Thank you.

  
Joy E. Goldberg



NEW YORK PUBLIC INTEREST RESEARCH GROUP

FOR THE RECORD

**TESTIMONY  
OF THE  
NEW YORK PUBLIC INTEREST RESEARCH GROUP  
BEFORE THE  
2019 NEW YORK CITY CHARTER REVISION COMMISSION  
REGARDING  
REFORMS TO THE NEW YORK CITY CHARTER  
City Hall, N.Y.  
September 27, 2018**

Good evening. My name is Megan Ahearn, I am the Program Director of the New York Public Interest Research Group (NYPIRG). NYPIRG is a statewide non-partisan, not-for-profit research and public education organization. We help to bring the voices of everyday New Yorkers to public policy debates to strengthen democracy, enhance the rights of consumers and voters, and protect the environment and public health. We appreciate this opportunity to share our thoughts on proposed revisions to the New York City Charter.

NYPIRG applauds the Council for initiating this process to review the New York City Charter. As you mention on your website, the Charter has been in place for nearly three decades and a review – and improvements – are important to the ability of the City to meet the needs of all New Yorkers today and tomorrow.

As you will see, we've divided up our comments into six sections – democracy, environment, financial security, health, higher education, and mass transit. In each area, we summarize our suggestions to the Commission for consideration. We plan on offering more detailed recommendations as the process moves forward.

The City Charter contains a wide range of important topics, some of which are deliberately vague and thus spur legislative actions, others more specific. The Charter contains two very specific requirements that we have used to gauge our thinking about how to tackle difficult issues. Those specific sections create an Independent Budget Office and require an annual report on city agencies' performance, the Mayor's management report. Independent oversight and detailed reporting are two important ways in which the public can be assured that policy goals are being achieved and reported to the public honestly. We will rely on similar approaches throughout our recommendations.

Lastly, we look forward to working with the Commission and, hopefully, all New Yorkers, in an effort to make the City Charter a model for civic involvement and substantive impact; a blueprint for democracy that will stimulate similar actions at the state and national levels.

## **DEMOCRACY**

As you know, the Mayor's Charter Revision Commission has advanced proposals to strengthen New York City's democracy in the areas of campaign finance, civic engagement, and community boards. NYPIRG has taken positions on the first two areas (not community boards' term limits) and supported the 2018 Charter Revision Commission's recommendations. However, the 2018 Commission did not advance important items that we urge the 2019 Commission to consider.

### **Establish Same-Day Voter Registration for City Elections**

NYPIRG strongly supports establishing "Same-Day" voter registration for city elections. Each year, just as interest in elections and candidates begins to peak, potential voters find that the deadline for registering to vote has already passed. Here in New York City, campaigns for statewide and local offices barely attract public attention before October. By the time voters begin to focus on the election, the deadline has already passed. That doesn't make sense, especially when there are proven systems to do away with this voter registration barrier.

How would Same-Day registration work in NYC? There are a variety of ways the process could be implemented. Those voters taking advantage of the Same-Day option would only be allowed to vote on ballots for municipal races. Hopefully this could be implemented at existing poll sites, but if necessary the voting could take place at a number of designated city-run sites in each borough that implement the system. Voters would fill out a standard voter registration form at the same time to ensure their participation in all future elections. We urge the Commission to present Same-Day registration options for municipal election implementation.

### **Establish Automatic Registration for City Agencies**

Automatic Registration is a reform that is quickly gaining popularity and acceptance across the United States. By automatically registering eligible clients who interact with city agency databases, the system enfranchises many who might not register in time before elections. Even with the implementation of Same-Day registration, automatic registration has the advantage of constantly updating individual's contact information and reducing time at poll sites for the Same-Day process. Twelve states and the District of Columbia currently have Automatic Registration.

### **Establish Early Voting for Municipal Elections**

While the long lines that plague Election Day in the city almost exclusively occur for the Presidential election, NYPIRG believes early voting holds potential for increasing voter participation. In a large borough such as Brooklyn, early voting would undoubtedly benefit some, but if limited to one or two sites, its impact would be relatively negligible in addressing the goal of reducing congestion when a voter goes to cast their ballot. Any early voting model should:

- ensure a ratio of sites and staffing per registered voter;
- have daytime as well as evening hours;
- run for a minimum of 10 days, including on two separate weekends; and
- ensure that voters do not have to travel more than a set distance to reach an early voting site.



**Institute Ranked Choice Voting**

In addition to promoting campaign practices which reach out to the most diverse swath of voters, currently, there is simply not enough time for the Board to certify contestants for a run-off, print the appropriate ballots, mail them to voters who have requested absentee ballots and expect that they will be received, completed and postmarked by election day.

This is not a solution in search of a theoretical problem. According to the Board of Elections, there are currently more than 31,500 permanent absentee voters in the city who are automatically mailed ballots each election. An additional 2,700 military voters also received absentee ballots last year. Additionally, many thousands of voters who anticipate being out of town on election day request absentee ballots every year. In low turnout elections such as a municipal run-off, these absentee voters can easily be the margin of victory or defeat.

This proposal would create a modified ballot upon which a voter could rank the candidates in the order of their preference. In the primary, their vote would be cast for their first ranked candidate. If a run-off is needed, the voters' choice would be counted for the highest ranked candidate participating in the run-off. While this would represent a change in the voting procedures, the system has been successfully used in federal and state elections in South Carolina, Louisiana and Arkansas, and in municipal elections elsewhere.

**Voting Rights of Felons on Parole**

New York allows individuals on probation from local correctional facilities to register and vote, but the process for those on parole for New York State felony convictions is different. This past spring, Governor Cuomo signed an Executive Order to restore voting rights to felons on parole, where, effective April 18, 2018, individuals being released from incarceration to parole supervision and individuals who are currently under parole supervision will be given consideration for a voting restoration pardon by the Governor's Office.

Fourteen states recognize that once the debt to society has been served, it is fair and just to restore this important societal right: District of Columbia, Hawaii, Illinois, Indiana, Massachusetts, Michigan, Montana, New Hampshire, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island and Utah. Maine and Vermont allow prisoners to vote while incarcerated.<sup>1</sup>

However, since the state's action does not change state law, future Governors are not bound to uphold the practice, and the pardon process may be vulnerable to political pressure. At the least, since the law has not changed, some may be confused by the process or their rights. New York City's charter should ensure ongoing, proactive educational and outreach programs to ensure that eligible parolees know their rights, register, and vote.

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<sup>1</sup> Voting Rights for Ex-Offenders by State, Nonprofit Vote, see: <https://www.nonprofitvote.org/voting-in-your-state/special-circumstances/voting-as-an-ex-offender/>.

## **NYPIRG Testimony to Charter Revision Commission, Page 4**

### **Civic Engagement**

The nation suffers from a civic involvement deficit. One needs to look no further than the lackluster voter participation rates and the rising public cynicism toward their own government. That civic deficit is most acute for younger adults who, despite their inherent idealism, feel alienated from the democratic process and are frustrated by the difficulties in participation.

New Americans suffer from that civic deficit as well. The difficulties in participation often run deeper due to cultural difficulties as well as language limitations. NYPIRG has long been involved in developing positive civic experiences, particularly among young adults. These lessons should be useful in guiding the Commission around hands-on civic empowerment programs that work.

NYPIRG has supported the call for an institution to marshal the resources of the government to attack the problem of civic inequality. We urge support for the proposal advanced by the 2018 Commission.

### **Make the City's Voter Guide More Useful**

NYPIRG is proud of the role we played in helping to establish the City's Voter Guide during the City's 1988 Charter Revision process. We applaud the Campaign Finance Board for embracing and improving the Guide since then, greatly expanding its usefulness for New Yorkers. However, the Guide underperforms by not offering the opportunity for candidate statements for those running for non-municipal offices.

One easy fix is for the Guide to include District Attorneys and any state legislative races occurring in municipal election years. Another option we urge the Commission to consider is requiring the publication of a hard copy Guide for state and federal races as well. While many New Yorkers have smart phones that they could take to the polls to view the Guide, many New Yorkers do not. To ensure that all voters have equal access to voter guide information we believe the continued hard copy publication of the Guide is essential.

### **Allow 16 and 17 Year Olds to Register Early**

In a state with abysmally low voter participation rates, only slightly more than half of New York's youngest citizens are registered to vote. According to the U.S. Census Bureau, only 47% of New York's 18-24 year old citizens were registered for the November 2008 Presidential election. However, once registered, large numbers of young people turn out at the polls. According to the Census Bureau, 75% of New York's 18-24 year olds who were on the rolls turned out at the polls that year.

One way to make it simpler for young voters is to allow students to pre-register when 16 or 17 years of age and allow properly registered 17-year olds who will turn 18 by the day of the general election to participate in primaries. By lowering the age to 16, registration opportunities may be offered to students at an age where school is still compulsory and also reach many young students when they come in contact with the Department of Motor Vehicles.

## **NYPIRG Testimony to Charter Revision Commission, Page 5**

### **Strengthen the Independence of the Conflict of Interest Board**

The Charter requires that members of the Conflict of Interest Board be

“chosen for their independence, integrity, civic commitment and high ethical standards. No person while a member shall hold any public office, seek election to any public office, be a public employee in any jurisdiction, hold any political party office, or appear as a lobbyist before the city.”

Given that the Mayor, with the consent of the Council, chooses the Board members of an ethics watchdog with jurisdiction over those same individuals, NYPIRG urges additional steps to further ensure Board members' independence.

The COIB membership should also include at least two of whom should not be, or within the prior five years shall not have been, enrolled in the same political party as the Mayor. Two members should be from the political party whose candidate for governor in the most recent gubernatorial election received the largest number of votes and two of the party conferences whose candidate for governor in the most recent gubernatorial election received the second largest number of votes. One member should not be affiliated with either major political party.

No member of the Board should have held office in any political party organization, have been a state officer or employee or have been engaged as a lobbyist within three years of appointment or at any time during their term. The chair shall be elected by the commission members from among its members.

### **Improve Laws Regulating Elected Officials Nonprofits**

In 2016, Local Law 181 brought nonprofits that are affiliated with elected officials under certain campaign finance regulations. Under current law, an organization affiliated with an elected official is defined as an entity for which the official or their agent is the principal officer with control over the organization, or which was created by the official or their agent in recent years. NYPIRG believes that this definition is too narrow.

To properly determine whether an official “controls” an organization or whether it is independent, we recommend that additional factors be considered, including: whether the official's political operation and the organization share office space, other resources, or consultants; whether the organization sponsors programs prominently featuring the official; and whether the organization has directors or managers with close ties to the official. The law does, however, leave open the possibility for the Conflict of Interest Board to develop criteria to define “control” in such a way. NYPIRG recommends that the Commission should advance proposals to prohibit elected officials from soliciting funds for affiliated organizations.

### **Transfer Responsibility for Overseeing Lobbying to the NYC Campaign Finance Board**

NYPIRG supports transferring to the New York City Campaign Finance Board the responsibility for lobbying oversight and enforcement from the City Clerk. The Campaign Finance Board already obtains information related to lobbyists given that the City's matching funds system has



## **NYPIRG Testimony to Charter Revision Commission, Page 6**

special rules concerning contributions from lobbyists and using the Doing Business Database, which contains a listing of those who do business with the City, including lobbyists.

### **Enhance the Independence of the Redistricting Process**

The New York City Mayor and City Council will create a Redistricting Commission to review the population changes and make recommendations on how best to adjust the boundaries of City Council districts. The Redistricting Commission has 15 members, eight of whom are appointed by City Council, and seven of whom are appointed by the Mayor.

The City Charter sets a system of criteria that the Commission must follow (in addition to other federal and state requirements). New York City's current redistricting system is considered to be legally sound and reasonable – particularly in contrast to the state. However, NYPIRG urges additional reforms be added.

NYPIRG urges that independence of the Redistricting Commission's membership be strengthened. The current Redistricting Commission's membership is chosen directly by elected officials. We believe that there is too close a connection between those who draw the lines and those who appoint them.

NYPIRG supports a recommendation that 1/3, or five, of the members including the Chair and the Executive Director of the Redistricting Commission be appointed by the Campaign Finance Board. This will create a necessary buffer between the Council and Mayor and Redistricting Commission members who draw the lines.

NYPIRG urges that the criteria for drawing lines be strengthened. Currently Chapter 2-A, Section 52-f prohibits the drawing of districts to favor or oppose any political party; this provision should be expanded to prohibit the drawing of district lines that favor or oppose an incumbent legislator, or any presumed candidate for office.

NYPIRG also urges that the variation in the population of Council districts be held to the Congressional standard (essentially even), while adhering to the requirements of the Voting Rights Act. Representative democracy is most fair when each elected legislative official represent the same number of constituents. Lastly, the plan should have to be approved by 11 of 15 Redistricting Commission members instead of the current nine.

## **ENVIRONMENT**

As you consider changes to the Charter, there can be no doubt that the single biggest challenge facing the world is climate change. Scientists have declared 2017 as the second hottest year on record.<sup>2</sup> The burning of fossil fuels (coal, oil and gas) is warming the planet and contributing to extreme droughts, flooding, wildfires, and superstorms.

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<sup>2</sup> Doyle, AI, "2017 was second hottest year on record, after sizzling 2016: report," *Reuters*, January 4, 2018, <https://www.reuters.com/article/us-climatechange-temperatures/2017-was-second-hottest-year-on-record-after-sizzling-2016-report-idUSKBN1ET11F>.

**Create An Independent Environmental Oversight Office**

NYPIRG recommends an environmental oversight entity modeled on the successful Independent Budget Office. The proposed Independent Environmental Oversight Office (IEO) would be tasked with ensuring that the City is meeting its environmental pledges. While NYPIRG believes that the City has made laudable pledges, and is committed to success, one has to look no further than what is happening in Washington DC to see how quickly science-based policies can be undermined by a determined ideological anti-science agenda.

The IEO would be responsible for independently verifying that the City is moving to reduce its carbon footprint (e.g. changes to its construction code to maximize energy efficiencies) in order to meet its climate change goals, ensure that investments in mass transit (particularly buses) and its municipal fleet are relying on electric vehicles and other zero emissions vehicles, that municipal wastes are being recycled and not dumped or burned, that lead remediation is being completed, and that the City's watershed continues to meet safe drinking water standards – even with the explosion of algae blooms resulting from a warming climate.

Independent monitoring will ensure that goals are met and bolster public support for successful programs. We do not see this replacing the Mayor's Office of Long-Term Planning and Sustainability, but to supplement its work in the same manner as the IBO supplements the work of the Office of Management and Budget (OMB) and the City Comptroller.

**Strengthening Water Protection Efforts**

NYPIRG recommends that the Charter (Chapter 57) be revised to set a clear mandate that the Department of Environmental Protection (DEP) develop and deploy a public website that offers easy-to-digest water quality data coupled with an aggressive educational effort to draw attention to the information. The DEP should also require surveillance testing and remediation programs for known and likely sites of water contamination and report this data to the public. Toxic spills of substances such as petroleum products and chemicals such as PFOA pose long-term threats. The costs to clean up these problems—before they harm public health—are much higher when the chemicals spread and contaminant drinking water or migrate into areas where the risk profile is greater. Stringent sampling protocols must be established so that tests cannot be “gamed” and the public imperiled.

We recommend that the DEP's mandate include that water quality health standards must be based on the precautionary principle. The precautionary principle holds that in the face of known or suspected public health risks, scientific uncertainty should be resolved in favor of protecting public health and the environment. For example, when chemically similar compounds are advanced as “safe substitutions” for chemicals like PFOA/PFOS, the precautionary principle impels regulators to assume toxic qualities and enact safeguards until the substitutes are proven safe.

### **FINANCIAL SECURITY**

New Yorkers have the right to public services and economic resources, protection from corporate abuses, and access to the judicial system in the event they're wronged. Government must play an active role in ensuring a society based on justice.

#### **Create a Municipal Public Bank**

Public Banking is a strategy to advance racial, economic and environmental justice by divesting public deposits from private Wall Street banks, and instead investing in a municipally controlled and publicly accountable bank.

NYPIRG is a member of Public Bank NYC, a broad-based coalition of more than 20 community, civil rights, environmental, and economic justice groups fighting for the creation of a public bank – chartered to serve the public interest, accountable to New Yorkers, and rooted in principles of racial and economic justice. A public bank in NYC, a city that moves tens of billions of public dollars through the financial system annually, would receive deposits of revenues, taxes, fees, and other earnings. The City could then leverage that money to meet critical needs in low-income communities and communities of color: truly affordable housing, cooperative and community-led development, responsible financial services, infrastructure and other projects. NYPIRG recommends that the Commission explore ways to support a municipal public bank in New York City.

### **HEALTH**

#### **Expand the Charter's Reporting Requirements on the Availability of Health Insurance**

Given the assault on health insurance coverage by the federal government, it is critical that the City Charter embrace mechanisms to identify the impact of federal actions. We recommend that the mandate of the "Committee on health care services" (Chapter 1, section 20-e) be expanded to monitor the loss of insurance coverage.<sup>3</sup> While the state and the city have taken steps to offset federal actions (including the state's establishment of its own health insurance exchange), the need for stable Charter-backed health insurance information persists.

As you know, the numbers of New Yorkers who lack health insurance is considerable. According to the US Census Bureau, in 2016 roughly 1.2 million New York residents were uninsured (6.1 percent of the population). This represents both the lowest percentage and number of New Yorkers who lack health insurance since 1999.<sup>4</sup> Despite the demonstrable successes of the Affordable Care Act, many in need are left without health insurance.

For those without health insurance, serious illnesses can be deadly. For example, cancer. Research suggests that nearly four percent of cancer patients are uninsured at the time of

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<sup>3</sup> Section 20-e, paragraph (d)(5) includes a specific reference to insurance coverage analyses, but we recommend that such analyses include an examination of the loss of coverage due to governmental policy changes.

<sup>4</sup> United State Census Bureau, "Health Coverage In The United States, 2016," <https://www.census.gov/library/publications/2017/demo/p60-260.html>, see: Table A-5, "Number of People Without Health Insurance Coverage by State: 2013 to 2016" and Table 6, "Percentage of People Without Health Insurance Coverage by State: 2013 to 2016."



## **NYPIRG Testimony to Charter Revision Commission, Page 9**

diagnosis.<sup>5</sup> Equally troubling, about one-third of cancer survivors report a loss of health insurance at some point in time since their diagnosis.<sup>6</sup>

For these individuals and their families, the cost of fighting cancer may mean choices that could lead to huge debts under the best of circumstances. The first concern of someone diagnosed with cancer is what are the chances of a recovery? For many, the cost of treatment will also become a top priority in surviving. According to the federal government, cancer is one of the five most costly medical conditions in the United States, forcing many patients to make decisions about their health based on their personal finances.<sup>7</sup>

Even those with coverage face uncertainties, “roughly 20 percent of people under age 65 with health insurance nonetheless reported having problems paying their medical bills over the last year. By comparison, 53 percent of people without insurance said the same.”<sup>8</sup> Therefore, we urge the Commission to mandate that the “Committee on health care services” (Chapter 1, section 20-c) be expanded to monitor the loss of insurance coverage.

### **Enhance the Department of Health’s Resources to Monitor Lead Poisoning**

Lead poisoning is a national problem with long-term health effects, including developmental delays, brain damage and cardiovascular issues. New York has the both the greatest number (3.3 million) and the highest percentage (43.1 percent) of its housing stock built before 1950, the houses most likely to contain lead paint, the greatest source of childhood lead poisoning.<sup>9</sup> Thus, New York’s children are at heightened risk for being exposed to lead in their homes. Children are the most vulnerable to the effects of lead contamination in their environment. Even seemingly incremental increases in the concentration of lead in a child’s blood level can have significant cognitive impacts.

As you well know, in 2004, the City Council passed a suite of bills aimed at eliminating childhood lead poisoning by 2010. Sadly, that deadline has passed but the problem persists. A major part of the 2004 law held landlords accountable for remediating lead paint in apartments with children, and when older apartments were vacated. The City’s Department of Housing Preservation and Development (HPD) was tasked with enforcement. Unfortunately, there is no record of enforcement actions against negligent landlords and little data to analyze whether landlords were upholding their end of the deal.

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<sup>5</sup> Thorpe KE, Howard D. “Health Insurance and Spending Among Cancer Patients” *Health Affairs* 2003. *W3*; 189-198.

<sup>6</sup> Indiana University, “Number of newly diagnosed cancer patients without insurance drops in first year of ACA,” October 19, 2017, <https://news.iu.edu/stories/2017/10/iub/releases/19-cancer-affordable-care-act.html>.

<sup>7</sup> U.S. Agency for Healthcare Research and Quality, “Statistical Brief #471: Top Five Most Costly Conditions among Adults Age 18 and Older, 2012: Estimates for the U.S. Civilian Noninstitutionalized Population,” [https://meps.ahrq.gov/data\\_files/publications/st471/stat471.shtml](https://meps.ahrq.gov/data_files/publications/st471/stat471.shtml).

<sup>8</sup> Sanger-Katz, M., “Even Insured Can Face Crushing Medical Debt, Study Finds,” *The New York Times*, January 5, 2016, <https://www.nytimes.com/2016/01/06/upshot/lost-jobs-houses-savings-even-insured-often-face-crushing-medical-debt.html>.

<sup>9</sup> *Eliminating Childhood Lead Poisoning in New York State by 2010*, New York State Department of Health (2004), Table 3. <https://www.health.ny.gov/environmental/lead/exposure/childhood/finalplanscan.htm>.

## NYPIRG Testimony to Charter Revision Commission, Page 10

Serious, ongoing, and transparent attention must be paid to the lead contamination crisis in New York City. We support the City's goal of reducing lead exposure to zero and urge the Commission to add to the charter the goal of a lead-free city by the year 2025, including robust and regular reporting requirements on landlord communications and remediation confirmations by HPD. We also recommend that the Commission include in the Charter that the city *shall* provide adequate resources to achieve that goal, and allowing the IBO to verify relevant budget requests to ensure that they are adequate.

### HIGHER EDUCATION

The Charter develops wide ranging goals for education in New York, but says little about education beyond K-12. NYPIRG recommends a new Chapter specifically ensuring that resident students attending the City University of New York have as much financial support as possible.

In an increasingly economically divided and high-cost city, degree completion is vital. Investing in public higher education is a win for individual New Yorkers and a win for the city's economy as a whole, even amid a climate of budget-tightening. It is the surest way forward. A study on SUNY found that for every \$1 spent on education, the economy reaps \$5 in benefits.<sup>10</sup> What's more, the average bachelor's degree holder contributes \$278,000 more to local economies than the average high school graduate through direct spending over the course of a lifetime; and an associate degree holder contributes \$81,000 more than a high school graduate.<sup>11</sup> It's not shocking that college-educated workers earn more than their high-school educated peers – by an average of \$17,500 per year for millennials, as found by the Pew Research Center. As wages increase, so do tax revenues which support any number of public services.

Despite the benefits both to society and to individuals, too many New Yorkers are still without a degree. A mere 19% of Bronx residents over the age of twenty-five hold a bachelor's degree or higher. Among the nation's 100 largest counties, this is the second lowest rate. What's more, according to the Center for Urban Futures report, Degrees of Difficulty, "only thirty three percent of on-time high school graduates in the bottom quarter of family income (\$30,424 or lower) obtained a college degree, compared to 52 percent of students in the top quarter (\$56,492 or higher)."<sup>16</sup>

College has benefits that extend well beyond individual economic returns. A primary function of postsecondary education is to develop college students' involvement in the nation's civic life and democratic processes, engender a sense of social responsibility, and develop an appreciation and respect for difference across cultures and peoples. And while a college education is not the only way to achieve those goals, New York City's colleges and universities offer experiences that build a better understanding of the importance of civic participation as well as provide the skills

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<sup>10</sup> SUNY, 2018-19 Executive Budget Testimony, Chancellor Kristina Johnson, January 23, 2018, <https://www.suny.edu/govrelations/state/testimony/2018-19-budget/>.

<sup>11</sup> Rothwell, Jonathan. "What colleges do for local economies: A direct measure based on consumption." *Brookings*, July 28, 2016, [www.brookings.edu/research/what-colleges-do-for-local-economies-a-direct-measure-based-on-consumption/](http://www.brookings.edu/research/what-colleges-do-for-local-economies-a-direct-measure-based-on-consumption/).

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to help students to evaluate increasingly complex technological and scientific issues that can become the focus of public policy.

In addition to tuition, costs associated with college can be barriers to college completion. Textbooks, food, rent, child care and other costs can price students out of an education before they even fill out their FAFSA. Currently, students nationwide work an average of about 30 hours per week. At least a quarter of all college students are employed full-time while enrolled.<sup>12</sup> In a recent report put out by the CUNY Office of Institutional Research and Assessment, of students that work, 79 percent reported that they work to pay for living expenses and over a third of those who work believe that having a job negatively impacts their academic performance.<sup>13</sup> With added support that financial assistance provides, students can devote more time to their studies.

Therefore, the Charter should guarantee an affordable and accessible public higher education at CUNY, including full student support services and programs to cover the costs associated with getting a college degree. To be clear, we are not expecting that the City cover the state's portion of higher education funding. Rather that the Charter mandates sufficient financial resources in addition to state funding.

### **MASS TRANSIT**

New York City's subways and buses are the lifeblood of the City. It is nearly impossible for average New Yorkers to get to work, shop, get their children to school, go to entertainment events, or meet health needs, without using the City's mass transit system.

Yet this vital service is deteriorating. The MTA's own performance measures illustrate the depth of the problem:

- Subway on-time performance has fallen 26 percent between 1992 and 2016;
- New York's subway has the worst on-time performance of any major rapid transit system in the world, with just 65 percent of weekday trains reaching their destinations on time;
- In 2007, overall on-time performance was 90 percent on most lines, but a decade later it had dropped to 70 percent; and
- Subway ridership has climbed 77 percent since 1992, but during most of the same period spending on maintenance has remained unchanged.

The rapid decline of subway service has taken a tremendous toll on the lives of New Yorkers. A recent report by the Comptroller of the City of New York found that subway delays have caused 74 percent of subway riders to be late for a work meeting, 65 percent to be late for childcare pickup or drop-off, and 13 percent to lose wages. Additionally, poor subway service has prompted straphangers to seek other transit options above ground (such as taxis and for-hire vehicles), worsening New York City's ever growing congestion problem.

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<sup>12</sup> Georgetown University Center on Education and the Workforce, "Learning While Earning - The New Normal," 2015, <https://cew.georgetown.edu/cew-reports/workinglearners/>.

<sup>13</sup> City University of New York, "2016 Student Experience Survey A survey of CUNY undergraduate students," [http://www2.cuny.edu/wp-content/uploads/sites/4/page-assets/about/administration/offices/oira/institutional/surveys/2016\\_SES\\_Highlights\\_Updated\\_10112016.pdf](http://www2.cuny.edu/wp-content/uploads/sites/4/page-assets/about/administration/offices/oira/institutional/surveys/2016_SES_Highlights_Updated_10112016.pdf).



**Create Better Quality of Service Reporting Mechanisms**

Despite its importance, precious little about mass transit is included in the Charter (Chapter 71). Section 2903 (d) requires that the DOT Commissioner:

d. Mass transportation facilities. The commissioner shall:

- (1) prepare or review plans and recommendations with respect to the nature, location, construction, operation and financing of roads, highways, bridges, tunnels, subways or other facilities for mass transportation other than aviation facilities for use in whole or in part within the city whether or not the funds provided for such facilities are derived from the city treasury;
- (2) develop and coordinate planning and programming for all forms of mass transportation within the city of New York whether or not said transportation is within the sole operating jurisdiction of the city of New York; and
- (3) make recommendations to the mayor, the metropolitan transportation authority, the New York city transit authority, the port authority of New York and New Jersey and other city, state and federal authorities and agencies concerning the mass transit needs of the city of New York.

NYPIRG recommends that this section's reporting requirement be dramatically strengthened.

**Prioritize Buses on City Streets**

New York City's buses are the slowest of any major city's bus system in America, with bus speeds averaging less than seven miles per hour.<sup>14</sup> As a result, many bus riders have abandoned bus service altogether, opting for rideshare vehicles, taxis, or private vehicles as an alternative.

Any city dedicated to reducing congestion and its carbon footprint must ensure that its public transportation system, especially its bus network, provides reliable and fast service to its riders. By increasing the number of dedicated bus lanes and transit-only corridors on city streets, as well as allowing buses to optimize the use of traffic signals to bypass congestion, New York can improve bus service and increase ridership, thus reducing carbon emissions produced by driving private vehicles which are significantly less fuel efficient than by riding public transportation. For example, in the city of Seattle where many of the aforementioned bus prioritization treatments were implemented on city streets, the city saw a 10 percent decrease in private vehicles on the road, despite a population increase of 15 percent within the same time frame.<sup>15</sup>

Therefore, NYPIRG recommends that the Charter should require the Department of Transportation to grant priority to buses on city streets, which transport over two million riders per year across the five boroughs, by expanding its use of transit signal priority to all appropriate intersections and vastly increasing the number of dedicated bus lanes and transit-only corridors, beginning with bus routes with the highest ridership that are the most routinely delayed.

Thank you for the opportunity to testify.

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<sup>14</sup> TransitCenter, *Bus Turnaround 2018: Fast Bus, Fair City*, page 2, <http://busturnaround.nyc/wp-content/uploads/2018/07/BUSTurnaroundAction-Plan.pdf>

<sup>15</sup> Ho, Bruce, and Uchenna Bright. *Transportation Reimagined: A Roadmap for Clean and Modern Transportation in the Northeast and Mid-Atlantic Region*. Natural Resources Defense Council, 2018, pp. 14

**New York City Charter Revision Commission 2019**

**Thursday, September 27th, 2018**

**Testimony by the Human Services Council & Lawyers Alliance for New York**

On behalf of the Human Services Council of New York City (HSC) and Lawyers Alliance for New York, we want to thank the Commission for this opportunity to submit testimony regarding the revision of the City Charter.

HSC is a membership association representing New York's leading nonprofit human services organizations, including direct service providers and umbrella and advocacy groups. HSC strengthens New York's nonprofit human services sector, ensuring all New Yorkers, across diverse neighborhoods, cultures, and generations reach their full potential. Our members provide essential supports to a broad spectrum of New Yorkers, including children, the elderly, the homeless, people with disabilities, individuals who are incarcerated or otherwise involved in the justice system, immigrants, and individuals coping with substance abuse and other mental health and behavioral challenges. We serve our membership as a convener, a coordinating body, and an advocate. We are also an intermediary between the human services sector and government, fostering cross-sector collaboration. We help our members better serve their clients by addressing matters such as government procurement practices, disaster preparedness and recovery, government funding, and public policies that impact the sector.

Lawyers Alliance for New York is the leading provider of business and transactional legal services for nonprofit organizations that are improving the quality of life in New York City neighborhoods. Our network of pro bono lawyers from law firms and corporations and staff of experienced attorneys collaborate to deliver expert corporate, tax, real estate, employment, intellectual property, and other legal services to community organizations. By connecting lawyers, nonprofits, and communities, we help nonprofits to develop affordable housing, stimulate economic development, promote community arts, strengthen urban health, and operate and advocate for vital programs for children and young people, the elderly, and other low-income New Yorkers.

**The Human Services Sector**

The nonprofit human service sector plays an essential role in the daily lives of millions of New Yorkers. These vital community services, ranging from homeless services, senior care, to employment training, assist approximately 2.5 million New Yorkers annually. Nonprofits are government's partner in delivering services to New Yorkers from all walks of life, and the procurement process, substantially defined in the New York City Charter, is the prime mechanism for creating, funding, and awarding contracts to human services providers. The contracting system is complex, and a lack of collaboration and transparency in the development of request for proposals, coupled with this complex process creates an inadequately funded set of programs and extensive delays in contract registration and payment.

The New York City Comptroller's report, *Running Late: An Analysis of NYC Agency Contracts*, demonstrates that much more needs to be done - and quickly - to improve the timeliness of human services contract registration.

The reports shows that human services contracts are significantly delayed, with some agencies having 100% of contracts registered late, and an average 90.8 percent late across agencies. These numbers are worse than in previous years, and providers on the ground have also expressed that more of their contracts are registered late. When contracts are registered late, there is a real impact on the provider. First, providers cannot wait to begin service, like other contractors. A construction project could potentially be delayed until documents are in order, but a summer youth program has to start in the summer, and parents rely on a particular start date. For contract renewals, which are also delayed, providers cannot close a program while waiting for renewal documents; closing a domestic violence shelter for 2-3 months each year would be extremely problematic. This means providers take enormous fiscal and legal risks by signing leases, hiring staff, and starting programs without a contract, or continuing to operate services on the verbal agreement that things will get sorted out. Retroactivity also creates cash flow issues for providers, who have to put off paying vendors, take out lines of credit, or utilize the loan fund, because providers cannot get paid until the contract is registered.

The City and its residents ultimately bear the brunt of these problems, when highly qualified providers cannot afford to take on City contracts, or when those providers must close programs or go out of business altogether because of the financial strains imposed by the City's late payments. The result is that communities lose access to cherished neighborhood institutions and essential services, and the City is unable to carry out its human services programs.

### **The Charter**

The Charter establishes the basic structure of the City's procurement process, including the methods that agencies can use to make procurements. Under the Charter, the Procurement Policy Board is responsible for promulgating rules to effectuate the Charter's procurement requirements, and for periodically reviewing those rules to ensure that they are achieving their intended purpose. The Charter gives the City Council an oversight role, too. It also requires essential procurement documents to be publicly available, so that the public can conduct oversight as well.

The Charter Revision process presents an opportunity to tackle some of the issues human services providers face in late contract registration, as well as with procurement overall. Below we have presented a set of recommendations to amend the City Charter.

### **Recommendation 1: Transparency**

It has been clear for years that the vast majority of City contracts with nonprofit human services providers are registered months or even years after the nonprofits have begun providing services. Solving this problem requires public access to information about which City agencies the longest delays have in their contracts, and which types of contracts are delayed the most. Chapter 1, section 12(b)(5) of the City Charter should be amended to require the Mayor to include in the Mayor's Management Report a statement of the number and percentage of client services contracts that are

registered before the contract's start date, one day to three months after the start date, three months and one day to six months after the start date, six months and one day to nine months after the start date, nine months and one day to one year after the start date, and more than a year after the start date.

In addition, the Charter should provide for the PPB and City Council to review this information and seek remedies. Thus, chapter 2, section 30 of the Charter should be amended to add timeliness of client services contract registration to the city procurement policies and procedures that the City Council will periodically review. Similarly, chapter 13, section 311(c) and 311(g) of the Charter should be amended to require the Procurement Policy Board take such registration delays into account in its annual review of compliance with its own rules, policies and procedures, and in its recommendations to the mayor and council regarding the organization, personnel structure and management of the agency procurement function.

### **Recommendation 2: Capital Appropriations**

Nonprofits apply for and receive capital appropriations for important infrastructure needs so that they can safely serve communities, as well as for technology and equipment that are essential to running effective programs. The appropriations themselves are made by the borough presidents and by the City Council in the form of discretionary funding. See NYC DDC, Not-for-Profit Application Process, <https://www1.nyc.gov/site/ddc/contracts/application-process.page>. However, capital appropriations can languish for many years before the City is ready to release the funding. See Center for an Urban Future, *Slow Build: Creating a More Cost-Effective Capital Construction Process for Cultural Organizations and Libraries in New York City*, pp. 30-31 (2017) (noting that the process takes between 11 and 36 months), [https://nycfuture.org/pdf/CUF\\_Slow\\_Build.pdf](https://nycfuture.org/pdf/CUF_Slow_Build.pdf).

We recommend the following changes to the Charter to speed up the process.

First, City agencies should process capital appropriations at least as quickly as they process program appropriations. Second, each borough president and the City Council should be told about delays in the processing of the capital funds they have appropriated. This can be effected by amending Charter section 214, which already requires the Mayor to include in the executive capital budget a list of all pending capital projects, as follows: "a. The executive capital budget shall set forth separately each capital project, including the capital projects proposed by the borough presidents in accordance with section two hundred eleven, and shall include: ... (2) A listing of all pending projects, and a description of the status of each one; ..."

### **Recommendation 3: Comptroller Registration**

The Comptroller has 30 days to register a contract once the office has received the contract package, but if the package is rejected by the Comptroller, the time clock restarts, meaning that if a package is rejected on day 29, once it is re-submitted to the Comptroller, there is another 30 day period for registration. This can increase delays and we suggest that the time should pause, not restart, with language in Section 328 that reads "All contract packages submitted to the Comptroller shall be deemed complete by the Mayor's Office of Contracts. The Comptroller shall have a total of thirty days from the



submission by the Mayor's Office of Contracts to review each contract and register such contract or the contract shall be deemed registered."

We recognize that the Comptroller is the only Office to have a time limit in the City Charter as it relates to contract registration. Other components in the procurement process should also be subject to time requirements, but we believe those should be laid out by the Procurement Policy Board, as they vary by agency and action.

#### **Recommendation 4: Sample Budget**

Chapter 13 of the Charter instructs the City on the procurement process, When the City releases requests for proposals for human services programs, there should be a sample budget included that lays out the cost expectations of the contract, using a similar methodology. While human services contracts are typically competitive bid contracts, the rates and program design are predominately prescriptive in nature, and the rates often do not reflect the real costs of running programs and meeting deliverables. The City should include a rationalization, through a sample budget, for the rates set forth in the RFP. Chapter 13 of the Charter should include language that "Prior to issuing an invitation for bids, requests for proposals, or other solicitations that set forth proposed rates, the agency shall undertake an analysis of the costs associated with performing the service, including employee costs, and include the analysis as a sample budget in the bid or request for proposal documents."

#### **Recommendation 5: Survey of Current Vendors**

New York City outsources the bulk of human services programs to nonprofit vendors, and many of these providers compete for contracts for programs in which they have previously held contracts at the City level, as well as from other levels of government and private funders. When the City develops a request for proposal for a set of contracts that are expiring, or developing a new RFP that is substantially similar to existing contracts, the City should survey current vendors to receive information on rates, deliverables, and outcome measurement. Current contractors hold vital information on the real costs of running programs, what works and what does not in the current program design, and what deliverables are being met and move towards the outcomes the City seeks when designing a program. The City charter should include in Section 312 language requiring City agencies to survey current vendors, or vendors who hold substantially similar contracts, when creating a bid or request for proposal. "Prior to issuing an invitation for bids, requests for proposals, or other solicitations, the agency shall undertake a survey of vendors who currently hold a contract for the service being bid, or those who hold substantially similar contracts, to assess the current rate structure and costs associated with the service, and the measurement of deliverables prescribed to the contract."

#### **Recommendation 6: Interest on Late Payments**

Gaps between contract start date and contract payment force nonprofits to take on costly loans and lines of credit, resulting in significant interest payments that are currently not reimbursed. At the New York State level, interest payments are required on all late payments. While the ultimate goal is that no contracts should ever start before payments are made, nonprofits should not bear the cost of any late

payments. Therefore, we recommend that Section 332 (payment procedure) include a requirement that the City is responsible for interest on late payments.

### **Recommendation 7: Procurement Policy Board**

The Procurement Policy Board (PPB) is a critical regulatory body for contracting, and ensuring that regulations are relevant and effective. Yet there is no guidance on how often the PPB must meet, or any mechanism for transparency of PPB decision making. Therefore, we recommend amending Section 311 to include a requirement that the PPB meet four times per year and hold public hearings.

Charter section 311, sets out principles for the PPB and should be amended to include language requiring that procurements reimburse providers for reasonable costs by adding language to Section 311.d “(iv) rules requiring all agencies to reimburse nonprofit client services providers for at least the reasonable cost of providing the contracted services.”

### **Conclusion**

Providers play the essential role in the City’s complex human services delivery system, and they face many challenges in the contracting process. They operate in the context of a broken contracting system. Only if we address the underlying causes of contractor instability—problems at the government level—will we be able to ensure a robust nonprofit community that can continue to deliver quality services to our community. The Charter Revision Commission is an important opportunity for the City to correct issues with procurement, and to standardize good practices undertaken by some agencies. Thank you for your work and for providing us with this opportunity to share our recommendations with you.

**Alida Camp**  
**Chair**

**Will Brightbill**  
**District Manager**



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**The City of New York**  
**Community Board 8 Manhattan**

**FOR THE RECORD**

**Testimony of Community Board 8 Manhattan Chair Alida Camp**  
**Before the New York City Council Charter Review Commission**  
**September 27, 2018**

Good evening Commissioners. Thank you for hearing my testimony. My name is Alida Camp. I am the Chair of Community Board 8 Manhattan (CB8M). The Board has not had the opportunity to determine fully which Charter provisions this Commission should examine.

I understand that there will be additional opportunities to testify. I would like to address only land use and landmarks.

CB8M supports additional financial and other resources to enable Community Boards to do their job properly. We support an urban planner for each community board. However, we urge this Commission to propose that such resources be provided by the Borough Presidents' offices.

CB8 recommends a stronger, more robust community-based land-use planning process. We would like to see greater emphasis on community assessment of social and environmental factors in considering land use plans. Land use affects our communities. We deserve, and accordingly, recommend that Community Boards have a greater role in the planning process, including policy-making, to be sure that all community concerns are heard and considered.

New York is a large and diverse city. The great diversity of age, religion, culture, race, ethnicity, and income are what create the vitality that attracts businesses, visitors, and residents. We are well situated to assess impact of land use decisions on the diversity and quality-of-life in our communities.

REBNY testified before the 2018 Charter Review Commission. We anticipate that it will testify to the same, or closely-related points, before this one. We emphatically oppose stronger as-of-right development, including allowing the CPC final determination on administrative land-use permits.

We are gravely concerned about the extent of development in our community and across New York. We further reject any attempt to displace the City Council in land use decisions. These decisions are at the heart of New York. Many, if not all, issues and problems facing New York, such as affordable housing, displacement of long-term residents because of ill-considered gentrification, sufficient educational resources, overburdened infrastructure, lack of green space, particularly in CB8, loss of small business, and environmental deterioration, for example, flow from the overdevelopment we are seeing.

We further believe that the entire ULURP process should be transparent. Transparency would include an evaluation of whether self-certification benefits New York.

Individually, I ask for comprehensive community plans before further building permits are issued. I want to know the impact of these buildings on my community as well as around New York, where we are seeing out-of-context construction.

CB8 wants to know that there are provisions to provide for affordable housing for those New Yorkers that cannot afford market rate housing. New York should be a city for everyone, at all economic levels. We ask that sufficient resources be provided for affordable housing and that the need for and commitment to affordable housing be a part of the Charter.

CB8 urges the Commission to include a revision to provide for notification to Community Boards as soon as any land-use applications, including as-of-right and commencement of the ULURP process, are filed. We further recommend that applications indicate in which Community Board the project is filed, enabling prompt notification to the Boards.

CB8 supports the expansion of ULURP to land owned by NYCHA and enforcement of deed restrictions on land held for the public benefit.

The Landmarks Preservation Commission has the critical task of preserving New York's valuable history and architecture. We strongly urge the Commission to support and enhance the LPC's role, and that of Community Boards in landmarks designation and application reviews, and to recognize the importance of preservation in the dynamic fabric of New York.

Finally, CB8 urges this Charter Review Commission to continue to allow for a robust, significant role for Community Boards, as the voice of New York's diverse local communities, in the land use and landmarks processes.

Thank you for your time.

Alida Camp  
Chair

cc: Honorable Bill de Blasio, Mayor of the City of New York  
Honorable Carolyn Maloney, 14<sup>th</sup> Congressional District Representative  
Honorable Gale Brewer, Manhattan Borough President  
Honorable Liz Krueger, NYS Senator, 26<sup>th</sup> Senatorial District  
Honorable Dan Quart, NYS Assembly Member, 73<sup>rd</sup> Assembly District  
Honorable Rebecca Seawright, NYS Assembly Member 76<sup>th</sup> Assembly District  
Honorable Ben Kallos, NYC Council Member, 5<sup>th</sup> Council District  
Honorable Keith Powers, NYC Council Member, 4<sup>th</sup> Council District



Good Evening. My name is Lee Compton. I am testifying on behalf of Community Board 4, where I am a member and former chair.

We have two objectives this evening.

First, we seek to encourage you to make this process better than that of the recent commission. Revising the city charter is a momentous step, one that must be well-considered, unhurried and open to public input and review. CB4 will be submitting written comments, but we urge you to repeat this series of public borough hearings once your preliminary recommendations are ready for review and comment.

Second, we seek to guide you in making the city's community boards more effective. Specifically, we believe that proposals for term limits on community board membership are detrimental to their communities, especially in the area of land use.

Our district has been developing at a ferocious pace, including two of the city's largest rezonings, the creation of the Hudson Yards and the West Chelsea special districts.

We believe our current effectiveness in land use is largely explained by three factors:

- Expertise developed over time, through countless meetings with developers, their lawyers, non-profit groups and city agency personnel.
- Dedicated members willing to work long and hard to develop that expertise by learning zoning, financing and the ways of City Planning, Standards and Appeals, Buildings and Housing Preservation and Development.
- Our institutional memory. Those two special districts were created in 2005. Yet we still have members with first-hand knowledge of the discussions held and of the promises made to the community by developers and the city...and we find we do need to remind them.

As with other community boards, CB4 has a natural turnover. But we also have a core group of experienced members – currently including four former chairs – who maintain our institutional memory, teach new members and help them become effective advocates for their communities. This group is an invaluable resource for our community.

In conclusion, we share your commitment to make the current charter revision process open and thoughtful, and to strengthen community boards and make them more effective.

Thank you.

September 27, 2018

**STATEMENT OF THE NEW YORK LANDMARKS CONSERVANCY BEFORE THE NEW YORK CITY  
CHARTER REVISION COMMISSION 2019**

Good evening Chair Benjamin and Commission members. I am Andrea Goldwyn, speaking on behalf of the New York Landmarks Conservancy. The Conservancy is a 45-year old organization dedicated to preserving, revitalizing, and reusing New York's architectural resources. Through financial and technical assistance, advocacy, and education, the Conservancy ensures that historically and culturally significant buildings, streetscapes, and neighborhoods continue to contribute to the City's economy, tourism, and quality of life. The land use issues under this Commission's review are central to our work in preservation and planning.

Planning Issues

Over the past several years, neighborhoods across the City have erupted with alarm over out-of-scale buildings and City policies that enable them. These structures hover over the edges of landmarks, historic districts, and contextual districts, threatening their character and their hard-won protections. We have heard from constituents who say that their voices are not being heard when it comes to new development in their communities, and that the Department of City Planning zones, but doesn't plan.

Overall, we urge this Commission to consider a more comprehensive approach to planning. We should have a planning agency that considers all of a community's needs, its existing resources, and its capacity, and then makes decisions based on those factors, instead of the current system, which relies on uncertain outcomes and negotiations with developers.

For now, there is not one problem, but multitudes of loopholes and workarounds that need to be fixed. There is zoning that fails to count unlimited mechanicals against FAR. There are gerrymandered and sculpted zoning lots, and buildings on stilts. There are floor-to-floor heights that let a building with 57 stories rise to some 1,400 feet. There are open floors so high that the Fire Department will have to develop new ways of evacuating anyone stuck in an elevator in an emergency.

There are aggressive interpretations by City agencies. Parks can now generate floor area. Towers and bases under tower-on-base regulations don't have to be linked. DOB applications for alterations result in demolitions. There are rezonings that are not based on well-considered plans. There are Community Boards and DOB reviewers who are constantly outgunned by very smart and sophisticated readings of the Zoning Resolution.

We are asking this Commission to consider:

- Setting a trigger for public review when a building's proposed height reaches a certain limit, proportionate to a neighborhood or Community District.
- Notification of zoning lot mergers to Community Boards, Borough Presidents, and Councilmembers
- Setting a limit on the height and location of voids and mechanical spaces and/or counting them against a building's FAR calculation.
- Setting a standard floor height and counting taller floor heights (in proportion) against total FAR.
- Requiring consistent DOB enforcement of FAR interpretations.
- Improving ULURP by establishing a consistent and transparent pre-planning process for Community Boards to review applications in their early stages.
- Providing Community Boards funding so they can engage professionals to respond to complicated land use proposals.
- Improving Community Board training on land use issues.

For too many people, the City's planning system and its 1961-era Zoning Resolution are broken. We urge you to fix them.

#### Preservation Issues

New York's Landmarks Preservation Commission is one of the strongest and most effective preservation agencies in the country. Its protection of historic resources was integral in reinvigorating the City's economy after the dark days of the financial crises in the 1970s and 80s. In the recent boom years, it has set a balance, working to maintain the dynamic mix of old and new that makes New York unique.

The Conservancy's own study on the economic impacts of designation found tremendous benefits. More than \$800 million is invested annually in New York's historic buildings, creating 9,000 jobs and providing paychecks of over \$500 million each year. Heritage tourism is a major component of the City's visitor industry, which provides jobs for 130,000 New Yorkers. Historic districts are the densest residential neighborhoods in every borough, usually having a density of two to three times that of the borough overall. And both historic office and apartment buildings use significantly less energy per square foot than their more recently built competitors.

This success leads to the conclusion that the LPC should absolutely continue as an independent agency. The Landmarks Law charges it to safeguard the buildings and places that represent New York City's cultural, social, economic, political, and architectural history in order to:

- Stabilize and improve property values
- Foster civic pride
- Protect and enhance the City's attractions to tourists
- Strengthen the economy of the City
- Promote the use of historic districts, landmarks, interior landmarks, and scenic landmarks for the education, pleasure and welfare of the people of the City

These goals are just as relevant now as when the Law was written over 50 years ago.

We believe that the LPC would be even more successful with several improvements. The Commission should re-establish its authority over City-owned landmarks and scenic landmarks. Buildings such as the Erasmus Hall Academy, Olmsted House, and Seaview Hospital have all suffered substantial deterioration under the neglect of the agencies responsible for them. Stronger LPC enforcement of affirmative maintenance provisions would have kept these landmarks stable, reduced renovation and restoration costs, and set the stage for re-use options, instead of creating preventable crises.

Until recently, there was a group of buildings that was on the Commission's calendar, waiting for a hearing and a vote on landmark designation. The Department of Buildings agreed to notify LPC if DOB applications were submitted on those properties. While the number of buildings in this limbo has shrunk and it is unlikely that it will ever reach the same numbers, we would like to see that agreement codified, to protect historic resources, and prevent alteration or removal of character-defining elements, or demolition.

Finally, we would like to see several tweaks to the appointed Commission. First, compensation for the Commissioners, as is the case in most other agencies. Next, prompt reappointments. According to the Green Book, only one of the Commissioners is acting under a current appointment; all others have expired. In this case, we just ask that the City enforce its own rules, and have formal and timely reappointments. Lastly, we recommend a requirement for a Commissioner to have a background in preservation. When the Law was established, this was a new field, so the requirements to have a historian, architects, and a realtor, among others, were sensible. In the decades since, the field of preservation has been professionalized, with several academic degree programs that have produced thousands of alumni. The LPC's preservation staff is required to have a degree; it should be a prerequisite for at least one appointed Commissioner.

Thank you for the opportunity to express the Conservancy's views.



My name is Oksana Mironova and I am a Housing Policy Analyst at The Community Service Society (CSS), an independent nonprofit organization that addresses some of the most urgent problems facing low-income New Yorkers and their communities.

Thank you for this opportunity to comment on the New York City charter.

### **1. Public property disposition for public benefit**

Given the diminishing supply of public property and the great need for affordable housing, open space, and public facilities, the disposition of public property should serve pressing community needs. We recommend:

- Requiring the city to prioritize public benefit in the sale or lease of all public property, rather than selling or renting it “only for the highest marketable price or rental”.
- Defining a process for measuring public benefit that prioritizes the most pressing community needs.
- Developing a comprehensive process for public property disposition that is connected to a city-wide planning framework.

### **2. Affordability protection**

The charter devotes multiple pages to the process of land use review, but does not define the metrics or goals for measuring the impact of the land use actions. While explicit guidance and methodology should be left to the City Environmental Quality Review (CEQR) Technical Manual, major methodological gaps have repeatedly underestimated displacement pressures and socioeconomic impacts resulting from land use changes (see Pratt Center’s [\*Flawed Findings: How NYC’s Approach to Measuring Displacement Risk Fails Communities\*](#) and RPA’s [\*Inclusive City\*](#)). We recommend:

- Updating the environmental review language within the charter to be more prescriptive about the goals and methodology of the environmental review process.
- Requiring the mayor, in consultation with community and agency experts, to establish a criteria for measuring displacement risk, including the potential for direct, indirect, chain, and exclusionary displacement.<sup>1</sup>

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<sup>1</sup> Peter Marcuse, *Gentrification, Abandonment, and Displacement: Connections, Causes, and Policy Responses in New York City*, 28 Wash. U.J. Urb. & Contemp. L. 195 (1985)

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Oksana Mironova, Housing Policy Analyst, Community Service Society of New York  
September 27, 2018

- Requiring the city planning commission to conduct a city-wide analysis of displacement risk using said criteria. The criteria should be employed with explicit goal of meeting the city's fair housing goals (as established by *Where We Live NYC*) and ensuring a no net loss of affordable units.
- Employing the criteria in the environment review process for all future land use actions.
- Requiring the tracking and reporting of displacement and socioeconomic neighborhood change after land use actions are approved, to measure impact.
- Mandating a review of the City Environmental Quality Review Technical Manual by community and agency experts every five years.

### **3. Develop a framework for comprehensive community planning**

Multiple city agencies are currently in the midst of multiple planning efforts, including *Housing New York*, *NextGen NYCHA*, *Turning the Tide*, all long range efforts to address affordability and homelessness; *Where We Live NYC*, a fair housing effort; as well as *OneNYC*, an environmental sustainability plan. These plans intersect on the ground with other initiatives, including participatory budgeting, public health initiatives, transit and public space projects, all shaping public perception of, and experience with, the planning process. Without coordination, these approaches are at times at odds with each other and do not distribute benefits and burdens equitably across the city.

Without a comprehensive planning framework, neighborhood planning efforts have largely been coupled with rezonings. Since the neighborhoods targeted for rezonings are primarily low-income, residents and elected officials are often placed in an (unenviable) position of trading the potential for displacement for necessary improvements to public facilities.

The charter review presents an opportunity decouple neighborhood planning and the distribution of resources from zoning, a blunt tool which, within itself, is not effective at achieving equitable neighborhood-based outcomes. The city should use existing efforts, including citywide initiatives like *Where We Live NYC* and local 197a plans, to create a comprehensive citywide planning framework. The process for the development of this framework should:

- Meaningfully engage neighborhood-based organizations and the public at large, in addition to community boards and local elected officials;
- Acknowledge and mitigate displacement and affordability concerns;
- Develop local targets for housing and economic development, displacement protections, public facility citing, and sustainability benchmarks, among others,

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underpinned by a consideration of racial and economic inequities between neighborhoods.

- Include a process for aligning the city's long-term capital strategy with the resulting framework.
- Include a process for aligning future land use changes and agency plans with the resulting framework.

Thank you again for the opportunity to offer our recommendations. For more information or if you have any questions, please contact me at 212-614-5412 or [omironova@cssny.org](mailto:omironova@cssny.org).

**Testimony by New York Legal Assistance Group (NYLAG)**

**before the New York City Charter Revision Commission**

**September 27, 2018**

Thank you to the Chair and Commissioners of the NYC Charter Revision Commission for the opportunity to testify today. My name is Beth Goldman, and I am the President of the New York Legal Assistance Group (NYLAG). NYLAG is a leading provider of comprehensive, free civil legal services for low-income New Yorkers. With 290 employees and a budget of \$30 million, NYLAG assists 75,000 people in crisis each year.

I am here today to address delays in City contracts allocated to nonprofit organizations, and what the Charter Commission can do about it. I speak not only on NYLAG's behalf, but for an informal group of nonprofits, represented also by David Greenfield of the Met Council on Jewish Poverty, who testified at the Brooklyn hearing.

I want to start with one preliminary point. There is a reason we enter into contracts with New York City. These grants allow us to do a tremendous amount of life-altering work on behalf of the vulnerable, low-income populations we serve. Funding from NYC allows us to provide free legal services to immigrants facing deportation, tenants facing eviction, families in need of public benefits, seniors who require homecare, domestic violence survivors looking to escape their abusers, and more. The City supports and nurtures our work to an extraordinary extent.

We have contracts with multiple City agencies, and our working relationship with them is excellent. The same applies to the Mayor's Office of Contract Services (MOCS). The people we work with on our contracts in City government are professionals and, in my experience, are trying to help us navigate the system.



That does not mean that there is not a problem. According to a recent report from Comptroller Scott Stringer, 80% of FY17 contracts arrived at Comptroller's office for registration after the start date of the contract.<sup>1</sup> Many contracts are not even registered until the year in which the services were provided is over. Because nonprofits are not entitled to payment under a City contract until there is a registered contract, we provide services for months or even a year without any reimbursement of the costs associated with performing on the contract. This means that the City, with a budget of over \$88 billion, is forcing nonprofits with budgets a fraction of that to float the cash to perform the services—sometimes for a full year. This is ludicrous, but also has the potential to be incredibly harmful, even catastrophic, to nonprofits which operate on small margins, with limited resources, and limited access to cash to pay the bills.

With respect specifically to NYLAG,

- In FY17, of the 22 contracts with a start date of July 1, 2016, three were registered at the beginning of the contract period. The remaining 19 contracts were registered from May–August 2017.
- In FY18, of the 14 contracts with a July 1 start date, three were registered at the start of the contract period, and even now, in September of FY19, there are still unregistered contracts.
- For FY19, we have \$11 million in NYC contracts, all of which started on July 1, 2018. As of today, contracts valued at about \$325,000 are registered. We are almost through the first quarter of the fiscal year, and we have less than 3% of our contracts registered.

What do we do to cover the cash flow problems that these delays create? NYLAG is fortunate to have a line of credit at JPMorgan Chase, which not all non-profits do – and we borrow against that and pay interest on the amounts borrowed. We also have a reserve fund from which we can borrow a limited

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<sup>1</sup> "Running Late: An Analysis of NYC Agency Contracts." 29 May 2018.  
<https://comptroller.nyc.gov/reports/running-late-an-analysis-of-nyc-agency-contracts/>

amount. But NYLAG, like most nonprofits doing business with the City, does not have reserves sufficient to cover multiple months of operating costs, representing millions of dollars. And, I would add, the costs of borrowing and the opportunity costs of not being able to grow our reserves are NOT compensated by the City. Indeed, it may get to a point where we will not be able to take on additional City contracts because we will not be able to afford to – we will not be able to lay out the cash necessary to cover the costs of providing the services while awaiting reimbursement.

The problem as we see it is that no one entity in the City is responsible for ensuring that contracts are registered in a timely manner. After a contract is signed between a vendor and the contracting agency, we understand that five other City agencies play a role in review before it is submitted for registration at the Comptroller's Office. Those agencies include the Mayor's Office of Contract Services, Corporation Counsel, the Department of Investigation, the Office of Management and Budget, and the Division of Labor Services at the Department of Small Business Services. With multiple agencies required to sign off and no time limits, it takes months and even years. Moreover, we have absolutely no ability to track the contracts. The process is so opaque that we cannot determine the status of any particular contract we are waiting for, which agency is currently reviewing it, or how soon we can expect registration. This uncertainty leads to enormous budgetary uncertainties and cash flow issues. In fact, in my experience, our agency partners also do not know the status of any given contract once it leaves their agency.

For this reason, we believe that Charter revision is the only way to solve this problem and impose upon the City some obligations with respect to contracts with nonprofits. I would note that the charter already includes a provision giving the Comptroller a 30-day limit to register contracts, and according to the recent report commissioned by the Comptroller, 95% of contracts are registered within that timeframe.

Given that time limits work, we recommend that the Commission consider an amendment to the Charter to (1) require that all City contracts be sent to the Comptroller within 60 days of the contract start date; and if the City does not meet that 60-day deadline, interest will be paid to contractors at twice prime;

(2) require transparency in the status of contracts through a publicly accessible database; and (3) require annual reporting by agencies on registration delays.

A more transparent and streamlined contracting process that would allow nonprofits to invoice on costs more quickly each year is critical to keeping organizations healthy and functional and ensure that the vital services the City entrusts to its non-profit partners can continue to be performed.

Respectfully submitted,

Beth Goldman

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FOR THE RECORD

**Testimony by The Legal Aid Society**  
**Before a Hearing of the New York City Council Charter Commission**  
**September 27, 2018**

**Introduction**

The Legal Aid Society (the Society) is the nation's oldest and largest not-for-profit legal services organization advocating for low-income individuals and families across a variety of civil, criminal and juvenile rights matters, while also fighting for legal reform. The Society has performed this role in City, State and federal courts since 1876. With a staff of more than 2,000 lawyers, social workers, investigators, paralegals and support and administrative staff; and through a network of borough, neighborhood, and courthouse offices in 26 locations in New York City, the Society provides comprehensive legal services in all five boroughs of New York City for clients who cannot afford to pay for private counsel. The Legal Aid Society's unique value is an ability to go beyond any one case to create more equitable outcomes for individuals and broader, more powerful systemic change for society as a whole. In addition to the annual caseload of 300,000 individual cases and legal matters, the Society's law reform representation for clients benefits more than 1.7 million low-income families and individuals in New York City and the landmark rulings in many of these cases have a State-wide and national impact. The Society represents

**New York City Fair Share Rules**

In 1989 the New York City Charter Revision Commission introduced the City's Fair Share rules, which incorporate fairness considerations into the process for siting municipal facilities, including homeless shelters, through land use actions, leases, or contracts. The intent of this policy was to ensure that each neighborhood was contributing to and benefitting from municipal projects and services equitably. Yet, a 2017 report by the New York City Council found that the current fair share rules have failed to ensure a more equitable distribution of undesirable City services. As a result, many advocates and lawmakers have suggested strengthening the City's Fair Share policy to allow it to function as intended.

If the Commission decides to pursue this type of reform, the amended policy should exclude shelters, supportive housing, and other facilities that serve people with disabilities. In the absence of these exclusions, more restrictive land use rules would jeopardize the City's ability to open shelters during a period of record homelessness; foster illegal discrimination against people with disabilities; jeopardize federal funding; and limit the ability of homeless New Yorkers to enter shelters within their own communities.

**Homelessness Crisis in New York City**

New York City is in the midst of the worst homelessness crisis since the Great Depression. Currently, more than 60,000 people (over 22,000 of whom are children) sleep in City shelters each night. The number of homeless people in shelter today is 82 percent higher than it was a decade ago.



The New York City shelter system has barely kept pace with the needs of the expanding homeless population. In 2017, the City settled a lawsuit with The Legal Aid Society, *Butler v. City of New York*, that requires the City to accommodate disabled homeless New Yorkers by making shelters accessible to them. That same year, Mayor de Blasio announced a plan to open 90 new shelters over 5 years while phasing out cluster site shelter units by 2021 and commercial hotel shelter units by 2023, further intensifying the need for increased capacity in dedicated shelters that are accessible. Including shelters in a more restrictive Fair Share law would make it even more difficult to serve these clients. By effectively ruling out certain neighborhoods deemed “highly concentrated” with shelters, without making it easier to obtain permits or capital to build shelters in more expensive areas, Fair Share policies could severely limit the City’s ability to increase shelter capacity commensurate with need in ways that are not lawful.

#### **Violations of the Fair Housing Act and Americans with Disabilities Act**

Including shelters in a more restrictive Fair Share policy prioritizes the rights of those community members who may oppose the establishment of a shelter in their neighborhood, while disregarding the rights of the homeless New Yorkers from that same community who would reside in that shelter. Fair Share rules protect the rights of stably housed communities to share equally in City services while ensuring that they shoulder a proportional share of municipal burdens; yet, applying such rules to shelters would erode the right of homeless New Yorkers, the majority of whom have some form of disability, to equal access to housing. If expanded Fair Share rules were to include shelters, they would become a mechanism to allow communities to discriminate against those who are homeless and disabled, violating both the Federal Fair Housing Act and Americans with Disabilities Act. In many other jurisdictions where similar restrictions on shelter placement have been proposed, courts have found such rules to be illegal. In the event that the U.S. Department of Justice were to find that such violations occurred in New York City, it could impose financial penalties on the City for unlawful discrimination.

#### **Distribution of Shelters throughout the City**

At the Society, we frequently work with homeless clients entering or residing in shelter. While the goal of distributing shelters to a wider range of locations in the City is appealing, in reality many families and individuals would be better served by remaining within their communities of origin after losing housing. Proximity to existing social supports can help them maintain jobs; school and church attendance; and preserve existing support systems through family and friends. Many of our clients benefit from strong social networks within their communities, which can serve as critical resources to help them get back on their feet and transition more quickly from municipal shelter to stable housing.

Currently, less than half of homeless families are placed near the school of their youngest child, compared with 95 percent in 2005. Shelter placements that displace homeless individuals and families from their communities of origin can undercut efforts toward stabilization, and make it more difficult for them to successfully return to permanent housing. Including shelters in more restrictive Fair Share policies would deny the City the flexibility to assess where shelter capacity is most needed, and to respond to the needs of homeless families across the City.



#### **Recommendation**

If the Commission adopts revisions to the City's Fair Share rules, it should exclude shelters, supportive housing, and other facilities serving people with disabilities, in order to support the creation of sufficient shelter facilities to house all homeless New Yorkers; prevent illegal discrimination against homeless and disabled individuals; and allow the City to develop shelters in areas that will support the ability of each resident to reenter stable housing as quickly as possible.

#### **Respectfully Submitted:**

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Testimony by The Legal Aid Society

Before a Hearing of the New York City Council Charter Commission

September 26, 2018

**Introduction**

The Legal Aid Society (the Society) is the nation's oldest and largest not-for-profit legal services organization advocating for low-income individuals and families across a variety of civil, criminal and juvenile rights matters, while also fighting for legal reform. The Society has performed this role in City, State and federal courts since 1876. With a staff of more than 2,000 lawyers, social workers, investigators, paralegals and support and administrative staff; and through a network of borough, neighborhood, and courthouse offices in 26 locations in New York City, the Society provides comprehensive legal services in all five boroughs of New York City for clients who cannot afford to pay for private counsel. The Society's unique value is an ability to go beyond any one case to create more equitable outcomes for individuals and broader, more powerful systemic change for society as a whole. In addition to the annual caseload of 300,000 individual cases and legal matters, the Society's law reform representation for clients benefits more than 1.7 million low-income families and individuals in New York City and the landmark rulings in many of these cases have a State-wide and national impact. The Society is counsel on hundreds of cases concerning the rights of tenants in regulated and unregulated apartments across the city. As such, we are intimately familiar with the pressure experienced by tenants in the current and developing housing market.

The New York City Charter has enshrined in it the procedure Community Boards, the Borough Presidents, and the City Council must employ when considering land use decisions – the Uniform Land Use Review Procedure (ULURP). ULURP, however, does not contain substantive requirements which, to the extent they exist, are imposed by other laws. Chief among those laws are the State and City Environmental Quality Review laws. The requirements of those laws are vague and they omit critical considerations that should inform our elected representatives' land-use decision-making in a democracy. The ULURP review process should require an evaluation of primary and secondary displacement from regulated and unregulated units. It should require an analysis of demographic shifts, based on income and ethnicity. Finally, the City should track this data from prior rezonings so that our predictions are data-driven as opposed to conclusory.

Upzonings bring with them a serious threat that long-term community residents will be displaced. Recent history has established that rezoning results in the accelerated gentrification of communities, and the displacement of long-time tenants in both regulated and unregulated apartments. Despite this reality, the assessment of residential displacement conducted under





existing law is based on false assumptions and flawed analysis. The failure to look at the risk of displacement while considering tenants in rent regulated apartments, as well as an honest review of a housing market unaffected by the inclusion of affordable housing, requires that the City Council amend the charter.

### **Background on the Flawed Analysis Utilized in Environmental Impact Statements**

All land use decisions in the City of New York are required to be evaluated for their potential environmental impacts pursuant to state and city law. Environmental impacts include impacts on socioeconomic conditions such as direct and indirect residential displacement. The methodology used to determine displacement is set forth in the City's Environmental Quality Review Technical Manual (CEQR Technical Manual).

The initial determination that is required of a lead agency when undertaking an environmental review is whether the proposed action will have a "significant effect on the environment." If so, the applicant or agency will be required to prepare and submit an Environmental Impact Statement (EIS), the goal of which is to determine environmental impacts, consider alternatives, and propose mitigation. A full EIS is required by law only if the proposed action is likely to have a significant impact on the environment, but the law contains no standards for determining whether that threshold has been met.

The CEQR Technical Manual lays out a method for evaluating the potential for both direct and indirect residential displacement. The objective of the displacement analysis is to determine whether the proposed project may either introduce a trend, or accelerate a trend of changing socioeconomic conditions that may potentially displace a vulnerable population. In each case, a preliminary assessment is done to determine whether a detailed analysis will be required. A detailed analysis of the environmental effects of direct displacement will be required only if the project has the potential to displace 500 residents, those residents represent at least 5% of the study area population, and the residents to be displaced have incomes that are markedly less than the average incomes of the study area population. For indirect displacement, a detailed analysis is required only if these the factors are present: 1) the income of the new population will be higher than that of the existing population; 2) the population increase will be more than 5% of the study area; and 3) the area is not already experiencing a trend towards increasing rents.

The CEQR Technical Manual assumes that rent stabilized apartments are not vulnerable to demolition (and therefore direct displacement) and are immune from rising rents that would lead to indirect displacement. Those assumptions are wrong. And, this inadequate assessment is essentially impervious to legal challenge. Courts give great deference to agency determinations, and have held that the CEQR Technical Manual outlines the requisite "hard look" an agency must take. As a result, the explicit exclusion of any meaningful mandate to consider



displacement of tenants in rent regulated apartments (including those with preferential rents) or tenants displaced through the illegal actions of their landlord, renders the EIS void of any analysis of the real impacts on a community and unchallengeable.

#### **Background on Rent Regulated Housing in New York City**

The stock of affordable rent regulated housing is on the decline and homelessness is on the rise in New York City. According to the New York City Rent Guidelines Board (RGB), in 2016 alone, 7,524 apartments were deregulated across the City. Rezoning results in the indirect displacement of tenants, both in regulated and unregulated apartments, by introducing and/or accelerating the pace of socioeconomic change in the neighborhood.

The exclusion of an analysis of the potential direct or indirect displacement of tenants in rent regulated apartments is an error with detrimental ramifications. Rent regulation does not protect a tenant from displacement. Rising rents due to vacancy bonuses, the rescission of preferential rents, the resulting high rent vacancy deregulation of rent stabilized units, and the proliferation of tenant harassment subjects tenants to the same market influences as those in unregulated apartments.

The Rent Stabilization Code contains gaping loopholes that result in major rent increases and displacement in stabilized apartments. Landlords are able to raise rents, and deregulate apartments based on vacancy increases, individual apartment improvements, and the expiration of tax incentive programs such as 421-a and J-51. Most egregious is the vacancy increase, which is the primary cause of deregulation of apartments. In 2016, 4,690 apartments were deregulated due to high-rent vacancy deregulation. Every time a rent regulated apartment becomes vacant, the landlord can increase the rent by up to 20%. Compounded over time, it allows an apartment to rapidly approach high-rent vacancy deregulation. The vacancy increase, combined with a low-vacancy housing market, incentivizes high turnover of tenants in order to reap the benefit of as many vacancy rent increases as possible.

#### **Recommendation**

The City Charter should be amended to require an assessment that includes displacement of rent regulated tenants, and the reality of gentrification.



**Respectfully Submitted:**

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