



## REPORT & ADVISORY BOARD REVIEW COMMISSION

Below are the City agency responses to public testimony from the May 11<sup>th</sup> Public Hearing. The comments are for the following reports and advisory bodies (click on the name of the report or view the Commission's website to see the last available copy of the report):

### Reports:

1. DCP: [Zoning and Planning Report](#) (Charter §192(f))
2. DHS: [Outreach Programs Report](#) (Charter §612(a)(7))
3. DOE: [Class Size Report](#) (partial waiver) (Charter §522(c)-(f))
4. DOE: [Temporary and Non-Standard Classroom Report](#) (Charter §522(b))
5. OLTPS: [Sustainable Stormwater Management Plan Report](#) (Administrative Code §24-526.1)

### Advisory Boards:

1. DCA: [Consumers Council](#) (Charter §2204)

The public testimony from the May 11<sup>th</sup> hearing is available here:

[http://www.nyc.gov/html/rabrc/downloads/pdf/testimony\\_reports\\_and\\_boards\\_hearing%2005-11-12.pdf](http://www.nyc.gov/html/rabrc/downloads/pdf/testimony_reports_and_boards_hearing%2005-11-12.pdf)

## DCP Zoning and Planning Report

### REASON FOR ELIMINATING REPORT: DUPLICATION

Section 192 f. of the Charter requires the City Planning Commission to prepare, commencing in December 1992 and every four years thereafter, a zoning and planning report. The Department of City Planning is recommending that the requirement to prepare this report be deleted from the Charter. The need for the report has been replaced by other mandated and non-mandated practices, including PlaNYC.

The report was intended to require periodic reconsideration of the relationship of zoning to planning objectives. Added in the 1989 Charter reform during the pre-internet era, it was intended to engage the public on important planning issues that affect zoning policy. The drafters did not contemplate modern means of communicating and updating planning information. In the internet era, the presentation and dissemination of planning information and policies is far more frequent and immediate than a periodic hard-copy Zoning and Planning report. The Department of City Planning already maintains a Department Strategic Plan on its website: <http://www.nyc.gov/html/dcp/pdf/about/strategy.pdf>. This strategic plan was significantly updated in 2011, and is updated more frequently than the charter 4 year requirement for the quadrennial Zoning and Planning Report. The website also features an interactive citywide map that allows the public to navigate all of the Department's active planning studies, as well as other available information regarding demographic, land use and planning information that inform planning policy.

The Department of City Planning is also a key contributor to a broader and more comprehensive strategic planning document, the long-term sustainability plan known as PlaNYC, which supersedes the charter mandated statements of planning policy required in the Zoning and Planning Report. PlaNYC had its origins in a combined effort of the Department of City Planning and the Mayor's office to plan for population gains of roughly 1 million residents between the year 2000 and 2030. This effort expanded, first to include several other agencies whose services would be affected by the growing population, and ultimately to include numerous agencies. It quickly became apparent that the broad strategic perspective needed extensive and ongoing input from much of city government and that to achieve such a sustained and broad effort required the work to be centered within the Mayor's Office. This led to the creation of the Office of Long-Term Planning and Sustainability (OLTPS) and to the codification of PlaNYC and its updates as a requirement of the charter under Local Law 17 of 2008. OLTPS has since produced the first PlaNYC in 2007, an updated PlaNYC in 2011 and annual reports on progress in implementing the plan. PlaNYC requires placing planning in a broader interagency context than the Zoning and Planning report, and in many ways parallels the original Zoning and Planning Report. For instance, PlaNYC requirements include reporting on population projections and a series of required analysis topics such as housing, open space, transportation, water quality, infrastructure, and climate change. While the Zoning and Planning report does not have required topics under the Charter, topics covered have mirrored those of PlaNYC such as "housing and the urban fabric"; "moving people and goods"; and "Moving water and waste". Preparation of future Zoning and Planning Reports would be duplicative of the materials included in PlaNYC, while being less complete as a comprehensive planning tool.

Recent budget cuts have required the Department to carefully evaluate priorities in light of a significantly diminished staff size. It is the Department's belief that fulfillment of this particular charter requirement would diminish the Department's ability to perform core functions of zoning studies and project review, while offering no additional public informational benefit. In terms of an estimation of the cost: because the costs are primarily staff time who work on a multitude of projects simultaneously, estimating cost is quite difficult. One relevant comparably complex publication is the Charter mandated Comprehensive Waterfront Plan, released last year. The Waterfront plan covered a more limited geography than the Zoning and Planning Report would be required to cover, and required 3 full time staff for approximately a year, as well as significant involvement by City Planning borough office planners, all senior management, as well as significant staff time of other agencies such as EDC, Parks, and DEP. While not required under the charter, if the report were to be coupled with public outreach regarding its intended contents, the expected labor commitment would be significantly higher.

Another recent comparable example would be PlaNYC, which ultimately required the creation of a mayoral level agency.

## RESPONSE TO WRITTEN TESTIMONY

In its testimony, Common Cause expressed concern about “replacing charter required reporting with reliance on Mayoral initiatives that could be rolled back or eliminated by future administrations.” Common Cause is mistaken that future PlaNYC reports are not mandated by the Charter. Local Law 17 of 2008 mandates that:

*No later than April twenty-second, two thousand eleven, and no later than every four years thereafter, the director shall develop and submit to the mayor and the speaker of the city council an updated long-term sustainability plan, setting forth goals associated with each category established pursuant to paragraph one of subdivision b of this section and any additional categories established by the director, and a list of policies, programs and actions that the city will seek to implement or undertake to achieve each goal by no later than twenty years from the date each such updated long-term sustainability plan is submitted. Such updated plan shall take into account the population projections required pursuant to subdivision d of this section. An updated plan shall include, for each four-year period beginning on the date an updated plan is submitted to the mayor and the speaker of the city council, implementation milestones for each policy, program and action contained in such plan. An updated plan shall report on the status of the milestones contained in the immediately preceding updated plan. Where any categories, goals, policies, programs or actions have been revised in, added to or deleted from an updated plan, or where any milestone has been revised in or deleted from an updated plan, the plan shall include the reason for such addition, revision or deletion. The director shall seek public input regarding an updated plan and its implementation before developing and submitting such plan pursuant to this paragraph. The director shall coordinate the implementation of an updated long-term sustainability plan.*

The Common Cause statement about DCP’s “failure to engage in long-term strategic planning” is subjective at best. Many experts, removed from the local policy arguments, have cited the Department of City Planning for its pioneering and comprehensive approach to urban problems. These citations include:

- together with Department of Parks and Recreation and the Department of Transportation, the prestigious Lee Kuan Yew World City Prize for outstanding contributions to sustainable urban policy that are practical and cost-effective, and serve as a model for cities across the globe.
- from the American Planning Association, the 2012 Daniel Burnham Award for a Comprehensive Plan to Vision 2020, the Comprehensive Waterfront Plan. This is the highest award in the urban planning profession bestowed upon a comprehensive plan that advances the science and art of planning and in 2006, National Outstanding Planning Award for Special Community Initiative for the West Chelsea/High Line plan.
- in 2010, for Overall Excellence in Smart Growth from the U.S. Environmental Protection Agency
- in 2009, for Excellence on the Waterfront Award from the Waterfront Center.

We agree with Common Cause’s assessment that successful planning requires significant and sustained strategic coordination between myriad city agencies and stakeholders. We do not believe this purpose is better served by drawing resources away from planning activities for the production of a redundant document.



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June 4, 2012

New York City Report and Advisory Board Commission  
Mayor's Office of Operations  
253 Broadway, 10<sup>th</sup> Floor  
New York, NY 10007

Dear Commission Members:

Pursuant to New York City Charter Section 1113(e)(1), the New York City Department of Homeless Services ("DHS" or "Agency") seeks a waiver of N.Y.C. Administrative Code Section 612(7), which mandates this Agency to report quarterly on its outreach programs, including but not limited to, the number of contacts during the reporting period, the number of placements in transitional housing resulting from such contacts during the reporting period and the number of referrals of persons so contacted to programs or services during the reporting period. In response to this waiver request, both Councilmember Annabel Palma and the Coalition for the Homeless each submitted written testimony urging this Commission to deny the waiver.

Contrary to the written testimony, DHS has continued to provide the information sought in Section 612(7) by reporting on street homelessness outreach placements in its quarterly reports, on monthly outreach placements in its Mayor's Monthly Reports (MMR), and on daily outreach contacts and placements in the Daily Reports on its website. The purpose of DHS' waiver request is to streamline this reporting and to focus this reporting upon the most meaningful measure of outreach provider performance: actual placements.

**Placements Provide More Valuable and More Meaningful Performance Indicators than Contacts or Referrals**

DHS agrees that street homelessness outreach reporting is beneficial both to this Agency and to the City in evaluating the effectiveness of DHS' contracted outreach provider efforts. In such evaluation, the most meaningful performance indicator is data on the number of placements of street homeless persons into permanent and transitional housing made by those providers, as opposed to contacts made by those providers. "Placements", here, means an actual placement of a street homeless person in permanent or transitional housing, while "contacts" refers to any activity intended to engage persons living in public spaces, including conversations or offering other services to a street homeless individual. "Referrals" mean a referral made to a housing program or shelter, but does not guarantee that a client accepted such placement. Thus, placements more accurately reflect the



success of street outreach prevention efforts.

For these reasons, DHS believes that Section 612(7) seeks information that fails to most accurately reflect the performance and success of its outreach providers in assisting street homeless individuals return to permanent housing and off the streets.

### **DHS Reports on Placements and Contacts in the MMR and DHS' Daily Report**

Since July 2007, DHS has only been reporting in its Section 612(7) quarterly reports on placements made by its outreach teams, and not on contacts or referrals. At that time, DHS also amended its contracts (and altered any new contracts) with its outreach providers to gauge performance based on placements, rather than on contacts and referrals. DHS instituted these changes because placements provide this Agency with better information for assessing the effectiveness of management of city resources with respect to DHS' outreach providers.

However, contrary to the written testimony, DHS does report on placements and on contacts outside of the Section 612(7) quarterly reports. Indeed, DHS reports on aggregate placements into transitional and permanent housing in the MMR, and on daily contacts and placements in the Daily Report posted on DHS' website. Moreover, DHS provides these reports in a timely manner. For these reasons, the Section 612(7) reporting is duplicative of information provided in other reports.

Given that reporting on placements, rather than contacts and referrals, is a superior measure of the performance and effectiveness of DHS' outreach providers, and that the reporting mandated by Section 612(7) of the Administrative Code is duplicative of DHS' outreach placement reporting in the MMR and outreach contact and placement reporting in the Daily Report on the Agency's website, DHS urges this Commission to waive the Section 612(7) quarterly outreach reporting requirements. DHS will continue to report on outreach placements in permanent and transitional housing in the MMR, and on contacts in the Daily Report on its website.

DOE Comments from testimony on Class Size Report

- 1. We need both reports because they reflect two separate student counts – October 31 and January 30. Each report adds unique value to understanding the breadth of the problem with over size classes. This case is best made in viewing high school data. Year-to-year we've seen high school class sizes show significant fluctuation between the two counts. If the administration only released the February report for instance, the public would miss the typically larger class sizes in the fall.***

The testimony incorrectly assumes that the DOE is providing data from the first semester in the November report and the second semester in the February report. Rather, the same underlying data is analyzed for both reports. However, the data for the November data is unaudited and not yet verified. The February report is based on audited data of school and class registers. The February report is based on the Department's official enrollment data.

- 2. Using these new reports the Campaign for Fiscal Equity was able to quantify the number of classrooms needed in order to reduce class size in each grade and school to comply with state mandates, and identify where the DOE most needed to add seats. Combined with the School Construction Authority's Enrollment-Capacity-Utilization Report (The Blue Book), it allowed the public to see in detail where there is available space, and whether new capacity should be added.***

The Campaign for Fiscal Equity used the report generated in February based on approved registers. We are not proposing to eliminate this report and agree that this report contains useful information based on the audited registers. Further, the Blue Book will continue to be released.

- 3. It can pinpoint what grade levels, what districts and neighborhoods may require more classrooms.***

Again, the February report is a more accurate picture of class size and grade configurations, if interested parties are looking for more pinpoint precision. That said, projections of future seat need and planning for new buildings is not determined by or contained in the class size reports. Rather, this is assessed, and related information is shared, through the DOE's capital planning process. Every year the DOE proposes an amendment to its capital plan, which is subject to public review and feedback, and ultimately voted on by the City Council.

- 4. The November report contains class size data based on the October 31<sup>st</sup> register, more than a month and a half into the school year, and the date when enrollment numbers are considered official by DOE. This provides an important view of class sizes fairly early in the school year, when it is of greatest interest to parents and advocates, so that they can push to have large classes reduced. The February report is based on enrollment information as of January 30th, reflecting changes due to students being discharged, dropping out, graduating or moving from one school to another.***

This statement is inaccurate. The November report is snapshot of data and not the audited register of classes and class sizes. Final changes to registrars are due at the end of December, which includes the data from the first semester. The data is audited through the month of January. The February report gives more accurate data and allows for the NYCDOE to align cost to class sizes and class organization.

- 5. It was particularly intended to reflect class sizes in high schools which change from the fall semester to the spring. Some of NYC's high schools are severely overcrowded and when selecting a high school for their child, parents have the right to know which schools can comfortably accommodate their children - they shouldn't have to guess.***

The high school selection process begins in the Spring, well after the February report is issued. The February report is available to all parents and provides them with more accurate information to inform their selection process. Again, both the November and February reports is based on data from Fall semester enrollment, not Spring enrollment. The February data is simply more accurate and middle and high schools are required to enter pupil scheduling data in order the generate first semester report cards. Thus, even if enrollment changes in the second semester, this is not captured in the February report.

- 6. The average class sizes reported in February are generally smaller than those in the November report, sometimes lower by as much as 1 to 2 students per class, especially at the high school level.***

Class size can be reduced due to several factors; movement between and out of NYC DOE schools, graduating students, students dropping out, discharges, etc. More importantly, the February report is based on final audited data that allows for the DOE to capture this data and ensure a more accurate picture of class size.

- 7. These mid-year enrollment changes in high schools result in some teachers being excessed and cause principals to make mid-year budget adjustments. Some advocates contend that the primary reason DOE wants to eliminate the November report is to make only the lower, February class sizes public, but that would not provide a true picture of classroom conditions throughout the school year.***

Funding adjustments are needed in order to ensure that the money follows each student. When enrollment increases, the funding for the school experiences a commensurate increase. Similarly, less funding is needed if a school's register has declined. Funding must be aligned to serve the student wherever they attend school.

The DOE's primary reason for proposing just one February report is to provide the most accurate information to the public, while using DOE resources efficiently and responsibly.

## DOE Comments from testimony on Temporary and Non-Standard Classroom Report

### ***1. It is important to report about non-standardized classrooms and TCUs because they are still in widespread use.***

The DOE is prepared to continue to report on the number of TCUs Citywide. We recognize the importance of this information. However, the actual enrollment of students in the TCUs themselves is not essential information about which the DOE needs to report. The decisions about using and replacing TCUs are based on overall student enrollment in a school; whether the main building can support the student enrollment, other available permanent structures to house these students. In addition, the number of overall TCUs has remained stable over the last few years.

### ***2. There is no report on the number of TCUs used in high schools.***

This information is not required under this legislation. Information on the number of TCUs at a high school can be found on the school's web site in the Annual Facilities Survey.

### ***3. There is no report on the current use of individual classrooms within TCUs, eg. General education, special education, specialty classrooms, grades***

The legislation does not require reporting on the use of individual classrooms in TCUs. Moreover, this information is available elsewhere -- on a school's web site in the Annual Facilities Survey.

### ***4. It is important to report on both capacity and enrollment***

The report requires only that the DOE report on the "number of children who attend classes" in the TCUs. The report does not require a reporting of both capacity and enrollment. The critical information that we will continue to report is the total number of TCUs.

### ***5. Enrollment helps drive decision making as to how many classrooms are needed to replace TCUs***

The decision whether to replace a TCU is not based on the number of students enrolled. The decision is based on the usage of the main building, the overall student enrollment in the school and whether there is an alternative site to place students.

### ***6. DOE is claiming that this report is redundant because information about TCUs is contained in its Enrollment, Capacity and Utilization Report, also known as the Blue Book. However, the information on TCUs in the Blue Book is difficult to find, hard to understand and much more limited in scope than what is provided in the Temporary and Non-Standard Classroom (TCU) Report. The Blue Book does not reveal how many classrooms are contained in transportable units, nor what grade or type of instruction they are used for – only the TCU Report provides that data. Moreover, the Blue Book contains hundreds of pages that you would need to search through to find far less information than is provided in the concise, 20 or so pages of the Temporary and Non-Standard Classroom Report.***

This information is not required under the legislation. The TCU report only requires reporting on the number of TCUs at a school and number of students. The Annual Facility Survey which is available on each school's web site details the number of TCUs and the use of each TCU.

### ***7. It is important to report about TCUs because of the need to address the conditions in the TCUs themselves.***

This concern is not relevant to the report that the DOE requests to have eliminated. We are proposing only to eliminate the requirement to report on the number of children who attend classes in each non-standard classroom. The DOE routinely inspects the TCUs but the legislation does not require us to report on the conditions in the TCUs themselves.





**Testimony to the Report and Advisory Board Review Commission  
Regarding the Sustainable Stormwater Management Plan Report  
David Bragdon, Director of the Mayor's Office of Long-Term Planning and Sustainability  
June 28, 2012**

On behalf of the Administration, I am writing to seek a waiver from the reporting requirements for the Sustainable Stormwater Management Plan as mandated by Local Law 5 of 2008, because the function foreseen to be served by that report in 2008 is now being served by other documents developed subsequently. The release of the plan in December 2008 demonstrated the feasibility of using sustainable stormwater management strategies and laid the groundwork for the creation of the NYC Green Infrastructure Plan in September 2010. The City memorialized the commitments in the NYC Green Infrastructure Plan by signing a legal agreement with the State of New York in March 2012. Under this agreement, the City will invest approximately \$187 million over the next three years and an estimated \$2.4 billion of public and private funding over the next 18 years to install green infrastructure technologies to manage stormwater before it enters the City's combined sewer system. The City's green infrastructure strategy has been hailed as a model for other cities and, according to the Natural Resources Defense Council, "establishes the City as a national leader in green infrastructure."

The City is seeking a waiver for the reporting requirement for the Sustainable Stormwater Management Plan for three primary reasons. First, the Sustainable Stormwater Management Plan has been superseded by the NYC Green Infrastructure Plan and the PlaNYC update from April 2011. The Sustainable Stormwater Management Plan's key milestones were designated for completion by October 2010 or were marked as "long-term." These milestones have largely been completed, incorporated into PlaNYC and/or the NYC Green Infrastructure Plan, or reconsidered due to the prioritization of staff resources.

Second, a report on the initiatives of the Sustainable Stormwater Management Plan would be redundant with the formal reporting that already takes place on the implementation of the City's green infrastructure strategy. The vast majority of the report would be duplicative of multiple other mandated reports, including the Annual Update to CSO Consent Order (the legal agreement memorializing the NYC Green Infrastructure Plan), which is mandated through an agreement between the City and the State; the PlaNYC Annual Progress Report, which is mandated by Local Law 17 of 2008; and the Annual CSO BMP Report, which is mandated by the U.S. Environmental Protection Agency.

Third, we believe that the time and effort to write and produce the report outweighs the benefit of providing information that is primarily available in other reports. Creating this report requires staff time and administrative approvals which are burden relative to the limited benefits of a report which is now largely superfluous. We estimate that this expenditure is approximately \$10,000. We believe that these resources are better spent working to implement the initiatives of PlaNYC and the NYC Green Infrastructure Plan.

Thank you for the time and opportunity to articulate the City's reasons for seeking a waiver for the report of the Sustainable Stormwater Management Plan.



### **Response to Written Testimony – Department of Consumer Affairs**

The Department of Consumer Affairs (DCA) thanks Common Cause New York for its comments and testimony regarding the review of City reporting requirements and advisory boards, including the Consumers Council. In response, we highlight that currently we utilize a variety of outreach mechanisms to reach both consumers and businesses and to ensure that we are aware of the important issues facing both groups.

The Consumers Council is an entity that was most useful when DCA was first launched, but now represents an arcane vehicle for gathering information about, and communicating with, both businesses and consumers. Through our regular attendance at community outreach events, including events at senior centers, schools, and those held by elected officials, we are able to provide valuable information and learn about issues facing consumers. The DCA complaint mediation process, through which consumers can file complaints online or by calling 311, also provides continuous contact with consumers and an opportunity for the agency to learn about problems and issues as they arise. Today, consumers also have the opportunity to contact DCA or the Commissioner directly, online or by calling 311, and do so with great frequency. Additionally, we increasingly use technology to reach consumers. The DCA website provides a wealth of guides, tip sheets, publications, and other resources, available in multiple languages. Our informational e-blasts, sent to 30,000 consumers, and our social media campaigns, provide further communications opportunities. Our comprehensive, multi-media public awareness campaigns, on an array of consumer protection issues (how to deal with home improvement contractors, how to file a complaint, where to go for free financial counseling, what to do if one is in debt), reach consumers on subways, buses, phone kiosks, bus shelters and in the press. All these channels provide more effective and efficient vehicles to maintain frequent and meaningful contact with consumers.

The information gathered through the Consumers Council is made further obsolete by our ongoing extensive contact with businesses. Through the DCA website, social media and better practices, today we are in close contact with associations affiliated with the 55 industries DCA licenses. More frequent and more meaningful contacts through meetings, open houses, our annual Business Education Day and other forums, provide us with a better sense of the issues on the ground than this advisory body can provide. Additionally, our more intensive outreach to businesses through involvement with Business Improvement Districts, business associations, Chambers of Commerce, and Community Boards throughout the City obviates the need for this Council. We have also created a web-based "Business Toolbox" to provide businesses with up-to-date information on laws, rules, and regulations, as well as access to online license applications and renewals, online payment of fines, required templates, model contracts and receipts, tip sheets and publications, and other resources.

New York City Charter § 1113(e)(2) provides for the review of advisory bodies for relevancy and necessity. This provision outlines specific criteria for determining the utility of such bodies. While the Consumers Council may have been relevant when initially launched, based on these criteria the Council no longer serves its intended purpose.