



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD 10

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Resolution - NYC Parks Green Thumb Community Gardens License

WHEREAS NYC Parks GreenThumb was initiated in response to the city’s financial crisis of the 1970s, which resulted in the abandonment of public and private land. The majority of GreenThumb gardens were derelict vacant lots renovated by volunteers. These community gardens, now managed by neighborhood residents, provide important green space, thus improving air quality, bio–diversity, and the well–being of residents; and

WHEREAS The GreenThumb License, which must be renewed every four years was recently revised. Many of the newly added clauses are most concerning and unacceptable to the community gardeners, and it is alleged by the gardeners that the City is actively attempting to force community gardeners to sign via perceived threats and harassment to lock them out of the gardens if they do not sign - the vast majority of whom are from low-income communities and historically marginalized communities of color. The gardeners see this as a potential for accelerating community garden appropriation. Two of the six new clauses which the gardeners find most egregious, according to NYC Community Garden Coalition, (NYCGC) are clauses 7D and 15; and

WHEREAS Clause 7D reads as follows: “Notwithstanding the above, this License is terminable at will by the Commissioner in his or her discretion at any time, upon sixty (60) days written notice, and Licensee shall have no recourse of any nature whatsoever by reason of such termination”; and

WHEREAS Gardeners Responded: “The Termination At Will: Notwithstanding the fact that a given community garden is in full compliance with all the GreenThumb rules and regulations as stipulated in the Handbook and in the License, the License with the community garden can be terminated at will, i.e., terminated without explanation of reasons for doing so. The Gardeners are maintaining that there is no middle ground here on this issue, and they are proposing its elimination”; and

WHEREAS Clause 15 reads as follows: “Waiver of Trial by Jury. Licensee expressly waives all rights to trial by jury in any summary proceeding hereafter instituted by City against Licensee or any counterclaim or cause of action directly or indirectly arising out of the terms, covenants or conditions of this License or the use and occupation of the Site or any matter whatsoever in any way connected with this License, including but not limited to, the relationship between the City

or Licensee. The provision relating to waiver of jury trial shall survive the expiration or termination of this License or any renewals thereof”; and

WHEREAS Gardeners Responded: “The Waiver of Community Gardener’s i.e., the Licensee’s Right to A Trial by Jury: To be sure, the right to a trial by jury of one’s peers is a Constitutional Right. A waiver - by definition and by practice - is contingency based. Here the city is requiring the community gardener to sign-off on a blanket pre-dispute waiver of their Constitutional Right to a trial by jury. This is like signing a blank check - again, there is no middle ground here on this issue and so we propose the elimination of this clause”; and

WHEREAS The Gardeners presented before the Parks and Recreation Committee on October 9th, 2019; and

WHEREAS The Gardeners have been engaged in extensive talks since 2018 with NYC Parks regarding the revised license wherein they have strongly expressed their opposition to clauses which they determined to be controversial, and in some instances, a violation of constitutional rights; and

WHEREAS Gardeners have expressed concern as to how the current licensing might be interpreted and enforced under the span of a new and incoming mayoral administration; and

WHEREAS NYC Parks GreenThumb held community outreach events on June 6th and July 18th of 2019 at the Jackie Robinson Recreation Center to garner community feedback; and

WHEREAS NYC Parks GreenThumb remains open to continued discourse pertaining to the license concerns past the September 30th signing deadline; and

WHEREAS NYC Parks GreenThumb presented before the Parks and Recreation Committee on October 9th, 2019; and

WHEREAS Currently, CB 10 has a total of 32 gardens; 29 of which are active, 1 inactive, and 2 closed due to safety per current construction work permits on buildings adjacent to the gardens. One of the 32 gardens is pending submission of a signed license agreement; and

THEREFORE BE IT RESOLVED, that on January 8, 2020 Manhattan Community Board 10 supports the community gardeners’ advocacy for the removal of NYC Parks Community Garden License clauses 7D and 15, with a vote of 24 in favor, 0 opposed and 1 abstentions