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New York City Department of City Planning
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Prepared Remarks, City Planning Commission, City of New York, Public Hearing on the City of Yes Proposal Regarding the Modification of the Zoning Rules and Regulations Pertaining to Public Dance

Jerry S. Goldman, Esquire, Chair of the Board, Dance Parade New York

Chair and Commissioners of the Planning Commission of the City of New York.

Thank you for the opportunity to speak with you today.

Dance Parade New York

I am Jerry S. Goldman, Chair of the Board of Dance Parade New York, a local non-profit which produces, in the May of each year, the largest public dance event in the City of New York – the New York Dance Parade and Festival. The Parade features over 10,000 dancers, from over 150 dance groups representing over 100 styles of dance, ranging from Bronx born hip hop to Central Brooklyn House; from classical ballet from Harlem to central European folk dancing from Queens; Dominican bachata from Washington Heights to Chinese dance from Flushing; Thai dancers from the Lower East side to South Asian dancers from Richmond Hill; Disco and belly dancing from Brooklyn.

The participants range from young children to senior citizens; they are gay and straight, and tall and short; they are white, brown, black and a rainbow of other colors. They are live in NYC and they live far away. They are life long New Yorkers, new arrivals, and visitors from Ohio sitting in our grandstand watching their children perform.

They march (and dance) along a parade route in Manhattan running south along Sixth Avenue, then east along Eighth Street/St. Marks Place, until the finish at Tompkins Square Park.

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The dancers stop to perform for the crowds from from place to place, including at the reviewing stand at Astor Place, where I have the honor of emceeing (and of course dancing).

At the end of the parade, we host a public dance festival at Tompkins Square Park (“Dance Fest”) with 5 stages, attended by tens of thousands of residents of City of New York, and surrounding areas.

We have been advised that over 130,000 people attend the parade and the Dance Fest each year.

Of equal importance, throughout the year, we organize and produce community dance education programs throughout this great City, primarily in economically disadvantaged areas, focusing primarily on children and our senior citizens.

While I cherish my role at the Dance Parade- as a dance participant, a segment producer, MC, board member and now chair, these remarks, however, are my own, and are separate and apart from my role in that organization, or as a partner in a law firm based in New York.

In 2017, I testified before the NYC Council, in support of the repeal of the cabaret laws. Excerpts of that testimony were included in an advocacy piece which I suggest that you watch, and which I incorporate herein. <https://www.youtube.com/watch?v=xWuyAq4IoqA&t=10s>

History of the Dance Parade

The Dance Parade had its origins in the fight against unjust, unfair and unconstitutional laws regulating dance, which arose in the 1920’s. Those laws, with a racist heritage, originally sought to eliminate jazz and inter-racial dancing. Since their inception, these laws have targeted groups improperly based upon racial, national origin, sexual orientation, lifestyle, and cultural differences.

After unsuccessful litigation and public protests in 2006, the Dance Parade New York was formed to increase public awareness about the role of dance in our society. We held our first parade in 2007.

We are funded by from grants from this fine City and great State, various foundations, a host of private individuals, along with a limited number of corporate sponsors and donors.

Neither the Dance Parade nor I have any economic interest in the outcome of the proposed legislation.

Dance as part of the human condition

Those who dance in the Parade, those who attend the Parade or the Dance Fest, as well as those who participate in our community programs- have one thing in common- the same thing in

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common which each and every Commissioner on this panel and each and every person in this room.

They are human.

They may be white or black or brown or what have you; they may be young or old; rich or poor; educated or less educated; born here or born there.

But like every human- and because they are human- they dance. It's in the DNA of our species.

We live in a world of rhythms; we move in a universe of rhythms. It is part of our being. We move to the beat. We dance every day, in one form or another, throughout our lives, from when we learn how to stand. It is instinctual. And when we hear music, we want to move- we want to dance.

And in NYC, this is the City of Dance- it is a part of this city's DNA.

And by that simple act, we are participating in the violation of the law, and the venue where we are at is subject to punishment.

That's unconstitutional.

Restrictions on Dance

Way back in the early years of the 20th century, the human ability to dance was substantially restricted by way operation of law.

Those laws were used, from time to time, by this City –THE City of Dance – to prohibit people from doing what comes natural – dance – based upon their race; their national origin; their sexual orientation; their politics and cultural style; what they wore; how they looked.

The restrictions on dance, I suggest, are a plain and simple violation of the constitutional protections of speech and expression.

Starting in around 2016, I, and my law firm, Anderson Kill PC, assisted, on a pro bono basis, a young attorney and bar owner in his challenge to the Cabaret Law as violative of both the 1st and 14th amendment. I represented a diverse group of DJ's of various styles of music suitable to social dancing who felt that the law violated their constitutional rights. The United States District Court for the Eastern District of New York ruled that the plaintiff presented a colorable constitutional challenge to the law, denied the City's motion to dismiss and directed that merits discovery proceed. After a sustained public outcry, followed by public hearings, the City Council and then Mayor DeBlasio did the right thing- they repealed the restrictions contained within the Cabaret Law in 2017.

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But significant zoning restrictions remained on the books.

Those restrictions are violative of all of our first amendment rights to expression – as dance really is expression. It's a form of speech- of communication- no different than writing a poem, or even crafting this submission.

It is also a violation of our first amendment right of assembly.

That prohibition, as set forth in the zoning regulations, violates the constitution of this great state and this great nation.

Not only is it unconstitutional but it has been unfairly applied and applied in an unconstitutional and unjust manner.

Moreover, in this day and age, it simply makes no sense, and has other adverse consequences.

For example, it can have adverse consequences to businesses, mainly small local businesses.

Their very existence can chill a person's desire to open up a venue, inhibit a venue from fully operating as it should, or cause a venue owner to operate in violation of the law.

These zoning restrictions can potentially impact their certificates of occupancy; their insurance coverage; their liquor licensing; their rental agreements; their ability to obtain financing; as well as expose them to penalties and punitive enforcement.

Simply put, otherwise law-abiding folks were and are placed into legal jeopardy for sponsoring or even permitting dance.

Even if unenforced, otherwise law-abiding citizens end up violating the law.

And inequitable, arbitrary, and discriminatory enforcement of the law, leads to public distrust of our fair government and breeds the risk of corruption and improper actions.

That's unfair, that's not right, and that's not what we, as New Yorkers, stand for.

It is in nobody's interests, and that's violative of the New York and Federal constitutions.

To those who worry about noise or fire safety or trash or what have you – I say that these are truly legitimate and proper concerns. But maintaining unconstitutional laws- laws which make no legitimate sense and have adverse consequences- is not the solution. There are presently plenty of rules and regulations designed to protect against these harms. And if their specific complaints are valid, then it is the City's obligation – obligation- to enforce those laws.

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If the City fails to do so, then their grievance is with the City and the City MUST enforce those public safety regulations.

The needed reform proposal - carefully crafted by the administration – after much thought and input by those concerned– will finally put an end to this historically unjust and unfair regime and will allow all of us to get up (or is it, ‘get down’) and dance.

Upon your oaths to uphold the Constitution of the State of New York and the United States of America, I urge you to adopt this well drafted proposal and finally put an end to these improper regulations.

Thank you.

Very truly yours,

Jerry S. Goldman

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