

SUPPLEMENT TO

THE CITY RECORD

THE COUNCIL —STATED MEETING OF
WEDNESDAY, OCTOBER 14, 2009

THE COUNCIL

Minutes of the
STATED MEETING

of

Wednesday, October 14, 2009, 2:10 p.m.

The President Pro Tempore (Council Member Rivera)
Acting Presiding Officer

Council Members

Christine C. Quinn, Speaker

Maria del Carmen Arroyo	Vincent J. Gentile	Michael Nelson
Tony Avella	Alan J. Gerson	James S. Oddo
Charles Barron	Eric N. Gioia	Annabel Palma
Gale A. Brewer	Sara M. Gonzalez	Domenic M. Recchia, Jr.
Leroy G. Comrie, Jr.	Vincent M. Ignizio	Diana Reyna
Elizabeth S. Crowley	Robert Jackson	Joel Rivera
Bill de Blasio	Letitia James	James Sanders, Jr.
Inez E. Dickens	Melinda R. Katz	Larry B. Seabrook
Erik Martin Dilan	G. Oliver Koppell	Helen Sears
Mathieu Eugene	Jessica S. Lappin	Kendall B. Stewart
Simcha Felder	John C. Liu	Eric A. Ulrich
Lewis A. Fidler	Melissa Mark-Viverito	James Vacca
Helen D. Foster	Darlene Mealy	Peter F. Vallone, Jr.
Daniel R. Garodnick	Rosie Mendez	Albert Vann
James F. Gennaro	Kenneth C. Mitchell	David I. Weprin
		David Yassky

Excused: Council Members Baez, Ferreras, and White.

There is presently one vacancy in the Council (10th Council District, Manhattan).

The Public Advocate (Ms. Gotbaum) was not present at this Meeting. The Majority Leader (Council Member Rivera) assumed the Chair as the President Pro Tempore and Acting Presiding Officer.

After being informed by the City Clerk and Clerk of the Council (Mr. McSweeney), the presence of a quorum was announced by the President Pro Tempore (Council Member Rivera).

There were 47 Council Members present at this Stated Meeting.

INVOCATION

The Invocation was delivered by Rev. Jacques Andre DeGraff, Senior Advisor, New York Theological Seminary, 475 Riverside Dr. Ste. 500, New York, NY 10115.

Oh, Lord, our God,
when I in awesome wonder consider
all the worlds Thy hands have made,
I see the stars, I hear the rolling thunder.
Thy power throughout Thy universe displayed.
Then sings my soul, my savior God to thee,
how great Thou art, how great Thou art.

Our Father and our God,
the God of Abraham, Isaac and Jacob,
the maker of heaven and earth,
we come before Your throne of grace
to praise Your name and give thanks.

On this occasion in the greatest democracy,
in the greatest city on Your planet,
we impose to invite today
Your presence in these hallowed halls.
Come in to our discussions and our deliberations.
Bless those who have the privilege
to serve in this place.
Help them to remember why they first came here.
Help each of the persons
under the sound of my voice today
to make a difference.

Above all else, help us to maintain
our commitments to the least of these,
the children trembling
from gun violence in our streets,
the newcomers to our shores
trying to make freedom their reality
and our seniors seeking peace in their autumn years.
They are counting
on the men and women in these chambers
to remember them and hear Your voice.
You are bigger than the Democrats and the Republicans.
You are bigger than the Recession and our afflictions.
You can do anything but fail.

We pray down Your power on to this city.
Help us to represent Your kingdom here on earth.
Station Your angels of grace and mercy
At each doorway to remind us whose we are.
And when our praying days down here are through,
make for us a home in Your kingdom
as You promised You would.
These blessings we ask in Your precious name
and the city that loves God said Amen.

Council Member Dickens moved to spread the Invocation in full upon the Record.

At this point, the Speaker (Council Member Quinn) asked for a Moment of Silence in memory of these individuals: Clifton Maloney; Sanitation worker Richard Timmins; Army Specialist Kevin Hill, and former Council Member Miriam Friedlander.

On September 26, 2009, Clifton Maloney, 71, husband of Congresswoman Carolyn Maloney and father to daughters Christina and Virginia, died in his sleep.

The day before his death, he had successfully climbed the world's sixth tallest mountain on the border of Nepal and Tibet. Clifton Maloney was a Navy veteran who graduated Princeton University and Harvard Business School. He competed at the New York City Marathon more than twenty times and was an avid mountain climber and sailor. The Speaker (Council Member Quinn) spoke on behalf of Congresswoman Maloney in extending her deepest thanks to everyone who stopped by her house to see her or who attended the funeral on October 9, 2009.

On Friday, October 2, 2009, New York City Sanitation Department worker, Richard Timmins, 46, died of an apparent heart attack while on recycling duty in Queens. Sanitation worker Timmins was assigned to Queens East District 11 but was working in District 8 on the day of his death. He joined the Department in April 2004 and sadly leaves behind his wife Sydney and his nine-year old son. His funeral was held on October 7th at Our Lady of the Snows, Roman Catholic Church in Floral Park.

On October 4, 2009, Army Specialist Kevin Hill, 23, of Brooklyn, New York (resident of Council Member Dilan's district) died in Afghanistan of wounds suffered when enemy forces attacked his unit using small arms and indirect fire. Specialist Hill was assigned to the 576th Mobility Augmentation Company from Fort Carson, Colorado. Specialist Hill leaves behind his mother, his sister and other relatives and friends.

On October 4, 2009 former Council Member Miriam Friedlander, 95, passed away at NYU Medical Center. Council Member Friedlander served her East Village and Lower East Side district for 18 years from 1974 through 1991. She was a tireless fighter for women, tenants, the LGBT community, people with AIDS, domestic violence victims, children and others. She was born in Pittsburgh in 1914 to Russian immigrants and subsequently moved as a child to the Bronx and then to Manhattan. After attending Aviander Childs High School for several years, she graduated from Hunter High School and then New York University. Coming from a politically conscious family, she learned at a young age to be active in community and political affairs. She was proud to boast that she fought with all three mayors who served while she was in the Council but also added that despite the differences, she worked with them for the betterment of her district. Council Member Friedlander is survived her a son, Professor Paul D. Friedlander, who is named after her brother who died fighting in the Lincoln Brigade during the Spanish Civil War. She is also survived by her grandson, David.

At this point, the Speaker (Council Member Quinn) Yielded the floor to Council Member Mendez who spoke in memory of her close friend, Miriam Friedlander.

ADOPTION OF MINUTES

Council Member Jackson moved that the Minutes of the Stated Meetings of July 29, 2009 and August 20, 2009 be adopted as printed.

LAND USE CALL UPS

M-1628

By the Chair of the Land Use Committee Council Member Katz:

Pursuant to Rule 11.20(c) of the Council and Section 197-d (b)(3) of the New York City Charter, the Council hereby resolves that the action of the City Planning Commission on Uniform Land Use Procedure Application nos. C 090307 MMK and shall be subject to Council review. These items are related Uniform Land Use Procedure Application no. C 090308 ZMK.

Coupled on Roll Call.

LAND USE CALL UP VOTE

The President Pro Tempore (Council Member Rivera) put the question whether the Council would agree with and adopt such motion which was decided in the **affirmative** by the following vote:

Affirmative –Arroyo, Avella, Barron, Brewer, Comrie, Crowley, de Blasio, Dickens, Dilan, Eugene, Felder, Fidler, Foster, Garodnick, Gennaro, Gentile, Gerson, Gioia, Gonzalez, Ignizio, Jackson, James, Katz, Koppell, Lappin, Liu, Mark-Viverito, Mealy, Mendez, Mitchell, Nelson, Palma, Recchia, Reyna, Sanders, Seabrook, Sears, Stewart, Ulrich, Vacca, Vallone Jr., Vann, Weprin, Yassky, Oddo, Rivera and the Speaker (Council Member Quinn) – **47**.

At this point, the President Pro Tempore (Council Member Rivera) declared the aforementioned item **adopted** and referred this item to the Committee on Land Use and to the appropriate Land Use subcommittee.

REPORTS OF THE STANDING COMMITTEES

Report of the Committee on Education

Report for Int. No. 396-A

Report of the Committee on Education in favor of approving and adopting, as amended, a Local Law to amend the New York city charter in relation to requiring the New York city Department of Education to report on the implementation of Billy's Law.

The Committee on Education, to which the annexed amended proposed local law was referred on July 19, 2006 (Minutes, page 3503), respectfully

REPORTS:

On Tuesday, October 13, 2009, the Committee on Education, chaired by Council Member Robert Jackson, will consider Proposed Int. No. 396-A, a bill that would amend the New York City Charter in relation to requiring the New York City Department of Education ("DOE") to report on the implementation of Billy's Law¹, a law that is designed, in part, to improve monitoring of students placed in out-of-State residential facilities. A prior hearing on Int. No. 396 was held on November 2, 2006, and the Committee heard testimony from the DOE, parents and advocates.

Placement of New York Students in Out-of-State Residential Facilities

Pursuant to §4407 of the New York State Education Law ("SEL"), "[w]hen it shall appear to the satisfaction of the [State Education Department] that a child with a handicapping condition is not receiving instruction because there are no appropriate public or private facilities for instruction for such a child within [New York State] because of the unusual type of the handicap or combination of handicaps as certified by the Commissioner," school districts are authorized to contract with an educational facility located out of New York State to provide instruction to such student.² Under the law, the State Education Department ("SED") has the responsibility of maintaining an approved list of out-of-state facilities that, after inspection, it determines are qualified to meet the needs of children with severe handicapping conditions.³ In 2005, approximately 1,400 New York State children were placed in out-of-state residential facilities.⁴ As of December 2008, there were a total of 654 youth placed in out-of-state residential facilities by local school districts and local departments of social services.⁵

In New York City, when an Individualized Education Program (IEP) team at a school (or for non-public school students, a CSE office) identifies a student who is suspected of having an educational disability and is considering a residential

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¹ NY CLS Soc. Serv. §483-d

² NY CLS Educ §4407(1)(a).

³ *Id.* at §4407(2).

⁴ Out-of-State Placement Committee: *Annual Report to the Governor and Legislature*, (February 2006), p. 1.

⁵ Out-of-State Placement Committee: *Annual Report to the Governor and Legislature* (February 2009), accessed at <http://www.ccf.state.ny.us/initiatives/OSPRelate/ospResources/2008OSPRReport.pdf> on October 7, 2009.

placement for the student, the case is referred to a Central Based Support Team (CBST) for assistance.⁶ The CBST then reviews the student's case material to determine if placement in a non-public school is necessary.⁷ If it finds that such a placement is needed, it submits the student's case material to all appropriate in-state residential facilities for their consideration.⁸ Decisions concerning admission are made by the facilities themselves.⁹

If a student's needs cannot be met by any in-state schools, the CBST may consider an out-of-State placement.¹⁰ However, in order for an out-of-state placement to be finalized, the CBST must have documentation of the inability of in-state schools to serve the student, and must receive written approval for an out-of-state placement from the SED.¹¹ In addition, the child's parent(s) must consent to the placement.¹² Note that the DOE must cover the cost of sending a student to a non-public school.

Billy's Law

In August of 2005, the New York State Legislature passed "Billy's Law" (§483-d of the New York State Social Services Law) to improve State and local monitoring of out-of-State residential facilities that house New York State children who are placed in such facilities.¹³ The law created an out-of-state placement committee comprised of the Commissioners of the Office of Children and Family Services, the Office of Mental Health, the Office of Mental Retardation and Developmental Disabilities, the Office of Alcoholism and Substance Abuse Services, the SED, the Department of Health and the Division of Probation and Correctional Alternatives.¹⁴ The Committee's tasks included the following:

- Creating a register of approved out-of-state congregate residential programs and residential schools, and establishing core requirements for inclusion of an out-of-state program on this register;
- Establishing recommended contract requirements for contracts with out-of-state providers to be used by state or local agencies that place a child in an out-of-state residential program;
- Creating model processes for consideration of alternatives to out-of-State placements, to avoid such placements where possible; and
- Issuing a yearly report to the Governor and State Legislature.¹⁵

With regard to the contract parameters referenced above, the law requires that such contract parameters state that an out-of-state residential program or residential school shall, among other things:

- Promptly notify the placing State or local agency of any enforcement action taken with respect to the facility's license, certificate or charter and any action taken by the facility with respect to such enforcement action. If the placing agency is a local agency, it is required to notify its supervising State agency of such information;
- Promptly notify the placing State or local agency of any report of abuse or neglect occurring in the program or school regarding any child placed there by such an agency, the progress and outcome of the investigation of the report, any action taken with respect to such investigation and agree that the placing State or local agency will notify the parents or persons in parental relationship to the child of such report of abuse or neglect; and
- Promptly notify the placing State or local agency of any investigation of a report of abuse or neglect found to result from a systemic problem with the program or school and any action the program or school is taking with respect to such a report. If the placing agency is a local agency, it is required to notify its supervising State agency of such information.¹⁶

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⁶ Students with Disabilities Transitioning from Preschool to School-Age Programs, accessed at: <http://schools.nyc.gov/NR/rdonlyres/2BCCCF14-9EAE-4506-BD3E-42E9789BCE99/47874/20082009PreschooltoSchoolAgeOrientationGuideEnglis.pdf> on October 7, 2009

⁷ Letter from Linda Wernikoff, Senior Instructional Manager for Special Education Initiatives, New York City Department of Education, to Council Members Robert Jackson and Bill de Blasio, dated May 2, 2006, (on file with the Education Committee).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* Parents are given the opportunity to visit the school recommended by the CBST before a final placement decision is made.

¹³ Billy's Law came into effect on October 31, 2005.

¹⁴ NY CLS Soc Serv §483-d.

¹⁵ *Id.*

¹⁶ *Id.*

Allegations of Abuse and Neglect at the Judge Rotenberg Center in Massachusetts

In 2005, the SED conducted a surprise investigation of the Judge Rotenberg Center ("JRC"), a residential facility in Canton, Massachusetts. The JRC is a residential school that serves students with autism, mental retardation, emotional disturbance and multiple disabilities.¹⁷ One of the most controversial aspects of the JRC was its use of "Level III" aversive behavioral interventions, which involved a broad spectrum of punishment techniques that include movement limitation, controlling food and electric skin shock.¹⁸ The investigators' report contained several troubling allegations about the JRC, and concluded, among other things, that:

- The manner in which electric skin shock conditioning devices are used by the JRC raises health and safety concerns;¹⁹
- Students are treated with Level III aversive behavioral interventions for behaviors that are not aggressive, dangerous to the student's health or destructive;²⁰
- Aversive treatments that involve food control may impose unnecessary risks affecting the normal growth and development and overall nutritional/health status of students subjected to this type of treatment;²¹ and
- Students are provided insufficient academic and special education instruction and related services.²²

The findings of the SED investigators' report generated considerable attention and led the Board of Regents to draft regulations that would prohibit the use of aversive behavioral interventions, and to establish specific standards for behavior interventions used with students. The findings in the report also raised questions as to whether the DOE is satisfying its obligations under Billy's Law to monitor allegations of abuse or neglect arising from an out-of-state residential facility placement. Note that the majority of the students at the JRC at that time, 82%, were placed there by the DOE.²³

Proposed Int. No. 396-A would help to improve monitoring of children placed in out-of-State facilities by requiring the DOE to issue biannual reports to the Council on its monitoring of children placed out-of-state.

Proposed Int. No. 396-A

Section 1 of Proposed Int. No. 396-A would set out the legislative findings and intent.

Section 2 would add section 530 to chapter 20 of the New York City Charter, entitled "Reporting of information concerning out-of-state- facility placement."

Subdivision a of new charter section 530 would define the following terms: "child or children" would be defined to mean any city resident or residents under twenty-two years of age; "department" would be defined to mean the DOE; "individual" would be defined to mean any resident under twenty-two years of age; and "out-of-state facility" would be defined to mean any facility outside of New York State in which the department, pursuant to section 4407 of the SEL, places a child for the purposes of providing instruction to such child.

Subdivision b of new charter section 530 would require the DOE to report to the City Council twice annually, on or before the first day of September and February, respectively, information concerning children placed in out-of-state facilities including but not limited to:

- (1) The name and location of each out-of-State facility at which the department places children and the number of children placed by the department at each such out-of-state facility.
- (2) The general population served by each such out-of-state facility, including but not limited to, the number of individuals served, and the age, race, gender and nature of any disabilities of such individuals, to the extent such information is available to the department.
- (3) The types of services and therapies provided by each such out-of-state facility.
- (4) The total amount spent annually by the department to provide services to children at out-of-state facilities, the total amount spent by the department to provide services to children at each such out-of-state facility and the average cost per child to provide services at each such out-of-state facility.
- (5) The number of children who are discharged from each such out-of-state facility annually, and, if applicable, information concerning the type of facilities in which such children are subsequently placed.
- (6) For each out-of-state facility listed pursuant to paragraph (1) of

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¹⁷ New York State Department of Education, *Observations and Findings of Out-of-State Program Visitation—Judge Rotenberg Educational Center*, p. 1.

¹⁸ *Id.* at 6. It should be noted that, pursuant to a settlement agreement between the JRC and the Massachusetts Office for Children, Level III aversive behavioral interventions may only be used when they are authorized as part of a court-ordered treatment plan for a student.

¹⁹ *Id.* at 15-16.

²⁰ *Id.* at 13-14.

²¹ *Id.* at 16-17.

²² *Id.* at 20-22.

²³ *Supra* note 17 at 4.

this subdivision, information known by the department concerning whether (i) any enforcement action has been taken with respect to the license, certificate, charter or other authorization held by such facility, (ii) the department has informed the New York state department of education of any such enforcement action and (iii) the facility has taken or is taking any action with respect to such enforcement action.

(7) For each out-of-state facility listed pursuant to paragraph (1) of this subdivision, the final outcome of any investigation known by the department of abuse or neglect regarding any child placed by the department in such facility to the extent that such information may be made public consistent with applicable laws, including the law of the jurisdiction where such investigation was conducted.

(8) The department shall promptly notify in writing the parents or guardians of any child who is placed in an out-of-state facility of any information with respect to such out-of-state-facility that is reported pursuant to paragraphs (6) and (7) of this subdivision.

Subdivision c of new charter section 530 would state that no information that is otherwise required to be reported pursuant to this section shall be reported in a manner that would violate any applicable provision of federal, state or local law relating to the privacy of student information or that would interfere with law enforcement investigations or otherwise conflict with the interests of law enforcement.

Subdivision d of new charter section 530 would provide that the biannual reports required pursuant to this section shall be made available on the department's website to any member of the public upon request.

Section 3 of Proposed Int. No. 396-A would provide that this local law would take effect immediately.

Technical Change

A technical change was made to subdivision a of new charter section 530. Such subdivision had two paragraphs labeled (3). The second of those two paragraphs was changed to (4)

(The following is from the text of the Fiscal Impact Statement for Int. No. 396-A:)

FISCAL IMPACT STATEMENT:

	Effective FY 10	FY Succeeding Effective FY 11	Full Fiscal Impact FY 11
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: None.

IMPACT ON EXPENDITURES: None.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council staff.

ESTIMATE PREPARED BY: Regina Poreda Ryan

HISTORY: This bill was introduced and referred to the Committee on Education on July 19, 2006. The Committee held a hearing and laid the bill over on November 2, 2006. The legislation was considered and laid over by the Committee on November 2, 2006. An amended version of this legislation, Proposed Intro. 396-A, is to be considered by the Committee on October 13, 2009.

Accordingly, Your Committee recommends its adoption, as amended.

(The following is the text of Int. No. 396-A:)

Int. No. 396-A

By Council Members Gentile, Jackson, de Blasio, The Public Advocate (Ms. Gotbaum), and Council Members Koppell, Recchia, Weprin, Gonzalez, Gennaro, Dickens, Fidler, Lappin, Palma, Vacca, Foster, Sears, Mark-Viverito, Gerson, Brewer, Reyna, Garodnick, Comrie, James, Mendez, Nelson, Seabrook, Vann, White, Avella, Barron, Liu, Katz and Mitchell.

A Local Law to amend the New York city charter in relation to requiring the New York city Department of Education to report on the implementation of Billy's Law.

Be it enacted by the Council as follows:

Section 1. Legislative findings and intent. In August of 2005, the New York State Legislature passed "Billy's Law" (§483-d of the New York State social services law) to improve State and local monitoring of out-of-state residential facilities that house New York State children who are placed in such facilities for specialized services, including specialized educational services. One such facility was the subject of an investigation by the New York State Department of Education. The investigators' report concluded, among other things, that the facility's use of certain therapies raised health and safety concerns, and that students in the facility did not receive adequate academic and special education instruction. Such findings reinforce the need to monitor allegations of abuse or neglect arising from an out-of-state residential facility placement. It is therefore the Council's intention to improve such monitoring in accord with the goals of Billy's law by requiring biannual reports to the Council on the Department's monitoring of such facilities.

§2. Chapter 20 of the New York city charter is hereby amended by adding a new section 530 to read as follows:

§530. Reporting of information concerning out-of-state facility placement. a. Definitions. For the purposes of this section:

(1) "Child" or "children" shall mean any city resident or residents under twenty-two years of age.

(2) "Department" shall mean the New York city department of education.

(3) "Individual" shall mean any resident under twenty-two years of age.

(4) "Out-of-state facility" shall mean any facility outside of New York state in which the department, pursuant to section 4407 of the New York state education law, places a child for the purposes of providing instruction to such child.

b. The department shall report to the city council twice annually, on or before the first day of September and February, respectively, information concerning children placed in out-of-state facilities, including but not limited to:

(1) The name and location of each such out-of-state facility at which the department places children and the number of children placed by the department at each such out-of-state facility.

(2) The general population served by each such out-of-state facility, including but not limited to, the number of individuals served, and the age, race, gender and nature of any disabilities of such individuals, to the extent such information is available to the department.

(3) The types of services and therapies provided by each such out-of-state facility.

(4) The total amount spent annually by the department to provide services to children at out-of-state facilities, the total amount spent by the department to provide services to children at each such out-of-state facility and the average cost per child to provide services at each such out-of-state facility.

(5) The number of children who are discharged from each such out-of-state facility annually, and, if applicable, information concerning the type of facilities in which such children are subsequently placed.

(6) For each out-of-state facility listed pursuant to paragraph (1) of this subdivision, information known by the department concerning whether (i) any enforcement action has been taken with respect to the license, certificate, charter or other authorization held by such facility, (ii) the department has informed the New York state department of education of any such enforcement action and (iii) the facility has taken or is taking any action with respect to such enforcement action.

(7) For each out-of-state facility listed pursuant to paragraph (1) of this subdivision, the final outcome of any investigation known by the department of abuse or neglect regarding any child placed by the department in such facility to the extent that such information may be made public consistent with applicable laws, including the law of the jurisdiction where such investigation was conducted.

(8) The department shall promptly notify in writing the parents or guardians of any child who is placed in an out-of-state facility of any information with respect to such out-of-state-facility that is reported pursuant to paragraphs (6) and (7) of this subdivision.

c. No information that is otherwise required to be reported pursuant to this section shall be reported in a manner that would violate any applicable provision of federal, state or local law relating to the privacy of student information or that would interfere with law enforcement investigations or otherwise conflict with the interests of law enforcement.

d. The biannual reports required pursuant to this section shall be made available on the department's website and to any member of the public upon request.

§3. This local law shall take effect immediately.

ROBERT JACKSON, Chairperson; SIMCHA FELDER, LEWIS A. FIDLER, HELEN D. FOSTER, MELINDA R. KATZ, G. OLIVER KOPPELL, JOHN C. LIU, DOMENIC M. RECCHIA JR., PETER F. VALLONE JR., ALBERT VANN, MARIA DEL CARMEN ARROYO, DANIEL R. GARODNICK, JESSICA S. LAPPIN, JAMES VACCA, VINCENT M. IGNIZIO, Committee on Education, October 13, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report of the Committee on Health

Report for Int. No. 433-A

Report of the Committee on Health in favor of approving and adopting, as amended, a Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to the regulation of tobacco products.

The Committee on Health, to which the annexed amended proposed local law was referred on September 13, 2006 (Minutes, page 4067), respectfully

REPORTS:

INTRODUCTION

On October 13, 2009, the Committee on Health, chaired by Council Member Joel Rivera, will hold a hearing on Proposed Int. No. 433-A, a local law that would prohibit the sale of flavored tobacco products and make technical amendments to the Administrative Code concerning tobacco. The Committee on Health previously heard testimony on Int. No. 433 on October 19, 2006 and Proposed Int. 433-A May 21, 2009.

BACKGROUND

The use of tobacco products of all types is a significant public health problem. Like cigarettes, both cigars and smokeless tobacco can lead to lifelong nicotine addiction.¹ Cigar and cigarette smokers face comparable risks for oral, throat and esophageal cancers.² Evidence also points to a link between smoking cigars and pancreatic cancer.³ Those who smoke cigars every day also are at a greater risk for heart and lung disease, especially if they inhale the smoke.⁴ Smokeless tobacco products similarly raise users' risk of various diseases including cancers of the lip, tongue, cheeks and gums.⁵

According to surveys of public high school students in New York City, overall tobacco use declined 61 percent between 1999 and 2007.⁶ The changes in usage rates differ for various types of tobacco products, however. While cigarette smoking among youth decreased 65 percent, cigar smoking declined by only 46 percent.⁷ Even more troubling, during the same period usage of smokeless tobacco actually increased by 69 percent.⁸ Among the 23,000 public high school students who said that they smoked in 2007, 5,000 (22 percent) reporting smoking both cigars and cigarettes and 3,000 (13 percent) reported smoking only cigars.⁹ The percentage of student smokers who smoked only cigars and cigarillos has almost tripled since 2001, from five to 14 percent.¹⁰ This data is cause for concern because nearly 90 percent of smokers begin at or before age 19.¹¹ Moreover, the younger a youth tries smoking, the greater his or her chances are of becoming a regular smoker and the less likely the youth is to quit.¹² These facts make clear that preventing youth initiation of smoking and tobacco use are critical to reducing rates of tobacco usage in New York City.

The Use of Flavors in Tobacco Products

Research by food and drink manufacturers has determined that flavors are significant components in youth markets.¹³ This research shows that young people want stronger and more intense flavors, whereas adults choose milder and more natural flavors in the products they consume.¹⁴ In addition, children prefer products that are almost twice as sweet as products enjoyed by adults.¹⁵ The tobacco industry considered the benefits of sweet flavors in their products as early as the 1970s.¹⁶ Some of the noted benefits from the industry's perspective were the ability of flavors to blunt the taste and harshness of tobacco, making it easier for new smokers to become acquainted with the tobacco product and become addicted, regular users.¹⁷ This is true for all types of tobacco products, both smoked and smokeless. Specific flavors that were considered by the tobacco industry included cola, apple and honey, as these flavors would directly appeal to younger consumers.¹⁸

Scientific research on flavored products have focused on cigarettes, but this research indicates that such products are preferred by younger individuals. For example, a 2004 study found that the use of flavored cigarettes was the most common among youth aged 17 to 19 years and the least common among smokers older than 40.¹⁹ Seventeen year olds were more likely to use them than 20 to 26 year olds.²⁰ Another survey of ninth graders determined that eight percent of respondents had used flavored tobacco in the previous year and seven percent were interested in using it in the next year.²¹

Experts see an increased use of flavors in tobacco products other than cigarettes as a cause for significant concern.²² For example, in testimony to the Health Committee, Dr. Christine Delnevo of the University of Medicine and Dentistry of New Jersey stated that, while cigars and smokeless tobacco were traditionally used by older men, increased marketing toward youth and the increased use of flavorings has reversed low rates of use among youth and young adults.²³ Testimony by Dr. M. Jane Lewis noted that little cigars that are similar in size and appearance to cigarettes are growing in popularity with youth.²⁴ Dr. Lewis commented that these small cigars are used as a replacement for cigarettes, partly because the cigars can be significantly less expensive than cigarettes.²⁵

Action to Restrict the Sale of Flavored Tobacco Products

In recent years, tobacco companies have marketed cigarettes with flavors such as cinnamon and spice, vanilla, chocolate, berry and other specialty "exotic flavors" like Kauai Kolada, Caribbean Chill, Mintrigue and Mocha Taboo.²⁶ Some of these products appeared clearly targeted to youth, leading to an investigation by the Attorneys General of 40 states into their compliance with the 1998 Master Settlement Agreement.²⁷ The Master Settlement Agreement prohibits advertising, marketing and promotion of tobacco products directed at youth.²⁸ The investigation led to an agreement in 2006 with R.J. Reynolds Tobacco Company (RJR) that limits the names and descriptions the company can use in naming and marketing their cigarettes.²⁹ As a result, RJR discontinued some of their flavored cigarette lines.³⁰

Although the agreement with RJR resulted in the removal of certain flavored products from the market, the agreement does not apply to other tobacco companies and did not prevent the sale of all flavored products. Thus, some states decided to act to limit the sale of various flavored tobacco products. Maine restricts the sale of flavored cigarettes and cigars,³¹ while New Jersey banned the sale of flavored cigarettes and their component parts in 2008.³²

Recently, the federal government enacted the Family Smoking Prevention and Tobacco Control Act.³³ Among other things, this law prohibits the sale of flavored cigarettes other than menthol.³⁴ This ban, which took effect in late September 2009, does not apply to cigars or other types of flavored tobacco products. One importer of flavored cigarettes, Kretek International, Inc., covered by the ban has already announced its intention to expand its offering of filtered flavored cigars in order to avoid the ban.³⁵ As described above, these small cigars are similar in size and taste to cigarettes, but generally cost less. Many of these products are already on the market and other tobacco manufacturers, distributors and retailers could pursue similar strategies to Kretek International, Inc. This risk led the *New York Times* to conclude that, "[i]t makes no sense to ban flavors in cigarettes and then allow the industry to addict young people to flavored cigars."³⁶

PROPOSED INT. NO. 433-A

Section 1 of Proposed Int. No. 433-A would amend subdivision b of section 365 of chapter 14 of the City Charter by replacing the reference to section 17-621 with section 17-707.

Section 2 of Proposed Int. No. 433-A would amend the heading of chapter 7 of title 17 of the Administrative Code to read:

CHAPTER 7
REGULATION OF TOBACCO PRODUCTS
SUBCHAPTER 1
TOBACCO PRODUCT REGULATION ACT

Section 3 of Proposed Int. No. 433-A would renumber sections 17-616, 17-617, 17-617.1, 17-618, 17-619, 17-620, 17-621, 17-622, 17-623, 17-624, 17-625 and 17-626 of chapter 7 of title 17 of the Administrative Code as sections 17-701, 17-702, 17-703, 17-704, 17-705, 17-706, 17-707, 17-708, 17-709, 17-710, 17-711, and 17-712, respectively.

Section 4 of Proposed Int. No. 433-A would amend renumbered section 17-701 and the opening paragraph and subdivision a of renumbered section 17-702 to replace the term "chapter" with the term "subchapter."

Section 5 of Proposed Int. No. 433-A would amend renumbered section 17-706 of new subchapter 1 of chapter 7 of title 17 the Administrative Code by replacing the reference to section 17-617.1 with section 17-703.

Section 6 of Proposed Int. No. 433-A would amend paragraph 1 of subdivision h of renumbered section 17-707 of chapter 7 of title 17 of the Administrative Code by replacing the reference to section 17-624 with section 17-710.

Section 7 of Proposed Int. No. 433-A would amend subdivision i of renumbered section 17-707 of chapter 7 of title 17 of the Administrative Code by replacing the term "chapter" with the term "subchapter."

Section 8 of Proposed Int. No. 433-A would amend renumbered section 17-709 of chapter 7 of title 17 of the Administrative Code by replacing the term "chapter" with the term "subchapter."

Section 9 of Proposed Int. No. 433-A would amend renumbered section 17-710 by replacing the references to sections 17-618, 17-619, 17-620, 17-621 and 17-622 with sections 17-704, 17-705, 17-706, 17-707 and 17-708, respectively, and by replacing the term "chapter" with the term "subchapter."

Section 10 of Proposed Int. No. 433-A would amend renumbered section 17-711 would be amended by replacing the term "chapter" with the term "subchapter."

Section 11 of Proposed Int. No. 433-A would amend renumbered section 17-712 would be amended by replacing the term "chapter" with the term "subchapter."

Section 12 of Proposed Int. No. 433-A would renumber chapter 8 of title 17 of the Administrative Code as subchapter 2 of chapter 7 of such Code. Sections would be amended, added (in the case of sections 17-715, 17-717 and 17-718) and renumbered to read as follows:

SUBCHAPTER 2
REGULATION OF THE SALE OF HERBAL CIGARETTES AND
FLAVORED TOBACCO PRODUCTS

§17-713 Definitions.
§17-714 Sale of herbal cigarettes to minors prohibited.
§17-715 Sale of flavored tobacco products prohibited.
§17-716 Violations and penalties.

§17-717 Enforcement.

§17-718 Rules.

The opening of section 12 of Proposed Int. No. 433-A would replace the term “chapter” with “subchapter” in new section 17-713. Section 12 would also reletter the definition of “person” from subdivision a to subdivision g, reletter the definition of “herbal cigarette” from subdivision b to f, delete the phrase “as defined in subdivision r of section § 17-617 of this code” from the definition of “herbal cigarette” and add the following definitions:

a. “Cigarette” means (1) any roll made or used for smoking made wholly or in part of tobacco or any other substance wrapped in paper or in any other substance not containing tobacco, and (2) any roll made or used for smoking made wholly or in part of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph (1) of this subdivision; provided, however, that no roll shall be considered to be a cigarette for purposes of paragraph (2) of this subdivision if it is not treated as a cigarette for federal excise tax purposes under the applicable federal statute in effect on August first, two thousand nine.

b. “Characterizing flavor” means a distinguishable taste or aroma, other than the taste or aroma of tobacco, menthol, mint or wintergreen, imparted either prior to or during consumption of a tobacco product or component part thereof, including, but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb or spice; provided, however, that no tobacco product shall be determined to have a characterizing flavor solely because of the use of additives or flavorings or the provision of ingredient information.

c. “Component part” means any element of a tobacco product, including, but not limited to, the tobacco, filter and paper, but not including any constituent.

d. “Constituent” means any ingredient, substance, chemical or compound, other than tobacco, water or reconstituted tobacco sheet, that is added by the manufacturer to a tobacco product during the processing, manufacture or packing of the tobacco product. Such term shall include a smoke constituent.

e. “Flavored tobacco product” means any tobacco product or any component part thereof that contains a constituent that imparts a characterizing flavor. A public statement or claim made or disseminated by the manufacturer of a tobacco product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such tobacco product, that such tobacco product has or produces a characterizing flavor shall constitute presumptive evidence that the tobacco product is a flavored tobacco product. Evidence of the determination by another jurisdiction that a tobacco product does not have or produce a characterizing flavor may be considered in any effort to rebut the presumption that a tobacco product is a flavored tobacco product.

h. “Smoke constituent” means any chemical or chemical compound in mainstream or sidestream tobacco smoke that either transfers from any component of the tobacco product to the smoke or that is formed by the combustion or heating of tobacco, additives or other component of the tobacco product.

i. “Tobacco bar” has the meaning as such term is defined in subdivision jj of section 17-502 of the Administrative Code.

j. “Tobacco product” means any substance which contains tobacco, including, but not limited to, cigars and chewing tobacco; provided, however, that such term shall not include cigarettes.

Renumbered section 17-714 would be the same as former section 17-702. New section 17-715 would make it unlawful for any person to sell or offer for sale any flavored tobacco product except in a tobacco bar.

Subdivision a of renumbered section 17-716 would replace the phrase “any provision” with the phrase “section 17-714” and the term “chapter” with “subchapter.” The current text of subdivision b would be deleted. Subdivision b of renumbered section 17-716 would instead state that any person who violates renumbered section 17-715 would be liable for a civil penalty of not more than \$500 for the first violation, and not more than \$500 for each additional violation found on the same day; and not more than \$1,000 for the second violation at the same place of business within a two-year period, and not more than \$1,000 for each additional violation found on that day; and not more than \$2,000 for the third and all subsequent violations at the same place of business within a two-year period. In addition, for a third violation occurring on a different day and all subsequent violations occurring on different days at the same place of business within a two-year period, any person who engages in business as a retail dealer, as such term is defined in section 20-201 of the Administrative Code, would be subject to the mandatory suspension of his or her cigarette license, issued pursuant to section 20-202 of the Administrative Code, for such place of business, for a period not to exceed one year. A cigarette license would be suspended at the same hearing at which a retail dealer is found liable for a third violation or subsequent violations at the same place of business within a two-year period.

New section 17-717 would make the Department of Health and Mental Hygiene (DOHMH) and the Department of Consumer Affairs (DCA) responsible for enforcing the provisions of subchapter 2 of chapter 7 of title 17 of the Administrative Code. It would direct that a proceeding to recover any civil penalty authorized pursuant to section 17-716 of subchapter 2 of chapter 7 would be commenced by the service of a notice of violation returnable to the administrative tribunal established by the Board of Health where the DOHMH issues such a notice or to the adjudication division of the DCA where such Department issues such a notice. The notice of violation or copy thereof when filled in and served would constitute notice of the violation charged. Such notice would have to contain a statement that any hearing for a third violation or subsequent violation of section 17-

715 of subchapter 2 of chapter 7 at the same place of business within a two-year period would also constitute a hearing for the suspension of a retail dealer’s cigarette license where the retail dealer is found to be in violation of such section. The administrative tribunal of the Board of Health and the adjudication division of the DCA would have the power to render decisions and to impose the remedies and penalties provided for in section 17-716 of subchapter 2 of chapter 7, in addition to any other remedies or penalties provided for the enforcement of such provisions under any other law including, but not limited to, civil or criminal actions or proceedings. The DOHMH and the DCA would be required to notify each other within thirty days of finding that a retail dealer has been found liable for any section of such subchapter.

New section 17-718 would direct the commissioner of the DOHMH and the commissioner of the DCA to promulgate any rules as may be necessary for the purposes of carrying out the provisions of such section.

Section 13 of Proposed Int. No. 433-A would amend paragraph 4 of subdivision d of section 20-202 of title 20 of the Administrative Code by replacing references to sections 17-618, 17-619, 17-620 and 17-624 with sections 17-704, 17-705, 17-706 and 17-710, respectively, and add that violations of section 17-715 (with some exceptions) also would be considered for purposes of revocation of retail dealer licenses pursuant to section 17-716.

Section 14 of Proposed Int. No. 433-A would amend paragraph 3 of subdivision a of section 20-206 of title 20 of the Administrative Code by replacing the reference to section 17-702 with section 17-714.

Section 15 of Proposed Int. No. 433-A would contain a severability clause.

Section 16 of Proposed Int. No. 433-A would provide that the local law would take effect one hundred twenty days after its enactment, and that actions necessary to prepare for the timely implementation of the law could be taken prior to the effective date.

TECHNICAL CORRECTION

Section 9 of Proposed Int. 433-A has been corrected to mention subdivisions c and d in the list of subdivisions that are amended by the legislation. The amendments to subdivisions c and d remain unchanged.

¹ Nat’l Cancer Inst., U.S. Nat’l Inst. of Health, *Questions and Answers about Cigar Smoking and Cancer* (Mar. 3, 2000) [hereinafter *Cigar Smoking and Cancer*]; Nat’l Cancer Inst., U.S. Nat’l Inst. of Health, *Smokeless Tobacco and Cancer: Questions and Answers* (May 30, 2003) [hereinafter *Smokeless Tobacco and Cancer*].

² *Cigar Smoking and Cancer*, *supra* note 1.

³ *Id.*

⁴ *Id.*

⁵ *Smokeless Tobacco and Cancer*, *supra* note 1.

⁶ See Nat’l Ctr. for Chronic Disease Prevention & Health Promotion, Ctrs. for Disease Control, *Youth Risk Behavior Survey: Percentage Of Students Who Smoked Cigarettes On At Least 1 Day During The 30 Days Before The Survey: New York City* [hereinafter *Cigarettes*]; Nat’l Ctr. for Chronic Disease Prevention & Health Promotion, Ctrs. for Disease Control, *Youth Risk Behavior Survey: Percentage Of Students Who Smoked Cigars, Cigarillos, Or Little Cigars On At Least 1 Day During The 30 Days Before The Survey: New York City* [hereinafter *Cigars*]; Nat’l Ctr. for Chronic Disease Prevention & Health Promotion, Ctrs. for Disease Control, *Youth Risk Behavior Survey: Percentage Of Students Who Used Chewing Tobacco, Snuff, Or Dip On At Least 1 Day During The 30 Days Before The Survey: New York City* [hereinafter *Smokeless*].

⁷ *Cigarettes*, *supra* note 6; *Cigars*, *supra* note 6.

⁸ *Smokeless*, *supra* note 6.

⁹ N.Y. City Dep’t of Health & Mental Hygiene, *New York City Youth Risk Behavior Survey* (2007).

¹⁰ *Proposed Int. 433-A: Hearing Before the New York City Council Comm. on Health* (May 21, 2009) (statement of Anne Pearson, New York City Department of Health and Mental Hygiene).

¹¹ Am. Cancer Soc’y, *Child and Teen Tobacco Use*, http://www.cancer.org/docroot/PED/content/PED_10_2X_Child_and_Teen_Tobacco_Use.asp?sitearea=PED (last visited Oct. 12, 2009).

¹² Campaign for Tobacco-Free Kids, *The Path To Smoking Addiction Starts At Very Young Ages*, <http://www.tobaccofreekids.org/research/factsheets/pdf/0127.pdf> (last visited Oct. 12, 2009) (citing S.A. Khuder, et al., *Age at Smoking Onset and its Effect on Smoking Cessation* 24 ADDICTIVE BEHAVIOR 673-7 (1999); B. D’Avanzo, et al., *Age at Starting Smoking and Number of Cigarettes Smoked* 4 ANNALS OF EPIDEMIOLOGY 455-59 (1994); J. Chen & W.J. Millar, *Age of Smoking Initiation: Implications for Quitting* 9 HEALTH REPORTS 39-46 (1998); S.A. Everett, et al., *Initiation of Cigarette Smoking and Subsequent Smoking Behavior Among U.S. High School Students* 29 PREVENTIVE MEDICINE 327-33 (1999); N. Breslau & E.L. Peterson, *Smoking Cessation In Young Adults: Age At Initiation of Cigarette Smoking and Other Suspected Influences* 86 AM. J. OF PUB. HEALTH 214-20 (1996).

¹³ Kathleen Dacheille, Tobacco Control Legal Consortium, *Pick Your Poison: Responses to the Marketing and Sale of Flavored Tobacco Products* 3 (2009).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Campaign for Tobacco Free Kids, *Big Tobacco’s Guinea Pigs: How an Unregulated Industry Experiments on America’s Kids and Consumers* 5 (2008) [hereinafter *Big Tobacco*].

¹⁷ *Id.* at 6; Carrie M. Carpenter, et al., *New Cigarette Brands with Flavors that Appeal to Youth: Tobacco Marketing Strategies*, 24 HEALTH AFFAIRS 1601, 1608 (2005).

¹⁸ *Big Tobacco*, *supra* note 16 at 6.

¹⁹ Dacheille, *supra* note 13 at 3.

²⁰ *Id.*; M. Jane Lewis, et al., *Dealing with an Innovative Industry: A Look at Flavored Cigarettes Promoted by Mainstream Brands*, 96 AM. J. PUBLIC HEALTH 244 (2006).

²¹ Dacheille, *supra* note 13 at 3.

²² E.g., *Big Tobacco*, *supra* note 16.

²³ Proposed Int. 433-A: Hearing Before the New York City Council Comm. on Health (May 21, 2009) (written statement of Dr. Christine Delnevo, University of Medicine and Dentistry of New Jersey).

²⁴ Proposed Int. 433-A: Hearing Before the New York City Council Comm. on Health (May 21, 2009) (written statement of Dr. M. Jane Lewis, University of Medicine and Dentistry of New Jersey); Christine Delnevo, *Smokers' Choice: What Explains the Steady Growth of Cigar Use in the U.S.?* 121 PUB. HEALTH REPORTS 116, 117 (2006).

²⁵ *Id.*

²⁶ Am. Lung Ass'n, Tobacco Policy Trend Alert, *From Joe Camel to Kauai Kolada- The Marketing of Candy-Flavored Cigarettes* 2 (2006).

²⁷ Kathleen Dachtelle, *supra* note 13 at 5.

²⁸ *Id.* at 4.

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.* at 7-8.

³² An Act Concerning Tobacco Products and Supplementing Title 2A of the New Jersey Statutes, 2008 N.J. c. 91, available at http://www.judiciary.state.nj.us/legis/2008c91_Law.pdf.

³³ Pub. Law 111-31, 123 Stat. 1776.

³⁴ *Id.*

³⁵ Michael Felberbaum, *Importer Tries to Get Around Clove Smoke Ban: Where's the clove? Cigarette importer tries cigars to get around flavored-cigarette ban* (Sept. 7, 2009), available at <http://abcnews.go.com/Business/wireStory?id=8508102>.

³⁶ *Cigarette Ban With a Loophole*, N.Y. TIMES, Sept. 23, 2009, available at <http://www.nytimes.com/2009/09/24/opinion/24thu2.html>.

(The following is from the text of the Fiscal Impact Statement for Int. No. 433-A:)

FISCAL IMPACT STATEMENT:

	Effective FY 10	FY Succeeding Effective FY 11	Full Fiscal Impact FY 11
Revenues (+)	(\$1,000,000)	(\$2,000,000)	(\$2,000,000)
Expenditures (-)	\$0	\$0	\$0
Net	(\$1,000,000)	(\$2,000,000)	(\$2,000,000)

IMPACT ON REVENUES: The fiscal impact on revenues resulting from the enactment of this legislation would be a loss of \$1,000,000 in sales tax revenue in Fiscal Year 2010, with the frill fiscal impact of \$2,000,000 lost in Fiscal Year 2011. The basis of this estimate is the State's 2009-2010 forecast of its other-than-cigarette tobacco tax revenue in the 2009-10 Executive Budget Economic and Revenue Outlook, the Alcohol Tobacco Tax and Trade Bureau's June 2009 Statistical Report-Tobacco which indicates that cigar sales are the bulk of other tobacco sales in the nation, and AC Nielsen Market Scanner data that 40 percent of single-stick cigar sales in the state were of flavored varieties in 2008. There is also a potential minimal increase in revenue through the enforcement of proposed Int. 433-A.

IMPACT ON EXPENDITURES: There would be no impact on expenses resulting from the enactment of this legislation due to both the Department of Health and Mental Hygiene and Department of Consumer Affairs using existing resources and personnel to carry out this legislation.

SOURCE OF FUNDS To COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: Department of Consumer Affairs
Department of Health and Mental Hygiene

ESTIMATE PREPARED BY: Latonia Mckinney, Deputy Director
Rocco D'Angelo, Supervising Legislative Financial Analyst
Zaid Sadoun, Legislative Financial Analyst

HISTORY: Int. 433 was introduced on September 13, 2006, and referred to the Committee on Health. On October 19, 2006, the Committee on Health held a hearing on Int.433, and the legislation was laid over. On May 21, 2009 the Committee on Health held a hearing on Int. 433-A, which was amended and laid over. On October 13, 2009 the Committee on Health will consider the legislation as Proposed Int. 433-A.

Accordingly, Your Committee recommends its adoption, as amended.

(The following is the text of Int. No. 433-A:)

Int. No. 433-A

By Council Members Rivera, Arroyo, Avella, Brewer, Dickens, Felder, James, Liu, Mealy, Mendez, Palma, Recchia, Sanders, Seabrook, Sears, Weprin, Mark-Viverito, Gentile, Foster, Gennaro, Vacca, Gioia, Lappin, Gerson, Nelson, Koppell, Jackson, Yassky, White, Mitchell, Vallone Jr., Eugene, Ulrich and Vann.

A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to the regulation of tobacco products.

Be it enacted by the Council as follows:

Section 1. Subdivision b of section 365 of chapter 14 of the charter of the city of New York, as added by local law number 83 for the year 1992, is amended to read as follows:

b. Every agreement memorializing the terms and conditions of a franchise, revocable consent or concession shall contain an agreement by the grantee that it will (1) permit the placement or display of the public health messages required by section [17-621]17-707 of the code, on any property subject to such franchise, revocable consent or concession, or any facility, plant, equipment or other property used in connection with such franchise, revocable consent or concession; and (2) bear any costs associated with the posting of such public health messages and any costs in terms of foregone advertising revenues associated with the placement or display of such public health messages.

§2. The heading of chapter 7 of title 17 of the administrative code of the city of New York, as added by local law number 83 for the year 1992, is amended to read as follows:

CHAPTER 7
REGULATION OF TOBACCO PRODUCTS
SUBCHAPTER 1
TOBACCO PRODUCT REGULATION ACT

§3. Sections 17-616, 17-617, 17-617.1, 17-618, 17-619, 17-620, 17-621, 17-622, 17-623, 17-624, 17-625, 17-626 of chapter 7 of title 17 of the administrative code of the city of New York are renumbered as sections 17-701, 17-702, 17-703, 17-704, 17-705, 17-706, 17-707, 17-708, 17-709, 17-710, 17-711, and 17-712, respectively.

§4. Section 17-701 and the opening paragraph and subdivision a of section 17-702, as added by local law number 83 for the year 1992 and renumbered by section 3 of this local law, are amended to read as follows:

§17-701 Short title. This [chapter]subchapter shall be known and may be cited as the "Tobacco Product Regulation Act."

§17-702 Definitions. For purposes of this [chapter]subchapter, the following terms shall be defined as follows:

a. "Affiliated company" means any business entity which is the holder of a right to place or display advertisements in or on a unit of advertising space and which has a relationship with a holder of a right to place or display advertisements in or on another unit of advertising space; such relationship shall be an identity of all principal owners or all directors; provided, however, that only entities which are holders of a right to place or display advertisements on the same type of units of advertising space shall be considered affiliated companies for purposes of this [chapter]subchapter.

§5. Section 17-706 of chapter 7 of title 17 of the administrative code of the city of New York, as amended by local law number 2 for the year 2000 and renumbered by section 3 of this local law, is amended to read as follows:

§17-706 Sale of tobacco products to minors prohibited. Any person operating a place of business wherein tobacco products are sold or offered for sale must be licensed as required by section [17-617.1]17-703 of this code and is prohibited from selling such products to individuals under eighteen years of age, and shall post in a conspicuous place a sign upon which there shall be imprinted the following statement, "SALE OF CIGARETTES, CIGARS, CHEWING TOBACCO, POWDERED TOBACCO, OR OTHER TOBACCO PRODUCTS, ROLLING PAPER OR PIPES, TO PERSONS UNDER EIGHTEEN YEARS OF AGE IS PROHIBITED BY LAW." Such sign shall be printed on a white card in red letters at least one-half inch in height. Sale of tobacco products in such places, other than by a vending machine, shall be made only to an individual who demonstrates, through a driver's license or other photographic identification card issued by a government entity or educational institution, that the individual is at least eighteen years of age. Such identification need not be required of any individual who reasonably appears to be at least twenty-five years of age, provided, however, that such appearance shall not constitute a defense in any proceeding alleging the sale of a tobacco product to an individual under eighteen years of age.

§6. Paragraph 1 of subdivision h of section 17-707 of chapter 7 of title 17 of the administrative code of the city of New York, as added by local law 83 for the year 1992 and renumbered by section 3 of this local law, is amended to read as follows:

1. shall promptly comply with subdivisions a through g of this section upon the expiration of such contract term, excluding any periods of time subject to an option to renew such contract, or upon the removal of any legal barrier to compliance prior to the expiration of the original contract term, whichever is earlier. Any person who claims to be covered by this paragraph and who fails to comply with subdivisions a through g of this section within the time limits set forth herein shall be liable for a civil penalty of not more than five hundred dollars for each day

of non-compliance following the expiration of the original contract term or upon the removal of any legal barrier to compliance, whichever is earlier. Such civil penalty shall be recovered in accordance with the provisions of subdivision b of section [17-624]17-710; and

§7. Subdivision i of section 17-707 of chapter 7 of title 17 of the administrative code of the city of New York, as amended by local law 3 for the year 1998 and renumbered by section 3 of this local law, is amended to read as follows:

i. Nothing in this [chapter]subchapter shall be construed to permit the placement of a tobacco product advertisement as defined in subdivision m of section 27-508.2 of this code where such advertisement is prohibited by section 27-508.3 of this code or by any other law or rule.

§8. Section 17-709 of chapter 7 of title 17 of the administrative code of the city of New York, as amended by local law 22 for the year 2002 and renumbered by section 3 of this local law, is amended to read as follows:

§17-709 Enforcement. The department of health and mental hygiene and the department of consumer affairs shall enforce the provisions of this [chapter]subchapter. In addition, designated enforcement employees of any authorizing agency and the department of finance shall have the power to enforce the provisions of this [chapter]subchapter.

§9. Section 17-710 of chapter 7 of title 17 of the administrative code of the city of New York, subdivisions a, e and f as amended by local law 2 for the year 2000, subdivision b as amended by local law number 22 for the year 2002, and subdivisions c and d as amended by local law 83 for the year 1992 and renumbered by section 3 of this local law, is amended to read as follows:

§17-710 Violations and penalties. a. Any person found to be in violation of section [17-618]17-704, [17-619]17-705 or [17-620]17-706 shall be liable for a civil penalty of not more than one thousand dollars for the first violation, and not more than one thousand dollars for each additional violation found on that day; and not more than two thousand dollars for the second violation and each subsequent violation at the same place of business within a two-year period. In addition, for a second violation occurring on a different day and all subsequent violations occurring on different days at the same place of business within a two-year period, any person who engages in business as a retail dealer shall be subject to the mandatory revocation of his or her cigarette license for such place of business. For purposes of this section, any violation of section [17-618]17-704, [17-619]17-705 or [17-620]17-706 by any license holder at a place of business shall be included in determining the number of violations by any subsequent license holder at the same place of business unless the subsequent license holder provides the commissioner of consumer affairs with adequate documentation demonstrating that the subsequent license holder acquired the premises or business through an arm's length transaction as defined in subdivision e of this section and that the sale or lease was not conducted, in whole or in part, for the purpose of permitting the original licensee to avoid the effect of violations on the premises. A cigarette license shall be revoked at the same hearing at which a retail dealer is found liable for a second violation or subsequent violations at the same place of business within a two-year period. Any person who shall knowingly make a false statement or who shall falsify or allow to be falsified any record or report required by section [17-621]17-707, shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not less than five hundred dollars nor more than one thousand five hundred dollars, or by imprisonment not to exceed six months, or both. Any person who shall make a false statement or who shall falsify or allow to be falsified any record or report required by section [17-621]17-707, or who shall fail to maintain any record or submit any report required by section [17-621]17-707, shall be liable for a civil penalty of not less than three hundred dollars nor more than one thousand five hundred dollars. Any person who violates section [17-622]17-708 shall be liable for a civil penalty of not more than fifty dollars for each violation.

b. A proceeding to recover any civil penalty authorized pursuant to the provisions of subdivision a of this section for a violation of section [17-618]17-704, [17-619]17-705 or [17-620]17-706 of this [chapter]subchapter shall be commenced by the service of a notice of violation which shall be returnable to the administrative tribunal established by the board of health where the department of health and mental hygiene issues such notice or the adjudication division of the department of consumer affairs where that department or a designated employee of any authorizing agency or the department of finance issues such notice. Such notice shall contain a statement that any hearing for a second violation or subsequent violations of section [17-618]17-704, [17-619]17-705 or [17-620]17-706 at the same place of business within a two-year period shall also constitute a hearing for the revocation of a retail dealer's cigarette license where the retail dealer is found to be in violation of any such sections. Where the department of health and mental hygiene finds a retail dealer to be liable for a violation of section [17-618]17-704, [17-619]17-705 or [17-620]17-706 that department shall notify the department of consumer affairs within thirty days of such finding. Where the department of consumer affairs finds a retail dealer to be liable for a violation of section [17-618]17-704, [17-619]17-705 or [17-620]17-706, that department shall notify the department of health within thirty days of such finding. A proceeding to recover any civil penalty authorized pursuant to the provisions of subdivision a of this section for a violation of section [17-621]17-707 or authorized pursuant to subdivision h of section [17-621]17-707 shall be returnable to the administrative tribunal established by the board of health. A proceeding to recover any civil penalty authorized pursuant to the provisions of subdivision a of this section for a violation of section [17-622]17-708 shall be returnable to the administrative tribunal established by the board of health. Such tribunal shall have the power to impose the civil penalties prescribed by subdivision a of this section or subdivision h of section [17-621]17-707 of this [chapter]subchapter. The adjudication division of the department of consumer affairs shall have the power to impose the civil penalties prescribed by subdivision a of this section for a violation

of section [17-618]17-704, [17-619]17-705 or [17-620]17-706 of this [chapter]subchapter.

c. The penalties provided by subdivision a of this section and subdivision h of section [17-621]17-707 of this [chapter]subchapter shall be in addition to any other penalty imposed by any other provision of law or rule promulgated thereunder.

d. Whenever any person has engaged in any acts or practices which constitute a violation of any provision of this [chapter]subchapter or of any rule promulgated thereunder, the city may make application to a court of competent jurisdiction for an order enjoining such acts or practices and for an order granting a temporary or permanent injunction, restraining order or other order enjoining such acts or practices.

e. For purposes of this section, "arm's length transaction" means a sale of a fee or all undivided interests in real property, or lease of any part thereof, or a sale of a business, in good faith and for valuable consideration, that reflects the fair market value of such real property or lease, or business, in the open market, between two informed and willing parties, where neither is under any compulsion to participate in the transaction, unaffected by any unusual conditions indicating a reasonable possibility that the sale or lease was made for the purpose of permitting the original licensee to avoid the effect of violations on the premises. The following sales or leases shall be presumed not to be arm's length transactions unless adequate documentation is provided demonstrating that the sale or lease was not conducted, in whole or in part, for the purpose of permitting the original licensee to avoid the effect of violations on the premises:

(1) a sale between relatives; or

(2) a sale between related companies or partners in a business; or

(3) a sale or lease affected by other facts or circumstances that would indicate that the sale or lease is entered into for the primary purpose of permitting the original licensee to avoid the effect of violations on the premises.

f. Notwithstanding the provisions of subdivision a of this section, the mandatory revocation of a license for a second offense shall be waived if, upon the submission of satisfactory proof, the commissioner determines that the person or persons who committed the violations which are the basis for the mandatory revocation acted against the licensee's will in committing such violations, the licensee utilized extensive precautionary measures to prevent violations of the provisions of sections [17-618]17-704, [17-619]17-705 and [17-620]17-706 of this code, and the licensee has terminated any financial or employment relationship with each person who committed the violations which are the basis of the mandatory revocation of its license or has taken other significant disciplinary action against such persons. The commissioner shall not determine that a licensee utilized extensive precautionary measures to prevent violations of the provisions of sections [17-618]17-704, [17-619]17-705 and [17-620]17-706 of this code unless the licensee submits satisfactory proof demonstrating that the licensee had, prior to the second violation which is the basis for the mandatory revocation of its license, done the following:

(1) implemented a clear policy requiring all persons working in the place of business to strictly comply with the provisions of sections [17-618]17-704, [17-619]17-705 and [17-620]17-706 of this code and permitting persons working in the place of business to complete a tobacco product sales transaction only after establishing the age of a prospective purchaser of tobacco products through identification that has been verified for authenticity or through photographic identification as required by section [17-620]17-706 of this code; and

(2) trained all persons working in the place of business to comply with any such policy before they are allowed to sell tobacco products to the public; and

(3) monitored the performance of persons working in the place of business to ensure that they adhere to such policy, or, in accordance with rules promulgated by the commissioner, conducted periodic retraining of persons working in the place of business.

§10. Section 17-711 of chapter 7 of title 17 of the administrative code of the city of New York, as added by local law number 83 for the year 1992 and renumbered by section 3 of this local law, is amended to read as follows:

§17-711 Report. Not later than twelve months after the effective date of the local law that added this section and each year thereafter, the department shall submit a report to the mayor and the city council concerning the administration and enforcement of this [chapter]subchapter.

§11. Section 17-712 of chapter 7 of title 17 of the administrative code of the city of New York, as added by local law number 83 for the year 1992 and renumbered by section 3 of this local law, is amended to read as follows:

§17-712 Construction. Nothing contained in this [chapter]subchapter shall be construed to preclude the city of New York from prohibiting the placement or display of tobacco advertisements in or on units of advertising space.

§12. Chapter 8 of title 17 of the administrative code of the city of New York, as added by local law number 30 for the year 2000, is amended to become subchapter 2 of chapter 7 and amended to read as follows:

[CHAPTER 8] SUBCHAPTER 2

REGULATION OF THE SALE OF HERBAL CIGARETTES AND FLAVORED TOBACCO PRODUCTS

§[17-701]17-713 Definitions.

§[17-702]17-714 Sale of herbal cigarettes to minors prohibited.

§[17-703]17-715 Sale of flavored tobacco products prohibited.

§17-716 Violations and penalties.

§17-717 Enforcement.

§17-718 Rules.

§[17-701]17-713 Definitions. Whenever used in this [chapter]subchapter, the following terms shall be defined as follows:

a. ["Person" means any natural person, partnership, firm, joint stock company, corporation, or employee thereof, or other legal entity]"Cigarette" means (1) any roll made or used for smoking made wholly or in part of tobacco or any other substance wrapped in paper or in any other substance not containing tobacco, and (2) any roll made or used for smoking made wholly or in part of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph (1) of this subdivision; provided, however, that no roll shall be considered to be a cigarette for purposes of paragraph (2) of this subdivision if it is not treated as a cigarette for federal excise tax purposes under the applicable federal statute in effect on August first, two thousand nine.

b. ["Herbal cigarette" means a cigarette that is composed of one or more herbs and is not a tobacco product as defined in subdivision r of section 17-617 of this code.] "Characterizing flavor" means a distinguishable taste or aroma, other than the taste or aroma of tobacco, menthol, mint or wintergreen, imparted either prior to or during consumption of a tobacco product or component part thereof, including, but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb or spice; provided, however, that no tobacco product shall be determined to have a characterizing flavor solely because of the use of additives or flavorings or the provision of ingredient information.

c. "Component part" means any element of a tobacco product, including, but not limited to, the tobacco, filter and paper, but not including any constituent.

d. "Constituent" means any ingredient, substance, chemical or compound, other than tobacco, water or reconstituted tobacco sheet, that is added by the manufacturer to a tobacco product during the processing, manufacture or packing of the tobacco product. Such term shall include a smoke constituent.

e. "Flavored tobacco product" means any tobacco product or any component part thereof that contains a constituent that imparts a characterizing flavor. A public statement or claim made or disseminated by the manufacturer of a tobacco product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such tobacco product, that such tobacco product has or produces a characterizing flavor shall constitute presumptive evidence that the tobacco product is a flavored tobacco product.

f. "Herbal cigarette" means a product that is meant to be smoked like a cigarette but is composed of one or more herbs and does not contain tobacco.

g. "Person" means any natural person, partnership, firm, joint stock company, corporation, or employee thereof, or other legal entity.

h. "Smoke constituent" means any chemical or chemical compound in mainstream or sidestream tobacco smoke that either transfers from any component of the tobacco product to the smoke or that is formed by the combustion or heating of tobacco, additives or other component of the tobacco product.

i. "Tobacco bar" has the meaning as such term is defined in subdivision jj of section 17-502 of this code.

j. "Tobacco product" means any substance which contains tobacco, including, but not limited to, cigars and chewing tobacco; provided, however, that such term shall not include cigarettes.

§[17-702]17-714 Sale of herbal cigarettes to minors prohibited. It shall be unlawful for any person to sell or offer for sale herbal cigarettes to an individual under eighteen years of age.

§[17-703]17-715 Sale of flavored tobacco products prohibited. It shall be unlawful for any person to sell or offer for sale any flavored tobacco product except in a tobacco bar.

§17-716 Violations and penalties. a. Any person who violates [any provision]section 17-714 of this [chapter]subchapter or any rules promulgated hereunder shall be liable for a civil penalty of not less than two hundred and fifty dollars, nor more than two thousand dollars for each violation.

b. [A proceeding to recover any civil penalty authorized pursuant to the provisions of paragraph a of this section shall be commenced by the service of a notice of violation which shall be returnable to the administrative tribunal established by the board of health, where the department of health issues such notice, or the adjudication division of the department of consumer affairs where that department issues such notice.]Any person who violates section 17-715 of this subchapter shall be liable for a civil penalty of not more than five hundred dollars for the first violation, and not more than five hundred dollars for each additional violation found on that day; and not more than one thousand dollars for the second violation at the same place of business within a two-year period, and not more than one thousand dollars for each additional violation found on that day; and not more than two thousand dollars for the third and all subsequent violations at the same place of business within a two-year period. In addition, for a third violation occurring on a different day and all subsequent violations occurring on different days at the same place of business within a two-year period, any person who engages in business as a retail dealer, as such term is defined in section 20-201 of the code, shall be subject to the mandatory suspension of his or her cigarette license, issued pursuant to 20-202 of the code, for such place of business, for a period not to exceed one year. A cigarette license shall be suspended at the same hearing at which a retail dealer is found liable for a third violation or subsequent violations at the same place of business within a two-year period.

§17-717 Enforcement. The department and the department of consumer affairs shall enforce the provisions of this subchapter. A proceeding to recover any

civil penalty authorized pursuant to section 17-716 of this subchapter shall be commenced by the service of a notice of violation returnable to the administrative tribunal established by the board of health where the department issues such a notice or to the adjudication division of the department of consumer affairs where such department issues such a notice. The notice of violation or copy thereof when filled in and served shall constitute notice of the violation charged. Such notice shall contain a statement that any hearing for a third violation or subsequent violation of section 17-715 of this subchapter at the same place of business within a two-year period shall also constitute a hearing for the suspension of a retail dealer's cigarette license where the retail dealer is found to be in violation of such section. The administrative tribunal of the board of health and the adjudication division of the department of consumer affairs shall have the power to render decisions and to impose the remedies and penalties provided for in section 17-716 of this subchapter, in addition to any other remedies or penalties provided for the enforcement of such provisions under any other law including, but not limited to, civil or criminal actions or proceedings. The department and the department of consumer affairs shall notify each other within thirty days of finding that a retail dealer has been found liable for any section of this subchapter.

§17-718 Rules. The commissioner of the department and the commissioner of the department of consumer affairs shall promulgate any rules as may be necessary for the purposes of carrying out the provisions of this section.

§13. Paragraph 4 of subdivision d of section 20-202 of title 20 of the administrative code of the city of New York, as added by local law number 2 for the year 2000, is amended to read as follows:

4. For purposes of revocation of retail dealer licenses pursuant to section [17-624]17-710 of the code, any violation of section [17-618]17-704, [17-619]17-705 or [17-620]17-706, or for purposes of revocation of retail dealer licenses pursuant to section 17-716 of the code, any violation of section 17-715, by any license holder at a place of business shall be included in determining the number of violations by any subsequent license holder at the same place of business unless the subsequent license holder provides the commissioner with adequate documentation demonstrating that the subsequent license holder acquired the premises or business through an arm's length transaction and that the sale or lease was not conducted, in whole or in part, for the purpose of permitting the original licensee to avoid the effect of violations on the premises.

§14. Paragraph 3 of subdivision a of section 20-206 of title 20 of the administrative code of the city of New York, as added by local law number 30 for the year 2000, is amended to read as follows:

3. violated the provisions of section [17-702]17-714 of this code or any rules promulgated thereunder.

§15. Effect of invalidity; severability. If any section, subsection, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this local law, which remaining portions shall continue in full force and effect.

§16. This local law shall take effect one hundred twenty days after its enactment; provided that actions necessary to prepare for the timely implementation of this local law may be taken prior to its effective date.

JOEL RIVERA, Chairperson; HELEN D. FOSTER, JOHN C. LIU, HELEN SEARS, KENDALL STEWART, ALBERT VANN, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, ROSIE MENDEZ, MATHIEU EUGENE, Committee on Health, October 13, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report of the Committee on Housing and Buildings

Report for Int. No. 1015-A

Report of the Committee on Housing and Buildings in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to the safety and security of construction sites at which permitted work has been suspended.

The Committee on Housing and Buildings, to which the annexed amended proposed local law was referred on June 10, 2009 (Minutes, page 2321), respectfully

REPORTS:

BACKGROUND AND ANALYSIS:

On October 14, 2009, the Committee on Housing and Buildings, chaired by Council Member Erik Martin Dilan, will conduct a hearing on Proposed Int. No. 1015-A, A Local Law to amend the Administrative Code of the City of New York, in relation to the safety and security of construction sites at which permitted work has been suspended. Because of the current global and local economic crisis that has been well documented, the Council is concerned about the increased number of construction sites where the developer is unable to commence or continue work due to trouble securing financing or for other reasons is unable to complete the authorized work within the allotted term of the construction permit and whether or not those projects should be allowed to proceed as originally permitted when the developer is ready to complete work on the site.

The Council is also concerned about safety on a construction site when work on such site is suspended or has not commenced and is interested in ensuring that such sites are maintained by the property owner during the period that work is suspended or delayed. The legislation before the Committee is intended to address the Council's concerns and on September 21, 2009, the Committee heard testimony from representatives of the Department of Buildings ("DOB"), other professionals and members of the general public on Int. No. 1015 an earlier version of Proposed Int. 1015-A.

Proposed Int. No. 1015-A

Pursuant to bill section one, the Commissioner of Buildings (the Commissioner) would be allowed to establish a program to maintain the safety of construction sites where permitted work is temporarily suspended or has not yet started.¹ An owner of such a construction site may apply to the Commissioner to be included in such program in accordance with any terms and conditions the Commissioner may determine. However, the Commissioner must at a minimum, include as a program requirement that the owner notify the Commissioner when permitted work will be suspended and when it will resume or commence, and require the owner to submit a detailed plan for the Commissioner's approval specifying how safety of the construction site will be maintained while work is suspended or delayed. The plan must contain measures related to: how the site will be secured from access by unauthorized people; the maintenance of construction fencing with view panels including the posting of work permits and removal of any illegal flyers or posters; installation of proper shoring of excavated sites or backfilling; the placement on the site of equipment in a manner that will minimize the risk of harm to members of the public and a schedule for inspecting any equipment which remains on the work site; the removal of snow and ice on the sidewalks abutting the site and the removal of snow and ice on the site that poses a potential danger to members of the public; the maintenance of any installed fire suppression and detection systems; the removal of any volatile gases and liquids; the removal of stagnant water from any excavation sites; the removal of construction debris or garbage; the removal of any excess vegetation and graffiti; the monitoring of all such required measures; the correction of any adjudicated and outstanding violations including the payment of any unpaid fines or civil penalties related to the site, and any additional requirements the Commissioner shall determine, including, but not limited to, restoring safe access to areas, such as public sidewalks, to which public access was restricted as result of the issuance of the work permit.

Before the Commissioner can approve any proposed plan and the inclusion of a site in the program, the owner of the site must correct any adjudicated and outstanding immediately hazardous violations issued with respect to such site. Work permits issued for a site approved for the program that would otherwise expire due to the suspension of work or the failure to begin work would remain in effect until the end of the term in which they were issued and may be renewed for up to two additional terms, consistent with section 28-105.8.1 of the Administrative Code as long as the site remains in good standing under the program.² However, the Commissioner may remove a site from the program for failure to comply with the requirements and conditions of the program. All work permits expire when a site is removed from the program. Additionally, the Commissioner will be required to post on the Department's website a list of the sites that have entered into the program and indicate whether they have been removed from the program due to noncompliance or because work has resumed or started. The list must be updated weekly and may be included on the Department's online Building Information System.

Bill section two provides that this local law would become effective immediately upon enactment and shall be deemed to be of no further force and effect after June 30, 2013.

Amendments to Int. No. 1015

Technical changes were made to the bill to correct an inaccurate cross-reference.

The bill was also amended to clarify that sites may be included in the program not only due to work suspension but also for the failure to commence such work.

Information which must be included in the plan maintaining the safety of the site was amended to include the following additional requirements:

- the maintenance of construction fencing with view panels including the posting of work permits and removal of any illegal flyers or posters;
- the installation of proper shoring of excavated sites or backfilling;
- the removal of snow and ice on the sidewalks abutting the site and the removal of snow and ice on the site that poses a potential danger to members of the public;

- the maintenance of any installed fire suppression and detection systems;
- the removal of any volatile gases and liquids;
- the removal of stagnant water from any excavation sites;
- the removal of construction debris or garbage;
- the removal of any excess vegetation and graffiti;
- the monitoring of all such required measures;
- the correction of any adjudicated and outstanding violations issued to the site;
- the payment of any unpaid fines or civil penalties resulting from the adjudication of any violations issued to the site.

Further, the bill was amended to allow the Commissioner of Buildings to require other provisions be included in the plan such as requiring a schedule for restoring safe access to areas to which public access was restricted as a result of the issuance of the permit. Also, the owner of the construction site will be required to demonstrate prior to the approval of the plan and the inclusion of the site in the program by the Commissioner that any adjudicated and outstanding immediately hazardous violations issued to such site has been corrected.³

The bill was also amended to provide that the Commissioner must post on the Department's website a list of the sites that have entered into the program and indicate whether they have been removed from the program due to noncompliance or because work has resumed or started. The amended legislation specifies that the list must be updated weekly and may be included on the Department's online Building Information System.

Finally, the enactment clause was amended to provide that this local law would become effective immediately upon enactment and shall be deemed to be of no further force and effect after June 30, 2013.

¹ This legislation would amend article 105 of title 28 of the Administrative Code which contains general provisions with regards to permitting requirements for building construction.

² Section 28-105.8.1 of the Administrative Code of the City of New York, entitled "Duration of permit" allows a permit to be issued for up to two years unless otherwise specified by law.

³ Although a site may be included in this program, DOB will continue to conduct inspections and issue Building Code violations when appropriate.

(The following is from the text of the Fiscal Impact Statement for Int. No. 1015-A:)

FISCAL IMPACT STATEMENT:

	Effective FY 10	FY Succeeding Effective FY 11	Full Fiscal Impact FY 10
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: There would be no impact on revenues by the enactment of this legislation.

IMPACT ON EXPENDITURES: There would be no impact on expenditures by the enactment of this legislation.

SOURCE OF FUNDS To COVER ESTIMATED COSTS: Not applicable

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Ralph P. Hernandez, Legislative Financial Analyst Nathan Toth, Assistant Director New York City Council Finance Division

HISTORY: Introduced by Council and referred to Housing and Buildings Committee as Int. 1015 on June 10, 2009. Hearing held and laid over by Committee as Int. 1015 on September 21, 2009. To be voted by Committee as Int. 1015-A on October 14, 2009.

Accordingly, Your Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1015-A:)

Int. No. 1015-A

By Council Members Garodnick, Brewer, Lappin, Gentile, James, Mealy, Nelson, Palma, Sanders, Seabrook, Mark-Viverito, Fidler, White, Arroyo, Jackson Comrie, Vacca, Sears and Weprin (in conjunction with the Mayor).

A Local Law to amend the administrative code of the city of New York, in relation to the safety and security of construction sites at which permitted work has been suspended.

Be it enacted by the Council as follows:

Section 1. Section 28-105.9 of the administrative code of the city of New York, as added by local law number 33 for the year 2007, is amended to read as follows:

§28-105.9 Expiration. All permits issued by the commissioner shall expire by limitation and become invalid if the permitted work or use is not commenced within 12 months from the date of issuance of the permit or, if commenced, is suspended or abandoned for a period of 12 months thereafter. All permits for work in an area of special flood hazard pursuant to Appendix G of the New York city building code shall expire if the actual start of permanent construction has not occurred within 180 days from the date on which such permit is issued. The commissioner may, however, upon good cause shown, reinstate a work permit at any time within a period of two years from the date of issuance of the original permit, provided that the work shall comply with all the requirements of this code and other applicable laws and rules in effect at the time application for reinstatement is made, and provided further that the applicant shall pay all reinstatement fees as required by article 112. The permit shall automatically expire upon the expiration of required insurance or if the applicant holds a license issued by the department upon the expiration or revocation of such license during the term of the permit.

Exception: The commissioner may establish a program to maintain the safety of construction sites where permitted work is temporarily suspended or has not commenced. The owner of such a construction site may apply to the commissioner for inclusion in such program upon such terms and conditions as the commissioner shall determine but which shall, at a minimum, include a requirement that the owner of such a construction site notify the commissioner when permitted work will be suspended and when it will be resumed or commenced, and a requirement that the owner submit to the commissioner for the commissioner's approval a detailed plan for maintaining the safety of the construction site during the period when permitted work will be suspended or not commenced. Such plan shall contain proposed measures for securing the site from access by unauthorized persons; the maintenance of construction fencing with view panels including the posting of work permits and removal of any unlawful flyers or posters; installation of proper shoring of excavated sites or backfilling; the placement on the site of equipment in a manner that will minimize the risk of harm to members of the public and schedules for inspecting the equipment remaining on such site; the removal of snow and ice on sidewalks abutting the site and snow and ice on the site that poses a potential danger to members of the public; the maintenance of any installed fire suppression and detection systems; the removal of any volatile gases and liquids; the removal of any stagnant water from any excavation sites; the removal of any construction debris or rubbish; the removal of any excess vegetation and graffiti; the monitoring of all such measures; the correction of any adjudicated and outstanding violations issued with respect to such site; the payment of any unpaid fines or civil penalties resulting from the adjudication of any violations issued with respect to such site; and such other provisions as the commissioner shall require, including, but not limited to, a schedule for restoring safe access to areas, such as public sidewalks, to which public access was restricted as a result of the issuance of such permits. Prior to approval by the commissioner of any such proposed plan and inclusion of a site in the program, the owner of such construction site shall also correct any adjudicated and outstanding immediately hazardous violations issued with respect to such site. Where the commissioner includes a site in the program, work permits issued for such construction site that would otherwise expire because of the suspension of work or failure to commence work at the site shall remain in effect until the end of the term for which they were issued and may be renewed for up to two additional terms consistent with section 28-105.8.1 of this code so long as the site is in good standing under the program. The commissioner may remove a site from the program for failure to comply with the requirements and conditions of the program. All such permits shall expire by operation of law upon the removal of the site from the program. The commissioner shall post on the department's website a list of the sites that have entered the program and indicate whether such sites have been removed from the program due to noncompliance or because work has resumed or commenced. The list shall be updated at least weekly and may also be included on the department's building information system.

§2. This local law shall take effect immediately and shall be deemed to be of no further force and effect after June 30, 2013.

ERIK MARTIN DILAN, Chairperson; JOEL RIVERA, TONY AVELLA, GALE A. BREWER, LEROY G. COMRIE, LEWIS A. FIDLER, ROBERT JACKSON, ROSIE MENDEZ, JAMES VACCA, THOMAS WHITE JR., ELIZABETH CROWLEY, JAMES S. ODDO, Committee on Housing and Buildings, October 14, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Reports of the Committee on Land Use

Report for L.U. No. 1207

Report of the Committee on Land Use in favor of approving Uniform land use review procedure application no. C 090379 HAK, an Urban Development Action Area Designation and Project, located at 640 Broadway and the disposition of such property, Borough of Brooklyn, Council District no. 33.

The Committee on Land Use, to which the annexed Land Use item (with coupled Resolution) was referred on September 17, 2009 (Minutes, page 4873), respectfully

REPORTS:

SUBJECT

BROOKLYN CB - 1

C 090379 HAK

City Planning Commission decision approving an application submitted by the Department of Housing Preservation and Development (HPD):

1) pursuant to Article 16 of the General Municipal Law of New York State for:

a) the designation of property located at 640 Broadway (Block 2270, Lot 10), Site 6 within the Broadway Triangle Urban Renewal Area, as an Urban Development Action Area; and

b) an Urban Development Action Area Project for such area; and

2) pursuant to Section 197-c of the New York City Charter for the disposition of such property to a developer selected by HPD.

INTENT

To facilitate development of a five-story mixed-use building, tentatively known as 640 Broadway, with approximately 9 residential units and commercial space.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: October 6, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the designation and project make the findings required by Article 16 and approve the decision of the City Planning Commission.

In connection herewith, Council Members Katz and Avella offered the following resolution:

Res. No. 2223

Resolution approving the decision of the City Planning Commission on an application submitted by the New York City Department of Housing Preservation and Development, ULURP No. C 090379 HAK, approving the designation of property located at 640 Broadway (Block 2270, Lot 10), Site 6 within the Broadway Triangle Urban Renewal Area), Borough of Brooklyn, as an Urban Development Action Area, approving the project for the area as an Urban Development Action Area Project, and approving the disposition of such property to a developer selected by the New York City Department of Housing Preservation and Development (L.U. No. 1207; C 090379 HAK).

By Council Members Katz and Garodnick.

WHEREAS, the City Planning Commission filed with the Council on September 1, 2009 its decision dated August 19, 2009 (the "Decision"), on the application submitted by the New York City Department of Housing Preservation and Development pursuant to Section 197-c of the New York City Charter and Article 16 of the General Municipal Law of New York State regarding:

a) the designation of property located at 640 Broadway (Block 2270, Lot 10), Site 6 within the Broadway Triangle Urban Renewal Area), as an Urban Development Action Area (the "Area");

b) an Urban Development Action Area Project for such area (the "Project"); and

pursuant to Section 197-c of the New York City Charter for the disposition of such property to a developer selected by the New York City Department of Housing Preservation and Development to facilitate development of a five-story mixed-use building, tentatively known as 640 Broadway, with approximately 9 residential units and commercial space, to be developed under the Department of Housing Preservation and Development's Participation Loan Program, (the "Disposition"), Community District 1, Borough of Brooklyn (ULURP No. C 090379 HAK) (the "Application");

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, the Application and Decision are subject to review and action by the Council pursuant to Article 16 of the General Municipal Law of New York State;

WHEREAS, upon due notice, the Council held a public hearing on the Application and Decision on September 22, 2009;

WHEREAS, the Council has considered the land use and financial implications and other policy issues relating to the Application;

WHEREAS, the Council has considered the relevant environmental review (CEQR No. 09HPD020K) and the Negative Declaration which was issued on March 18, 2009;

RESOLVED:

The Council finds that the action described herein shall have no significant effect on the environment.

Pursuant to Section 197-d, the Council approves the decision of the City Planning Commission (C 090379 HAK).

The Council finds that the present status of the Project Area tends to impair or arrest the sound growth and development of the City of New York and that a designation of the Project as an urban development action area project is consistent with the policy and purposes stated in Section 691 of the General Municipal Law.

The Council approves the designation of the Project Area as an urban development action area pursuant to Section 693 of the General Municipal Law.

The Council approves the Project as an urban development action area project pursuant to Section 694 of the General Municipal Law.

The Council approves the disposition of such property to a developer selected by the Department of Housing Preservation and Development.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, HELEN SEARS, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, October 8, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1213

Report of the Committee on Land Use in favor of approving Uniform Application no. C 060551 ZMQ, submitted by Briarwood Organization LLC, pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment of the Zoning Map, Section No. 11a., by establishing within an existing R4 District a C2-2 District..

The Committee on Land Use, to which the annexed Land Use item (with coupled Resolution) was referred on September 17, 2009 (Minutes, page 4875), respectfully

REPORTS:

SUBJECT

QUEENS CB - 11

C 060551 ZMQ

City Planning Commission decision approving an application submitted by Briarwood Organization, LLC, pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 11a: by establishing within an existing R4 District a C2-2 District bounded by a line 250 feet northwesterly of 38th Avenue, a line 150 feet northeasterly of Bell Boulevard, a line 200 feet northwesterly of 38th Avenue, and Bell Boulevard, as shown in a diagram (for illustrative purposes only) dated June 1, 2009 and modified by the City Planning Commission on August 19, 2009.

INTENT

To establish a C2-2 commercial overlay within an existing R4 district to facilitate the development of a building for commercial and community facility use.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: October 6, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the decision of the City Planning Commission.

In connection herewith, Council Members Katz and Avella offered the following resolution:

Res. No. 2224

Resolution approving the decision of the City Planning Commission on ULURP No. C 060551 ZMQ, a Zoning Map amendment (L.U. No. 1213).

By Council Members Katz and Avella.

WHEREAS, the City Planning Commission filed with the Council on September 1, 2009 its decision dated August 19, 2009 (the "Decision"), on an application submitted by Briarwood Organization, LLC, pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment to the Zoning Map (ULURP No. C 060551 ZMQ) (the "Application");

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on October 6, 2009;

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues and the Negative Declaration, issued on June 1, 2009 (CEQR No. 06DCP110Q);

RESOLVED:

The Council finds that the action described herein will have no significant effect on the environment.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, the Council approves the Decision.

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No. 11a; by establishing within an existing R4 District a C2-2 District bounded by a line 250 feet northwesterly of 38th Avenue, a line 150 feet northeasterly of Bell Boulevard, a line 200 feet northwesterly of 38th Avenue, and Bell Boulevard, as shown in a diagram (for illustrative purposes only) dated June 1, 2009 and modified by the City Planning Commission on August 19, 2009, Community District 11, Borough of Queens.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, HELEN SEARS, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, October 8, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1217

Report of the Committee on Land Use in favor of approving Uniform Application no. 20095244 TCM, pursuant to §20-226 of the Administrative Code of the City of New York, concerning the petition of 114 Kenmare Associates LLC d/b/a Corner Deli, to continue to maintain and operate an unenclosed sidewalk café at 106 Kenmare Street, Borough of Manhattan, Council District no. 1.

The Committee on Land Use, to which the annexed Land Use item (with coupled Resolution) was referred on September 17, 2009 (Minutes, page 4877), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 2

20095244 TCM

Application pursuant to Section 20-226 of the Administrative Code of the City of New York, concerning the petition of 114 Kenmare Associates, LLC, d/b/a Corner Deli, for a revocable consent to continue to maintain and operate an unenclosed sidewalk café at 106 Kenmare Street.

INTENT

To allow an eating or drinking place located on a property which abuts the street to continue to maintain and operate an unenclosed service area on the sidewalk of such street.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: October 6, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the Petition.

In connection herewith, Council Members Katz and Avella offered the following resolution:

Res. No. 2225

Resolution approving the petition for a revocable consent for an unenclosed sidewalk café located at 106 Kenmare Street, Borough of Manhattan (20095244 TCM; L.U. No. 1217).

By Council Members Katz and Avella.

WHEREAS, the Department of Consumer Affairs filed with the Council on August 28, 2009 its approval dated August 27, 2009 of the petition of 114 Kenmare Associates, LLC, d/b/a Corner Deli, for a revocable consent to continue to maintain and operate an unenclosed sidewalk café located at 106 Kenmare Street, Community District 2, Borough of Manhattan (the "Petition"), pursuant to Section 20-226 of the New York City Administrative Code (the "Administrative Code");

WHEREAS, the Petition is subject to review by the Council pursuant to Section 20-226(g) of the Administrative Code;

WHEREAS, upon due notice, the Council held a public hearing on the Petition on October 6, 2009; and

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Petition;

RESOLVED:

Pursuant to Section 20-226 of the Administrative Code, the Council approves the Petition.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, HELEN SEARS, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, October 8, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1218

Report of the Committee on Land Use in favor of approving Uniform Application no. 20085246 TCM, pursuant to §20-226 of the Administrative Code of the City of New York, concerning the petition of Fabrizio Cavallacci d/b/a Café Reggio, to continue to maintain and operate an unenclosed sidewalk café at 119 Macdougall Street, Borough of Manhattan, Council District no. 3. This application is subject to review and action by the Land Use Committee only if called-up by vote of the Council pursuant to Rule 11.20b of the Council and §20-226(g) of the New York City Administrative Code.

The Committee on Land Use, to which the annexed Land Use item (with coupled Resolution) was referred on September 17, 2009 (Minutes, page 4877), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 2
TCM

20085246

Application pursuant to Section 20-226 of the Administrative Code of the City of New York, concerning the petition of Fabrizio Cavallacci, d/b/a Café Reggio, for a revocable consent to continue to maintain and operate an unenclosed sidewalk café at 119 Macdougall Street, Borough of Manhattan.

INTENT

To allow an eating or drinking place located on a property which abuts the street to continue to maintain and operate an unenclosed service area on the sidewalk of such street.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: October 6, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the Petition.

In connection herewith, Council Members Katz and Avella offered the following resolution:

Res. No. 2226

Resolution approving the petition for a revocable consent for an unenclosed sidewalk café located at 119 Macdougall Street, Borough of Manhattan (20085246 TCM; L.U. No. 1218).

By Council Members Katz and Avella.

WHEREAS, the Department of Consumer Affairs filed with the Council on September 2, 2009 its approval dated September 2, 2009 of the petition of Fabrizio Cavallacci, d/b/a Café Reggio, for a revocable consent to continue to maintain and operate an unenclosed sidewalk café located at 119 Macdougall, Community District 2, Borough of Manhattan (the "Petition"), pursuant to Section 20-226 of the New York City Administrative Code (the "Administrative Code");

WHEREAS, the Petition is subject to review by the Council pursuant to Section 20-226(g) of the Administrative Code;

WHEREAS, upon due notice, the Council held a public hearing on the Petition on October 6, 2009; and

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Petition;

RESOLVED:

Pursuant to Section 20-226 of the Administrative Code, the Council approves the Petition.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, HELEN SEARS, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, October 8, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1219

Report of the Committee on Land Use in favor of approving Uniform Application no. C 090431 ZSM, submitted by W2005/Hines West Fifty-Third Realty, LLC pursuant to Sections 197-c and 201 of the New York City Charter, for a special permit pursuant to Sections 81-212 and 74-79 of the Zoning Resolution to allow the transfer of 136,000 square feet of floor area to facilitate the development of an 85-story mixed use building in Council District 3.

The Committee on Land Use, to which the annexed Land Use item (with coupled Resolution) was referred on September 17, 2009 (Minutes, page 4878), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 5

C 090431 ZSM

City Planning Commission decision approving an application submitted by W2005/Hines West Fifty-Third Realty, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Sections 81-212 and 74-79 of the Zoning Resolution to allow the transfer of 136,000 square feet of floor area from property located at 1 West 54th Street (Block 1270, Lot 34) that is occupied by a landmark building (University Club) to property located at 53 West 53rd Street (Block 1269, Lots 5, 6, 7, 8, 9, 11, 12,

13, 14, 20, 30, 58, 66, 69, and 165) to facilitate the development of a mixed use building, in C6-6, C5-P, C5-2.5 and C5-3 Districts, within the Special Midtown District (partially within the Preservation and Fifth Avenue Subdistricts).

INTENT

To facilitate the construction of an 85-story mixed-use building with residential, hotel and museum uses.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: October 8, 2009

The Committee recommends that the Council approve the prepared resolution and thereby approve the decision of the City Planning Commission; the Committee further recommends that this item first be sent back to the City Planning Commission for further review.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, HELEN SEARS, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, October 8, 2009.

Approved with Modifications and Referred to the City Planning Commission pursuant to Rule 11.70(b) of the Rules of the Council and Section 197-(d) of the New York City Charter.

Report for L.U. No. 1220

Report of the Committee on Land Use in favor of approving Uniform Application no. C 090432 ZSM, submitted by W2005/Hines West Fifty-Third Realty, LLC pursuant to Sections 197-c and 201 of the New York City Charter, for a special permit pursuant to Sections 74-711 and 81-277 of the Zoning Resolution to facilitate the development of an 85-story mixed use building on property located at 53 West 53rd Street (Block 1269, Lots 5,6,7,8,9,11,12, 13,14, 20, 30, 58,66, 69 and 165). This application is subject to review and action by the Land Use Committee only if called-up by vote of the Council pursuant to Rule 11.20b of the Council and §20-226(g) of the New York City Administrative Code.

The Committee on Land Use, to which the annexed Land Use item (with coupled Resolution) was referred on September 17, 2009 (Minutes, page 4878), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 5

C 090432 ZSM

City Planning Commission decision approving an application submitted by W2005/Hines West Fifty-Third Realty, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to the following sections of the Zoning Resolution:

1. Section 74-711 - to allow the distribution of the total allowable floor area without regard to zoning district boundaries, to modify the height and setback regulations of Sections 81-90 (SPECIAL REGULATIONS FOR PRESERVATION SUBDISTRICT) and 33-432 (In other Commercial Districts), to modify the requirements of Sections 81-45 (Pedestrian Circulation Spaces) and 37-50 (Requirements for Pedestrian Circulation Space), and rear yard regulations of Section 23-532 (Required Rear Yard Equivalent); and
2. Section 8 1-277 - to modify the height and setback requirements of Section 8 1-27 (Alternative Height and Setback Regulations – Daylight Evaluation);

to facilitate the development of a mixed use building on property located at 53 West 53rd Street (Block 1269, Lots 5, 6, 7, 8, 9, 11, 12, 13, 14, 20, 30, 58, 66, 69, and 165), in C6-6, C5-P, C5-2.5 and C5-3 Districts, within the Special Midtown District (partially within the Preservation and Fifth Avenue Subdistricts).

INTENT

To facilitate the construction of an 85-story mixed-use building with residential, hotel and museum uses.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: October 8, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the decision of the City Planning Commission with modifications; the Committee further recommends that the modifications be first sent back to the City Planning Commission for further review.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, HELEN SEARS, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, October 8, 2009.

Approved with Modifications and Referred to the City Planning Commission pursuant to Rule 11.70(b) of the Rules of the Council and Section 197-(d) of the New York City Charter.

Report for L.U. No. 1222

Report of the Committee on Land Use in favor of approving Uniform Application no. 20105059 HAM, an Urban Development Action Area Project located at 46-48 East 129th Street, Council District no. 9 Borough of Manhattan. This matter is subject to Council review and action pursuant to Article 16 of the New York General Municipal Law, at the request of the New York City Department of Housing Preservation and Development, and pursuant to Section 577 of the Private Housing Finance Law for an exemption from real property taxes.

The Committee on Land Use, to which the annexed Land Use item (with coupled Resolution) was referred on September 17, 2009 (Minutes, page 4879), respectfully

REPORTS:

SUBJECT

Proposal subject to Council review and action pursuant to the Urban Development Action Area Act, Article 16 of the New York General Municipal Law, at the request of the Department of Housing Preservation and Development ("HPD"),

<u>ADDRESS</u>	<u>BLOCK/LOT</u>	<u>NON- ULURP NO.</u>	<u>L.U. NO.</u>	<u>PROGRAM PROJECT</u>
46-48 East 129 th Street Interim Manhattan Lease	1753/49	20105059 HAM	1222	Tenant

INTENT

HPD requests that the Council:

1. Find that the present status of the Disposition Areas tends to impair or arrest the sound growth and development of the municipality and that the proposed Urban Development Action Area Project is consistent with the policy and purposes of Section 691 of the General Municipal Law;
2. Waive the area designation requirement of Section 693 of the General Municipal Law pursuant to said Section;
3. Waive the requirements of Sections 197-c and 197-d of the New York City Charter pursuant to Section 694 of the General Municipal Law;
4. Approve the projects as Urban Development Action Area Projects pursuant to Section 694 of the General Municipal Law; and
5. Approve an exemption of the project from real property taxes pursuant to Section 577 of the Private Housing Finance Law.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: October 6, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the proposals, grant the requests made by the Department of Housing Preservation and Development, and make the findings required by Article 16 of the General Municipal Law.

In connection herewith, Council Members Katz and Garodnick offered the following resolution:

Res. No. 2227

Resolution approving an Urban Development Action Area Project located at 46-48 East 129th Street (Block 1753/Lot 49), Borough of Manhattan, and waiving the urban development action area designation requirement and the Uniform Land Use Review Procedure, pursuant to Sections 693 and 694 of the General Municipal Law (L.U. No. 1222; 20105059 HAM).

By Council Members Katz and Garodnick.

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council September 2, 2009 its request dated August 17, 2009 that the Council take the following actions regarding the following Urban Development Action Area Project (the "Project") located at 46-48 East 129th Street (Block 1753/Lot 49), Community District 11, Borough of Manhattan (the "Disposition Area"):

1. Find that the present status of the Disposition Area tends to impair or arrest the sound growth and development of the municipality and that the proposed Urban Development Action Area Project is consistent with the policy and purposes stated in Section 691 of the General Municipal Law;
2. Waive the area designation requirement of Section 693 of the General Municipal Law pursuant to said Section;
3. Waive the requirements of Sections 197-c and 197-d of the New York City Charter pursuant to Section 694 of the General Municipal Law;
4. Approve the Project as an urban development action area project pursuant to Section 694 of the General Municipal Law; and
5. Approve an exemption of the Project from real property taxes pursuant to Section 577 of Article XI of the Private Housing Finance Law (the "Tax Exemption");

WHEREAS, the Project is to be developed on land that is now an eligible area as defined in Section 692 of the General Municipal Law, consists solely of the rehabilitation or conservation of existing private or multiple dwellings and does not require any change in land use permitted under the New York City Zoning Resolution;

WHEREAS, the project description that HPD provided to the Council states that the purchaser in connection with the Sale (the "Sponsor") is a duly organized

housing development fund company under Article XI of the Private Housing Finance Law;

WHEREAS, upon due notice, the Council held a public hearing on the Project on October 6, 2009;

WHEREAS, the Council has considered the land use and financial implications and other policy issues relating to the Project;

RESOLVED:

The Council finds that the present status of the Disposition Area tends to impair or arrest the sound growth and development of the City of New York and that a designation of the Project as an urban development action area project is consistent with the policy and purposes stated in Section 691 of the General Municipal Law.

The Council waives the area designation requirement of the Disposition Area as an urban development action area under Section 693 of the General Municipal Law.

The Council waives the requirements of Sections 197-c and 197-d of the New York City Charter pursuant to Section 694 of the General Municipal Law.

The Council approves the Project as an Urban Development Action Area Project pursuant to Section 694 of the General Municipal Law.

The Project shall be disposed of and developed upon the terms and conditions set forth in the Project Summary that HPD has submitted to the Council, a copy of which is attached hereto.

The Council approves the Tax Exemption as follows:

Exemption from real property taxes, other than assessments for local improvements, of all of the value of the property included in the housing project (excluding those portions, if any, devoted to business or commercial use), commencing upon the date of conveyance of the Disposition Area to Sponsor ("Effective Date") and terminating upon a date which is thirty two (32) years from the Effective Date ("Expiration Date"); provided, however, that such tax exemption shall terminate if the Department of Housing Preservation and Development determines that Sponsor is not organized as a housing development fund company, that Sponsor is not operating the housing project in accordance with the requirements of Article XI of the Private Housing Finance Law, or that Sponsor is not operating the housing project in accordance with the requirements of any agreements between Sponsor and City of New York.

ATTACHMENT:

PROJECT SUMMARY

20105059 HAM
Page 1 of 1
L.U. No. 1222

1. PROGRAM: TENANT INTERIM LEASE PROGRAM
2. PROJECT: 46-48 East 129th Street
3. LOCATION:
 - a. BOROUGH: Manhattan
 - b. COMMUNITY DISTRICT: 11
 - c. COUNCIL DISTRICT: 9
 - d. DISPOSITION AREA:

BLOCK	LOT	ADDRESS
1753	49	46-48 East 129 th Street
4. BASIS OF DISPOSITION PRICE: Nominal price one dollar (\$1.00)
5. TYPE OF PROJECT: Rehabilitation
6. APPROXIMATE NUMBER OF BUILDINGS: 1 Multiple Dwelling
7. APPROXIMATE NUMBER OF UNITS: Ten
8. HOUSING TYPE: Cooperative
9. ESTIMATE OF INITIAL MAINTENANCE CHARGES: Approximately \$1.15 to \$1.50 per square foot
10. INCOME TARGETS: The Disposition Area contains one occupied building, which will be sold subject to existing tenancies. After sale, units must be resold in compliance with federal regulations, where applicable. Units not subject to such regulation may be resold to purchasers with annual household incomes up to 120% of the Area Median Income.
11. PROPOSED FACILITIES: None
12. PROPOSED CODES/ORDINANCES: None
13. ENVIRONMENTAL STATUS: Type II
14. PROPOSED TIME SCHEDULE: Approximately 16 months from closing to completion of construction.

CITY COUNCIL
LAND USE
COMMISSION

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, HELEN SEARS, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, October 8, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1224

Report of the Committee on Land Use in favor of approving Uniform Uniform land use review procedure application no. C 090470 PPQ, pursuant to §197-c and §197-d of the New York City Charter concerning the disposition of one city-owned property, located in the College Point Corporate Park, Borough of Queens, Council District no. 19.

The Committee on Land Use, to which the annexed Land Use item (with coupled Resolution) was referred on September 17, 2009 (Minutes, page 5248), respectfully

REPORTS:

SUBJECT

QUEENS CB - 7

C 090470 PPQ

City Planning Commission decision approving an application submitted by the Department of Citywide Administrative Services (DCAS), pursuant to Section 197-c of New York City Charter, for the disposition of one (1) city-owned property located on Block 4208, p/o Lot 1 in the College Point Corporate Park, pursuant to zoning.

INTENT

To facilitate the development of the College Point Corporate Park.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: October 6, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the decision of the City Planning Commission.

In connection herewith, Council Members Katz and Garodnick offered the following resolution:

Res. No. 2228

Resolution approving the decision of the City Planning Commission on ULURP No. C 090470 PPQ, for the disposition of one (1) city-owned property located on Block 4208, p/o Lot 1 in the College Point Corporate Park, Borough of Queens (L.U. No. 1224).

By Council Members Katz and Garodnick.

WHEREAS, the City Planning Commission filed with the Council on September 15, 2009 its decision dated September 9, 2009 (the "Decision") on the application submitted pursuant to Section 197-c of the New York City Charter by the Department of Citywide Administrative Services (DCAS) for the disposition of one (1) city-owned property located on Block 4208, p/o Lot 1, pursuant to ULURP Application Number C 090470 PPQ, Community District 7, Borough of Queens (the "Application");

WHEREAS, the Application is related to ULURP Application Number C 090320 PPQ, L.U. No. 1147, Resolution No. 2112 of 2009;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(3) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on October 6, 2009;

WHEREAS, the Council has considered the relevant environmental issues and the Corrected Negative Declaration, issued on June 10, 2009 (CEQR No. 09DME007Q); and

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Decision and Application;

RESOLVED:

The Council finds that the action described herein will have no significant effect on the environment.

Pursuant to Section 197-d of the City Charter and on the basis of the Application and the Decision, the Council approves the Decision.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, HELEN SEARS, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, October 8, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1233

Report of the Committee on Land Use in favor of approving Uniform Application no. C 030129 ZMQ, submitted by MCM Realty Associates, LLC, pursuant to Sections 197-c and 201 of the New York City Charter,

for an amendment of the Zoning Map of the City of New York, Section No 11d, by changing from an R3-2 District to an R6A District.

The Committee on Land Use, to which the annexed Land Use item (with coupled Resolution) was referred on September 17, 2009 (Minutes, page 5251), respectfully

REPORTS:

SUBJECT

QUEENS CB - 13

C 030129 ZMQ

City Planning Commission decision approving an application submitted by MCM Realty Associates, LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 11d, by changing from an R3-2 District to an R6A District property bounded by Commonwealth Boulevard, a former service road of Grand Central Parkway and its southwesterly centerline prolongation, Grand Central Parkway, the southeasterly centerline prolongation of 247th Street, a line 500 feet southeasterly of Grand Central Parkway, the easterly centerline prolongation of 72nd Avenue, and the northwesterly service road of the Grand Central Parkway, as shown on a diagram (for illustrative purposes only) dated April 20, 2009 and which includes CEQR Declaration E-234.

INTENT

A rezoning to develop a seven-story, 142 unit building.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: October 6, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the decision of the City Planning Commission.

In connection herewith, Council Members Katz and Avella offered the following resolution:

Res. No. 2229

Resolution approving the decision of the City Planning Commission on ULURP No. C 030129 ZMQ, a Zoning Map amendment (L.U. No. 1233).

By Council Members Katz and Avella.

WHEREAS, the City Planning Commission filed with the Council on September 15, 2009 its decision dated September 9, 2009 (the "Decision"), on the application submitted by MCM Realty Associates, LLC, pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment to the Zoning Map, changing from an R3-2 District to an R6A District (ULURP No. C 030129 ZMQ) (the "Application");

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on October 6, 2009;

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues and the Conditional Negative Declaration, issued August 3, 2009 (CEQR No. 03DCP013Q);

RESOLVED:

The Council finds that the action described herein will have no significant effect on the environment subject to the following conditions:

The applicant has entered into a restrictive declaration (Block 8401, Lots 550 and 600) to ensure that the appropriate hazardous materials sampling protocols, including health and safety plans, will occur prior to construction on the premises (Block 8401, Lots 550 and 600). The restrictive declaration would ensure that appropriate mediation measure for on-site hazardous materials, if necessary, would occur.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in this report, C 030129 ZMQ, incorporated by reference herein, the Council approves the Decision.

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No. 11d, by changing from an R3-2 District to an R6A District property bounded by Commonwealth Boulevard, a former service road of Grand Central Parkway and its southwesterly centerline prolongation, Grand Central Parkway, the southeasterly centerline prolongation of 247th Street, a line 500 feet southeasterly of Grand Central Parkway, the easterly centerline prolongation of 72nd Avenue, and the northwesterly service road of the Grand Central Parkway, as shown on a diagram (for illustrative purposes only) dated April 20, 2009 and which includes CEQR Declaration E-234, Community District 13, Borough of Queens.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, HELEN SEARS, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, October 8, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1234

Report of the Committee on Land Use in favor of approving Uniform Application no. C 060288 ZMX, submitted by City Island Estates, LLC, pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment of the Zoning Map of the City of New York, Section No 4d, by changing from an M1-1 District to an R3A District.

The Committee on Land Use, to which the annexed Land Use item (with coupled Resolution) was referred on September 17, 2009 (Minutes, page 5251), respectfully

REPORTS:

SUBJECT

BRONX CB - 10

C 060288 ZMX

City Planning Commission decision approving an application submitted by City Island Estates, LLC, pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 4d, by changing from an M1-1 District to an R3A District property bounded by Fordham Street, the shoreline of Long Island Sound, the northeasterly prolongation of a line 100 feet northwesterly of Carroll Street (straight line portion), and Fordham Place, as shown on a diagram (for illustrative purposes only) dated May 4, 2009 and which includes CEQR Designation E-237.

INTENT

To facilitate a residential development containing 43 dwelling units at 226 Fordham Place on City Island.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: October 6, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the decision of the City Planning Commission.

In connection herewith, Council Members Katz and Avella offered the following resolution:

Res. No. 2230

Resolution approving the decision of the City Planning Commission on ULURP No. C 060288 ZMX, a Zoning Map amendment (L.U. No. 1234).

By Council Members Katz and Avella.

WHEREAS, the City Planning Commission filed with the Council on September 15, 2009 its decision dated September 9, 2009 (the "Decision"), on the application submitted by City Island Estates, LLC, pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment to the Zoning Map, changing from an M1-1 District to an R3A District to facilitate the "On the Sound at City Island" development project, a residential development containing 43 dwelling units at 226 Fordham Place on City Island (ULURP No. C 060288 ZMX) (the "Application");

WHEREAS, the Application is related to ULURP Application Number C 060289 ZSX (L.U. No. 1235), a special permit pursuant to the Zoning Resolution of the City of New York Section 112-107 for modification of height and setback regulations;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on October 6, 2009;

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues and the Revised Negative Declaration which was issued on September 8, 2009. The Revised Negative Declaration includes an (E) designation. To avoid any potential impacts associated with air quality, the proposed action will place an (E) designation on Block 5642, Lot 235, (CEQR No. 06DCP084X);

RESOLVED:

The Council finds that the action described herein will have no significant effect on the environment.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, the Council approves the Decision.

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No. 4d, changing from an M1-1 District to an R3A District property bounded by Fordham Street, the shoreline of Long Island Sound, the northeasterly prolongation of a line 100 feet northwesterly of Carroll Street (straight line portion), and Fordham Place, as shown on a diagram (for illustrative purposes only) dated May 4, 2009, and which includes CEQR Designation E-237, Community District 10, Borough of the Bronx.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, HELEN SEARS, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, October 8, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1235

Report of the Committee on Land Use in favor of approving Uniform Application no. C 060289 ZSX, submitted by City Island Estates, LLC, pursuant to Sections 197-c and 201 of the New York City Charter, for a special permit pursuant to Sections 112-103 (Special height and setback regulations) and Section 23-631 (Maximum Height of Walls and Required Setbacks) of the Zoning Resolution to facilitate a 43 unit development on property located at 226 Fordham Place (Block 5643, Lot 235).

The Committee on Land Use, to which the annexed Land Use item (with coupled Resolution) was referred on September 17, 2009 (Minutes, page 5252), respectfully

REPORTS:

SUBJECT

BRONX CB - 10

C 060289 ZSX

City Planning Commission decision approving an application submitted by City Island Estates, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit to modify the height and setback regulations of Sections 112-103 (Special height and setback regulations) and Section 23- 631 (Maximum Height of Walls and Required Setbacks) to facilitate a 43-unit residential development on property located at 226 Fordham Place (Block 5643, Lot 235), in an R3A District, within the Special City Island District (Area A).

INTENT

To facilitate a residential development containing 43 dwelling units at 226 Fordham Place on City Island.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: October 6, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the decision of the City Planning Commission.

In connection herewith, Council Members Katz and Avella offered the following resolution:

Res. No. 2231

Resolution approving the decision of the City Planning Commission on ULURP No. C 060289 ZSX (L.U. No. 1235), for the grant of a special permit to modify the height and setback regulations of Sections 112-103 (Special height and setback regulations) and Section 23-631 (Maximum Height of Walls and Required Setbacks) to facilitate a 43-unit residential development on property located at 226 Fordham Place (Block 5643, Lot 235), in an R3A District, within the Special City Island District (Area A), Borough of the Bronx.

By Council Members Katz and Avella.

WHEREAS, the City Planning Commission filed with the Council on September 15, 2009 its decision dated September 9, 2009 (the "Decision"), on the application submitted by City Island Estates, LLC, pursuant to Sections 197-c and 201 of the New York City Charter, for the grant of a special permit to modify the height and setback regulations of Sections 112-103 (Special height and setback regulations) and Section 23-631 (Maximum Height of Walls and Required Setbacks) to facilitate a 43-unit residential development on property located at 226 Fordham Place (Block 5643, Lot 235), in an R3A District, within the Special City Island District (Area A) (ULURP No. C 060289 ZSX), Community District 10, Borough of the Bronx (the "Application");

WHEREAS, the Application is related to ULURP Application Number C 060288 ZMX (L.U. No. 1234), a zoning map amendment changing from an M1-1 manufacturing district to an R3A residential district;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(3) of the City Charter;

WHEREAS, the City Planning Commission has made the findings required pursuant to Section 112-107 of the Zoning Resolution of the City of New York;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on October 6, 2009;

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues and the Revised Negative Declaration which was issued on September 8, 2009. The Revised Negative Declaration includes an (E) designation. To avoid any potential impacts associated with air quality, the proposed action will place an (E) designation on Block 5642, Lot 235, (CEQR No. 06DCP084X);

RESOLVED:

The Council finds that the action described herein will have no significant effect on the environment.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, the Council approves the Decision.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, HELEN SEARS, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, October 8, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1237

Report of the Committee on Land Use in favor of approving Uniform Application no. N 090243 ZRM, submitted by G&R 11th Avenue Associates, LLC pursuant to Section 201 of the New York City Charter for an amendment of the Zoning Resolution of the City of New York, relating to Article IX, Chapter 8 (Special West Chelsea District).

The Committee on Land Use, to which the annexed Land Use item (with coupled Resolution) was referred on September 17, 2009 (Minutes, page 5253), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 4

N 090243 ZRM

City Planning Commission decision approving an application submitted by G&R 11th Avenue Associates, LLC pursuant to Section 201 of the New York City Charter for an amendment of the Zoning Resolution of the City of New York, relating to Article IX, Chapter 8 (Special West Chelsea District),

INTENT

A text amendment to facilitate the development of a contextual in-fill commercial building within the M1-5 District in the Special West Chelsea District.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: October 6, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the decision of the City Planning Commission.

In connection herewith, Council Members Katz and Avella offered the following resolution:

Res. No. 2232

Resolution approving the decision of the City Planning Commission on Application No. N 090243 ZRM, for an amendment of the Zoning Resolution of the City of New York, relating to Article IX, Chapter 8 (Special West Chelsea District), Borough of Manhattan (L.U. No. 1237).

By Council Members Katz and Avella.

WHEREAS, the City Planning Commission filed with the Council on September 15, 2009 its decision dated September 9, 2009 (the "Decision"), pursuant to Section 201 of the New York City Charter, regarding an application submitted by G&R 11th Avenue Associates, LLC, for an amendment of the Zoning Resolution of the City of New York, relating to Article IX, Chapter 8 (Special West Chelsea District), (Application No. N 090243 ZRM), Community District 4, Borough of Manhattan (the "Application");

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on October 6, 2009;

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues and the Negative Declaration which was issued on May 4, 2009 (CEQR No. 09DCP036M);

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application the Council approves the Decision.

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

Matter in underline is new, to be added;

Matter in ~~strikeout~~ is old, to be deleted;

Matter within # # is defined in Section 12-10 (DEFINITIONS)

*** indicates where unchanged text appears in the Resolution

* * *

Article IX - Special Purpose Districts

Chapter 8

Special West Chelsea District

* * *

98-27

Zoning Lots Located Partly Within Subarea C and Partly Within M1-5 Districts

For #zoning lots# existing prior to June 23, 2005 and located partly within an M1-5 district and partly within a C6-3 district in Subarea C, the permitted #floor area ratio# for the C6-3 portion of the zoning lot may be increased to the #floor area ratio# existing in the C6-3 portion on June 23, 2005, up to a maximum #floor area ratio# of 7.5, provided that the Chairperson of the City Planning Commission has certified that a payment has been made to the High Line Improvement Fund established under Section 98-25, to be used at the discretion of the Chairperson of the City Planning Commission to assure that the High Line is restored and reused as a public accessible open space. The amount of such contribution shall be determined in the manner prescribed in Section 98-35 (High Line Transfer Corridor Bonus).

No building permit for any development or enlargement may be issued for any #building# or other structure on the #zoning lot# that will contain #floor area# made available to the #zoning lot# as a result of the application of this Section unless and until such certification has been made.

* * *

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, HELEN SEARS, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, October 8, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1238

Report of the Committee on Land Use in favor of approving Uniform Application no. 20105028 HKM (N 100028 HKM), pursuant to §3020 of the Charter of the City of New York, concerning the designation (List No.416, LP-2167) by the Landmarks Preservation Commission of the (Former) St. George's Syrian Catholic Church located at 103 Washington Street (Block 53, Lot3) as an historic landmark, Council District no. 1.

The Committee on Land Use, to which the annexed Land Use item (with coupled Resolution) was referred on September 17, 2009 (Minutes, page 5253), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 1

20105028 HKM (N 100028 HKM)

Designation by the Landmarks Preservation Commission (List No. 416/LP-2167) pursuant to Section 3020 of the New York City Charter of the landmark designation of the (Former) St. George's Syrian Catholic Church located at 103 Washington Street (Block 53, Lot 3), as an historic landmark.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: October 6, 2009

The Committee recommends that the Council approve the attached resolution and thereby affirm the designation.

In connection herewith, Council Members Katz and Lappin offered the following resolution:

Res. No. 2233

Resolution affirming the designation by the Landmarks Preservation Commission of the (Former) St. George's Syrian Catholic Church located at 103 Washington Street (Block 53, Lot 3), Borough of Manhattan, Designation List No. 416, LP-2167; L.U. No. 1238; 20105028 HKM; N 100028 HKM).

By Council Members Katz and Lappin.

WHEREAS, the Landmarks Preservation Commission filed with the Council on July 20, 2009 a copy of its designation dated July 14, 2009 (the "Designation"), of the (Former) St. George's Syrian Catholic Church located at 103 Washington Street, Community District 1, Borough of Manhattan, as a landmark and Block 53, Lot 3, as its landmark site pursuant to Section 3020 of the New York City Charter;

WHEREAS, the Designation is subject to review by the Council pursuant to Section 3020 of the City Charter;

WHEREAS, the City Planning Commission submitted to the Council on September 15, 2009 its report on the Designation dated September 9, 2009 (the "Report");

WHEREAS, upon due notice, the Council held a public hearing on the Designation on October 6, 2009; and

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Designation;

RESOLVED:

Pursuant to Section 3020 of the City Charter, and on the basis of the information and materials contained in the Designation and the Report, the Council affirms the Designation.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, HELEN SEARS, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, October 8, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1239

Report of the Committee on Land Use in favor of approving Uniform Application no. 20105029 HKM (N 100027 HKM), pursuant to §3020 of the Charter of the City of New York, concerning the designation (List No.416, LP-2318) by the Landmarks Preservation Commission of Grammar School 9 located at 460-466 West End Avenue (Block 1230, Lot 1) as an historic landmark, Council District no.6.

The Committee on Land Use, to which the annexed Land Use item (with coupled Resolution) was referred on September 17, 2009 (Minutes, page 5253), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 7 20105029 HKM (N 100027 HKM)

Designation by the Landmarks Preservation Commission (List No. 416/LP-2318), pursuant to Section 3020 of the New York City Charter of the landmark designation of Grammar School No. 9 (Later Public School No. 9/John Jasper School, Now Mickey Mantle School/Public School 811M), located at 460-466 West End Avenue (aka 253-257 West 82nd Street), as an historic landmark.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: October 6, 2009

The Committee recommends that the Council approve the attached resolution and thereby affirm the designation.

In connection herewith, Council Members Katz and Lappin offered the following resolution:

Res. No. 2234

Resolution affirming the designation by the Landmarks Preservation Commission of Grammar School No. 9 (Later Public School No. 9/John Jasper School, Now Mickey Mantle School/Public School 811M), located at 460-466 West End Avenue (aka 253-257 West 82nd Street), Block 1230, Lot

1, Borough of Manhattan, Designation List No. 416, LP-2318 (L.U. No. 1239; 20105029 HKM; N 100027 HKM).

By Council Members Katz and Lappin.

WHEREAS, the Landmarks Preservation Commission filed with the Council on July 20, 2009 a copy of its designation dated July 14, 2009 (the "Designation"), of Grammar School No. 9 (Later Public School No. 9/John Jasper School, Now Mickey Mantle School/Public School 811M), located at 460-466 West End Avenue (aka 253-257 West 82nd Street), Community District 7, Borough of Manhattan, as a landmark and Block 1230, Lot 1, as its landmark site pursuant to Section 3020 of the New York City Charter;

WHEREAS, the Designation is subject to review by the Council pursuant to Section 3020 of the City Charter;

WHEREAS, the City Planning Commission submitted to the Council on September 15, 2009 its report on the Designation dated September 9, 2009 (the "Report");

WHEREAS, upon due notice, the Council held a public hearing on the Designation on October 6, 2009; and

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Designation;

RESOLVED:

Pursuant to Section 3020 of the City Charter, and on the basis of the information and materials contained in the Designation and the Report, the Council affirms the Designation.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, HELEN SEARS, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, October 8, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

GENERAL ORDER CALENDAR

Resolution approving various persons Commissioners of Deeds

By the Presiding Officer –

Resolved, that the following named persons be and hereby are appointed Commissioners of Deeds for a term of two years:

Approved New Applicant's Report

<u>Name</u>	<u>Address</u>	<u>District #</u>
Janet Brassfield	139 Boyd Street Staten Island, NY 10304	49
Ann Pinckney	41 Cooke Street Staten Island, NY 10314	49
Veronica Gordon	115 East 94th Street Brooklyn, NY 11212	41
Quantisha Jennings	12-21 35th Avenue #6 Queens, NY 11106	26
Vinodkumar C. Shingwani	36-39 30th Street #2 Queens, NY 11106	26
Maryann Margrit Wang	26-22 30th Street Queens, NY 11102	22
Laura M. Yangas	797 East 170th Street #5B Bronx, NY 10459	16

Approved New Applicants and Reapplicants

Alberta M. Abrams	120-5 Aldrich Street #5H Bronx, NY 10475	12
George G. Bunis	140-22 Elgar Place #22L Bronx, NY 10475	12
Patricia' Cipollaro	2420-5 Hunter Avenue Bronx, NY 10475	12
Miriam Milan	632 East 226th Street Bronx, NY 10466	12
Olugbenga A. Ajala	115-74 Newburg Street St. Albans, NY 11412	27
Vivenne Grainger	105-41 172nd Street Queens, NY 11433	27
Roberta M. Williams	200-04 116th Avenue Queens, NY 11412	27
Ralph P. Albanese	76 Court Street Brooklyn, NY 11201	33
Geneva Butts	10 Clinton Street #9P Brooklyn, NY 11201	33
Maria J. Claudio	85 Taylor Street Brooklyn, NY 11211	33
Sister Maria Theresa Amato, Op	2381 Boynton Place Brooklyn, NY 11223	47
Carmen Aviles	89-43 146 Street Queens, NY 11435	24
Beatrice Constantine	67-11 161 Street #1D Queens, NY 11365	24
Anita L. Duffy	141-25 78 Avenue #2B Queens, NY 11367	24
Melissa A. Rivera	62-59 108th Street Queens, NY 11375	24
Lewis Barnett	724 Ditmas Avenue Brooklyn, NY 11218	39
Anthony Pantano	90 President Street Brooklyn, NY 11231	39
Jamel Brooks	1555 Odell Street #7E Bronx, NY 10462	18
Napoleon Imarhiagbe	1539 Beach Avenue Bronx, NY 10460	18
Carmen I. Irizarry	1633 Harding Park Bronx, NY 10473	18
James C. Watson	1041 Pugsley Avenue Bronx, NY 10472	18
India Burrows	277 West 127 Street #9A New York, NY 10027	9
Lunette Holmes	235 West 135th Street New York, NY 10030	9

Patricia M. Canepa	3642 Amboy Road Staten Island, NY 10308	51
Gail A. Cooney	649 Barlow Avenue Staten Island, NY 10312	51
Anthony S. Economou	316 Dewey Avenue Staten Island, NY 10308	51
Denzil Klippel	27 Waterside Pkwy Staten Island, NY 10308	51
Josephine M. Newstad	45 Elmwood Avenue Staten Island, NY 10308	51
Christie Rich	546 Ilyssa Way Staten Island, NY 10312	51
Vincent T. D'Ambrosio	109 Radcliff Road Staten Island, NY 10305	50
Theresa M. Morace	350 London Road Staten Island, NY 10306	50
Barbara J. Pardi	982 Rockland Avenue Staten Island, NY 10314	50
Charles C. Destefano	1082 Victory Blvd Staten Island, NY 10301	49
Barbara Mastropietro	427 Ingram Avenue Staten Island, NY 10314	49
Frances A. Foye	1122 Calhoun Avenue Bronx, NY 10465	13
Colleen A. McCarthy	149C Edgewater Park Bronx, NY 10465	13
Margaritz Mendez	901 Neill Avenue Bronx, NY 10462	13
Anna Marie Wallace	1740 Mulford Avenue #5C Bronx, NY 10461	13
Ileana Freeman	1126 Sherman Avenue Bronx, NY 10456	16
Watasha Glasgow	982 Ashford Street Brooklyn, NY 11207	37
Andrea Glick	211-04 53rd Avenue Queens, NY 11364	19
Damaris Marrero	20-24 127th Street Flushing, NY 11356	19
Jean H. Schwarwsin	203 Park Lane Douglaston, NY 11363	19
Aramis Gomez	689 Columbus Avenue #15C New York, NY 10025	6
Gennaro A. Irace	201 West 83rd Street #2B New York, NY 10024	6
Sasha Jenkins	520 East 37th Street Brooklyn, NY 11203	45
Israel Leader	80-06 47th Avenue #5 Queens, NY 11373	25
Judith Levi	97-50 Queens Blvd. #B2 Queens, NY 11374	29
Janet Smith	118-17 Union Turnpike Queens, NY 11375	29
James Lewis Jr.	177 Lenox Road #C2 Brooklyn, NY 11226	40
Dennis W. Majorino	2220 National Drive Brooklyn, NY 11234	46
Donna Manzo	3413 Avenue T Brooklyn, NY 11234	46
Alvin Pankin	1798 East 26th Street Brooklyn, NY 11229	46
Kelly Wallace	1088 Bergan Avenue B Brooklyn, NY 11234	46
Jose Martinez	4814 4th Avenue #105 Brooklyn, NY 11220	38
Deanne Negron	281 21st Street Brooklyn, NY 11215	38
Heather McIntosh	279 Remsen Avenue Brooklyn, NY 11212	41
Evelyn Mercurius	947 Montgomery Street Brooklyn, NY 11213	41
Linda Moses	359 Wortman Avenue #3A Brooklyn, NY 11207	42
Chanieka N. Pennix	433 Beach 40th Street #6F	31

Rodolfo Omar Penuela	Far Rockaway, NY 11691 690 Academy Street #4F New York, NY 10034	7
Marlene Potter	8200 Shore Front Parkway #9L Queens, NY 11693	32
Helen H. Sweeney	235 Beach 138 Street Queens, NY 11694	32
Joann Valentine	91-32 91th Street Queens, NY 11421	32
Robert E. Reale	8901 Shore Road Brooklyn, NY 11209	43
Nelida Velazquez	675 86th Street #B2 Brooklyn, NY 11228	43
Marlene J. Reed	109-44 160 Street #1C Queens, NY 11433	28
Toby Schechner	35 Seacost Terrace #3S Brooklyn, NY 11235	48
Sonja T. Stokely	1190 Fox Street Bronx, NY 10459	17
Donna Taylor-Sanders	814 Ritter Place Bronx, NY 10459	17
Francis Taveras	390 Central Avenue Brooklyn, NY 11221	34
Arlene R. Tuff	1780 1st Avenue #11 G New York, NY 10128	4
Nilda Velazquez	2401 Davidson Avenue #1D Bronx, NY 10468	14
Joyce Washington	455 Carlton Avenue #5B Brooklyn, NY 11238	35
Daryl Williams	55 Rutgers Street, #7B New York, New York 10002	1

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

ROLL CALL ON GENERAL ORDERS FOR THE DAY
(Items Coupled on General Order Calendar)

- (1) **Int 396-A -** Requiring the New York City Department of Education to report on the implementation of Billy’s Law.
- (2) **Int 433-A --** Regulation of tobacco products.
- (3) **Int 1015-A --** Safety and security of construction sites at which permitted work has been suspended.
- (4) **L.U. 1207 & Res 2223 --** ULURP, app. **C 090379 HAK**, UDAADP, 640 Broadway, Brooklyn, Council District no. 33.
- (5) **L.U. 1213 & Res 2224 --** App. **C 060551 ZMQ**, Zoning Map, Section No. 11a., by establishing within an existing R4 District a C2-2 District.
- (6) **L.U. 1217 & Res 2225 --** App. **20095244 TCM**, unenclosed sidewalk café at 106 Kenmare Street, Borough of Manhattan, Council District no. 1.
- (7) **L.U. 1218 & Res 2226 --** App. **20085246 TCM**, unenclosed sidewalk café at 119 Macdougall Street, Borough of Manhattan, Council District no. 3.
- (8) **L.U. 1222 & Res 2227 --** App. **20105059 HAM**, UDAAP, 46-48 East 129th Street, Council District no. 9 Borough of Manhattan.
- (9) **L.U. 1224 & Res 2228 --** ULURP, app. **C 090470 PPQ**, College Point Corporate Park, Borough of Queens, Council District no. 19.
- (10) **L.U. 1233 & Res 2229 --** App. **C 030129 ZMQ**, Zoning Map of the City of New York, changing from an R3-2 District to an R6A District.
- (11) **L.U. 1234 & Res 2230 --** App. **C 060288 ZMX**, Zoning Map of the

- (12) **L.U. 1235 & Res 2231 --** City of New York, by changing from an M1-1 District to an R3A District.
- (13) **L.U. 1237 & Res 2232 --** App. **C 060289 ZSX**, special permit 43 unit development on property located at 226 Fordham Place.
- (14) **L.U. 1238 & Res 2233 --** App. **N 090243 ZRM**, Zoning Resolution of the City of New York, , Chapter 8 (Special West Chelsea District).
- (15) **L.U. 1239 & Res 2234 --** App. **20105028 HKM** (N 100028 HKM), (Former) St. George’s Syrian Catholic Church located at 103 Washington Street (Block 53, Lot3) as an historic landmark, Council District no. 1.
- (16) **Resolution approving various persons Commissioners of Deeds.** App. **20105029 HKM** (N 100027 HKM) Grammar School 9 located at 460-466 West End Avenue (Block 1230, Lot 1) as an historic landmark, Council District no. 6.

The President Pro Tempore (Council Member Rivera) put the question whether the Council would agree with and adopt such reports which were decided in the **affirmative** by the following vote:

Affirmative – Arroyo, Avella, Barron, Brewer, Comrie, Crowley, de Blasio, Dickens, Dilan, Eugene, Felder, Fidler, Foster, Garodnick, Gennaro, Gentile, Gerson, Gioia, Gonzalez, Ignizio, Jackson, James, Katz, Koppell, Lappin, Liu, Mark-Viverito, Mealy, Mendez, Mitchell, Nelson, Palma, Recchia, Reyna, Sanders, Seabrook, Sears, Stewart, Ulrich, Vacca, Vallone, Jr., Vann, Weprin, Yassky, Oddo, Rivera, and the Speaker (Council Member Quinn) – **47**.

The General Order vote recorded for this Stated Meeting was 47-0-0 as shown above with the exception of the votes for the following legislative items:

The following was the vote recorded for **Int No. 433-A:**

Affirmative – Arroyo, Avella, Barron, Brewer, Comrie, Crowley, de Blasio, Dickens, Dilan, Eugene, Felder, Foster, Garodnick, Gennaro, Gentile, Gerson, Gioia, Gonzalez, Ignizio, Jackson, James, Katz, Koppell, Lappin, Liu, Mark-Viverito, Mealy, Mendez, Mitchell, Nelson, Palma, Recchia, Reyna, Sanders, Seabrook, Sears, Stewart, Ulrich, Vacca, Vallone, Jr., Vann, Weprin, Yassky, Oddo, Rivera, and the Speaker (Council Member Quinn) – **46**.

Negative – Fidler – **1**.

The following was the vote recorded for **LU No. 1207 & Res No. 2223:**

Affirmative – Arroyo, Avella, Barron, Brewer, Comrie, Crowley, de Blasio, Dickens, Dilan, Eugene, Felder, Fidler, Foster, Garodnick, Gennaro, Gentile, Gerson, Gioia, Gonzalez, Ignizio, Jackson, James, Katz, Koppell, Lappin, Liu, Mark-Viverito, Mealy, Mendez, Mitchell, Nelson, Palma, Recchia, Sanders, Seabrook, Sears, Stewart, Ulrich, Vacca, Vallone, Jr., Vann, Weprin, Yassky, Oddo, Rivera, and the Speaker (Council Member Quinn) – **46**.

Negative – Reyna -1.

The following was the vote recorded for **LU No. 1224 & Res No. 2228:**

Affirmative – Arroyo, Barron, Brewer, Comrie, Crowley, de Blasio, Dickens, Dilan, Eugene, Felder, Fidler, Foster, Garodnick, Gennaro, Gentile, Gerson, Gioia, Gonzalez, Ignizio, Jackson, James, Katz, Koppell, Lappin, Liu, Mark-Viverito, Mealy, Mendez, Mitchell, Nelson, Palma, Recchia, Reyna, Sanders, Seabrook, Sears, Stewart, Ulrich, Vacca, Vallone, Jr., Vann, Weprin, Yassky, Oddo, Rivera, and the Speaker (Council Member Quinn) – **46**.

Negative – Avella – **1**.

The following Introductions were sent to the Mayor for his consideration and approval: Int Nos. 396-A, 433-A, and 1015-A.

INTRODUCTION AND READING OF BILLS

Int. No. 1090

By Council Members Crowley, James, DeBlasio, the Speaker (Council Member Quinn), Vallone Jr., Gentile, Stewart and Gerson.

A Local Law to amend the administrative code of the city of New York, in relation to notices of violation issued by the department of sanitation for illegal postings.

Be it enacted by the Council as follows:

Section 1. Section 16-133 of the administrative code of the city of New York is amended by adding a new subdivision (f) to read as follows:

f. Service of a notice of violation returnable to the environmental control board or any court of competent jurisdiction for any provision of the New York city charter or the administrative code, the enforcement of which is under the jurisdiction of the commissioner, shall be made upon any person or entity deemed to be in violation of any such provision within five days after an authorized employee or agent of the department observes such violation, using the methods of service as pursuant to the rules of the department.

§2. Section 10-121 of the administrative code of the city of New York is amended by adding new subdivisions (h) and (i) to read as follows:

h. No business entity or not for profit organization, as defined in section 6-109 of the code, that (1) employs one hundred or fewer persons, (2) is not part of a group of five or more establishments that conduct business under the same business name and (3) does not operate under common ownership or management or pursuant to a franchise agreement with the same franchisor shall be liable for a subsequent notice of violation of section 10-119 of the code for the same underlying violation until five days after service of the first notice of violation for such underlying violation is made, provided that, during a hearing before the environmental control board or court of competent jurisdiction, it is determined that such business entity or not for profit organization has not previously been found to have violated section 10-119 of the code prior to the date of the initial underlying violation.

i. If a not for profit organization as defined in section 6-109 of the code or a business entity has been charged with multiple violations of section 10-119 of the code in five consecutive days and such not for profit organization or business entity (1) employs one hundred or fewer persons, (2) is not part of a group of five or more establishments that conduct business under the same business name and (3) does not operate under common ownership or management or pursuant to a franchise agreement with the same franchisor, the multiple violations charged to the business entity shall be deemed to be one single violation for which one criminal fine or one civil penalty shall be imposed, if, during a hearing before the environmental control board or court of competent jurisdiction, it is determined that such not for profit organization or business entity has not previously been found to have violated section 10-119 of the code prior to the first date of the charged multiple violations.

§3. This local law shall take effect ninety days after its enactment into law.

Referred to the Committee on Sanitation and Solid Waste Management.

Int. No. 1091

By Council Members Felder, Fidler, Gentile, Seabrook, Stewart, James and Nelson.

A Local Law to amend the administrative code of the city of New York, in relation to trash receptacles placed out for collection by the department of sanitation.

Be it enacted by the Council as follows:

Section 1. Subdivisions a and c of section 16-120 of the administrative code of the city of New York are amended to read as follows:

§ 16-120 Receptacles for the removal of waste material. a. The owner, lessee, agent, occupant or other person who manages or controls a building or dwelling shall provide and maintain in accordance with this section separate receptacles for the deposit of incinerator residue and ashes; refuse, and liquid waste. The receptacles shall be provided for the exclusive use of each building or dwelling and shall be of sufficient size and number to contain the wastes accumulated in such building or dwelling during a period of seventy-two hours. The receptacles shall be made of metal or other material of a grade and type acceptable to the department, the department of health and mental hygiene and the department of housing preservation

and development. Receptacles used for liquid waste shall be constructed so as to hold their contents without leakage. Metal containers or containers made of any other material of a grade and type acceptable to the department, the department of health and mental hygiene and the department of housing preservation and development shall be provided with tight fitting [metal] covers, except that if such a container when placed out for collection contains only one or more securely tied heavy duty opaque plastic bags, fewer than seven pieces of loose refuse, or both, no cover shall be required.

c. Incinerator, residue, ashes, refuse and liquid waste shall be stored in the building or dwelling or at the rear of the building or dwelling as may be required by the department of health or the department of housing preservation and development until time for removal and kept in tightly covered metal receptacles or containers made of other materials of a type and grade acceptable to the department of sanitation, department of health, and the department of housing preservation and development. After the contents have been removed by the department of sanitation or other collection agency any receptacles remaining shall be removed from the front of the building or dwelling before 9:00 p.m. on the day of collection, or if such collection occurs after 4:00 p.m., then before 9:00 a.m. on the day following collection. Except as provided for in subdivision a of this section, [The] the receptacles shall at all times be kept covered or closed and kept in a manner satisfactory to the department of sanitation, the department of health, and in the case of residential premises, the department of housing preservation and development. No receptacles, refuse, incinerator residue or ashes, or liquid waste shall be kept so as to create a nuisance. Yard sweepings, hedge cuttings, grass, leaves, earth, stone or bricks shall not be mixed with household wastes.

§ 2. This local law shall take effect immediately.

Referred to the Committee on Sanitation and Solid Waste Management.

Int. No. 1092

By Council Members Mark-Viverito, Foster, Gonzalez, Nelson, Sanders, James and Avella.

A Local Law to amend the administrative code of the city of New York, in relation to prohibiting persons receiving public funds or subsidies to be placed in buildings with a history of tenant harassment.

Be it enacted by the Council as follows:

Section 1. Article 1 of subchapter 1 of chapter 2 of title 27 of the administrative code of the city of New York is amended by adding a new section 27-2005.1 to read as follows:

§27-2005.1 Placement of persons by city agencies in buildings with tenant harassment prohibited. No person receiving public funds or subsidies shall be placed or referred for residence in a dwelling by any city agency where a court of competent jurisdiction has found a violation of subdivision d of section 27-2005 of this chapter three or more times within the immediately preceding five years.

§2. This local law shall take effect immediately upon enactment.

Referred to the Committee on Housing and Buildings.

Res. No. 2218

Resolution calling upon the New York State Legislature to introduce, and the Governor to sign, legislation which would provide tax incentives for food-service businesses to use environmentally-friendly alternatives to disposable food ware made from Styrofoam and other non-recyclable or non-biodegradable materials.

Council Members Mark-Viverito, Barron, Brewer, Fidler, Foster, Gentile, Jackson, Koppell, Lappin, Nelson, Sanders, Vallone Jr. and James.

Whereas, The City of New York has a duty to protect the natural environment, the health of its citizens, and the economy; and

Whereas, Using environmentally-friendly biodegradable, compostable, or recyclable disposable food service ware is an effective way of reducing the negative environmental impact of such food ware; and

Whereas, Polystyrene foam, also known as Styrofoam, and other non-biodegradable or non-recyclable materials, are commonly used in food ware in New York City; and

Whereas, Polystyrene foam is a non-biodegradable and virtually non-recyclable pollutant that stays in landfills and waterways for centuries; and

Whereas, Polystyrene foam is a notorious pollutant that breaks down into smaller, non-biodegradable pieces that are ingested by marine life and other wildlife thus injuring or killing them; and

Whereas, Styrene, a component of polystyrene foam, is a suspected carcinogen and neurotoxin that medical evidence suggests leaches from polystyrene foam containers into food and drink; and

Whereas, Disposable food service ware made from non-biodegradable materials other than Styrofoam, such as certain plastics, is made from non-renewable sources and often not accepted for recycling, also leading to substantial environmental pollution; and

Whereas, Due to these concerns, many municipalities, including San Francisco and Seattle, have banned the use of Styrofoam food containers and required the use of biodegradable/compostable or recyclable alternatives, and businesses in those cities have successfully adopted safer and more environmentally-friendly alternatives; and

Whereas, The New York State Assembly, in June of 2009, passed and delivered to the Senate Bill No. A.0428/S.02832, which discourages the use of disposable Styrofoam food service ware by any person or entity that has a contract with a state agency or municipality; and

Whereas, There are substitutes for, or alternatives to, polystyrene foam and other environmentally-harmful food service ware that adequately serve the needs of the food service industries and the consumer, and these substitutes or alternatives are readily obtainable and recyclable or biodegradable; and

Whereas, Environmentally-friendly alternatives are typically priced about 5 percent to 40 percent more than less expensive options; and

Whereas, Food-related businesses and consumers in New York City are already struggling in the current economy and unable to absorb significant additional food costs; and

Whereas, Providing food-service businesses with incentives to restrict the use of polystyrene foam and other environmentally-harmful food service containers and encourage the use of biodegradable, compostable or recyclable alternatives in New York City will further protect the public health and safety of its residents, natural environment and wildlife; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to introduce, and the Governor to sign, legislation which would provide tax incentives for food-service businesses to use environmentally-friendly alternatives to disposable food ware made from Styrofoam and other non-recyclable or non-biodegradable materials.

Referred to the Committee on Sanitation and Solid Waste Management.

Res. No. 2219

Resolution urging the United States Congress to pass and the President to sign the Protect Citizens and Residents from Unlawful Detention Act and the Strong Safe Treatment, Avoiding Needless Deaths, and Abuse Reduction in the Detention System (STANDARDS) Act, two bills that will reform the U.S. immigration detention system.

By Council Members Mark-Viverito, Dickens, Foster, Jackson, James and Avella.

Whereas, The 1996 changes to the Immigration and Nationality Act (INA) expanded both the classes of crimes that make non-citizens removable and the categories of persons subject to mandatory detention; and

Whereas, Those 1996 changes to the INA resulted in the expansion of the immigration detention system; and

Whereas, As of January 25, 2009, 32,000 persons from 177 different countries were in the custody of Immigration and Customs Enforcement (ICE) and 58% (or 18,690) of them did not plead or were not proven guilty of a crime, meaning that they did not have criminal convictions; and

Whereas, The 32,000 immigrant detainees are held in a network of 350 local and state jails under Intergovernmental Service Agreements, as well as in private, for-profit prisons and some federal facilities; and

Whereas, The federal immigration detention system has been adjudged to have numerous violations of the federal government's standards for detention; and

Whereas, Felix Franklin Rodriguez-Torres, was a construction worker who lived and worked in New York City from the time he emigrated from Ecuador in 1998; and

Whereas, On November 8, 2006, after serving five months at Rikers Island for petty larceny, Mr. Rodriguez-Torres was sent by immigration officials to an immigration jail in Eloy, Arizona; and

Whereas, Mr. Rodriguez-Torres died of testicular cancer that went untreated during his two months at the Eloy, Arizona immigration prison facility; and

Whereas, In 2006, ICE, a division of the Department of Homeland Security (DHS), instituted several policy changes that led to ICE's increased reliance on home raid operations; and

Whereas, Since 2006, when ICE expanded its home raid operations, lawsuits have been filed in every region of the country alleging ICE misconduct; and

Whereas, According to reports, ICE agents have engaged in misconduct such as (i) entering homes without legal authority, (ii) illegally seizing non-target persons during home-raid operations, (iii) illegally searching homes, and (iv) illegally seizing persons based solely on their race, ethnicity or status as a limited-English proficient person; and

Whereas, The reported misconduct of ICE agents is particularly disturbing because DHS regulations and policies incorporate constitutional requirements, specifically those that are set forth by the Fourth Amendment prohibiting unlawful searches and seizures; and

Whereas, The Fourth Amendment restricts the power of police to seize people for investigatory purposes or to search a home without consent - in such cases, officers are required to have reasonable suspicion that an individual is engaged in unlawful activity; and

Whereas, ICE agents generally use Warrants of Deportation and Removal when conducting home raids, which are administrative, rather than criminal, and as such do not grant authority to officers to breach doors without the informed consent of a person in the home; and

Whereas, Administrative warrants do not authorize agents to enter homes without consent because they are not issued by an impartial magistrate; and

Whereas, When ICE agents enter a home without consent, with only an administrative warrant, it constitutes a constitutional violation that goes to the heart of the Fourth Amendment; and

Whereas, On July 30, 2009, Senator Robert Menendez of New Jersey and Senator Kristin Gillibrand of New York responded to a report finding that the practices of ICE agents are in direct violation of the Fourth Amendment by introducing the Protect Citizens and Residents from Unlawful Detention Act (S. 1549) and the Strong Safe Treatment, Avoiding Needless Deaths, and Abuse Reduction in the Detention System (STANDARDS) Act (S. 1550), two pieces of legislation that would reform the nation's immigration arrest and detention system; and

Whereas, If enacted, the Protect Citizens and Residents from Unlawful Detention Act would establish minimum standards of procedure and treatment for United States citizens, lawful permanent residents and immigrants who are impacted by immigration enforcement and detention operations; and

Whereas, If enacted, the Protect Citizens and Residents from Unlawful Detention Act would require that ICE detainees be advised of their basic legal rights and any available legal resources, including the availability of free legal services from non-profit service providers and the right to access counsel at no cost to the government; and

Whereas, Further, if enacted, the bill would encourage government accountability by requiring a reporting on current enforcement practices and their impact on U.S. citizens, lawful permanent residents and immigrant communities, as well as by establishing an ICE Ombudsman to investigate complaints, assist in resolving complaints, and recommend personnel actions to DHS; and

Whereas, The STANDARDS Act would establish minimum detention standards and would require the Secretary of DHS to ensure that laws concerning the treatment of detainees are properly enforced; and

Whereas, The impetus for the STANDARDS Act was the fact that DHS detention standards are not consistently enforced, illustrated by the deaths of more than 80 detainees while in custody and reports of widespread abuse within detention facilities; and

Whereas, The medical care system in immigration detention facilities is dangerously inadequate with unique consequences for women; and

Whereas, Improving health care for immigrant detainees should be a top priority for the Administration; and

Whereas, The problems that exist within the nation's immigrant arrest and detention system put the health, welfare and rights of people at risk; and

Whereas, In the words of the late Senator Edward M. Kennedy, a co-sponsor of both pieces of legislation, "[i]mmigrants still come to America in search of a better life for themselves and their families, and they make invaluable contributions to every aspect of our society. Our ability to protect their rights is a test of our own humanity, and we have to get it right today;" now, therefore, be it

Resolved, That the Council of the City of New York urges the United States Congress to pass and the President to sign the Protect Citizens and Residents from Unlawful Detention Act and the Strong Safe Treatment, Avoiding Needless Deaths, and Abuse Reduction in the Detention System (STANDARDS) Act, two bills that will reform the U.S. immigration detention system.

Referred to the Committee on Immigration.

Res. No. 2220

Resolution calling upon the New York State Legislature to pass S.1574/A.2656, The Caregiver's Assistance Act.

By Council Members Nelson, Brewer, Fidler, Gerson, Gonzalez, Sanders, Stewart and James.

Whereas, The New York State Legislature is considering S.1574/A.2656, an act to amend the tax law and the real property tax law in relation to establishing the Caregiver's Assistance Act; and

Whereas, S.1574/A.2656 would provide a refundable credit to qualified taxpayers who provide informal, unpaid care to senior family members; and

Whereas, The credit amount would be 20% of the first \$2,400 spent by the taxpayer on behalf of a senior relative, plus \$75 for any amount spent in excess of \$240, providing a maximum credit of \$555; and

Whereas, S.1574/A.2656 would define a senior family member as a person who is 60 years old or older, who is within the third degree of relation, who resides in the taxpayer's home, and whose New York adjusted gross income is \$13,000 or less for a single person or \$20,000 or less for a married couple; and

Whereas, S.1574/A.2656 would also allow for a pro-rated basic or enhanced STAR exemption that would apply if the senior owned the home used as a residence in which he or she lives with a taxpayer; and

Whereas, STAR is New York State's School Tax Relief Program that includes a school property tax rebate program and a partial property tax exemption from school taxes and all New Yorkers who own and live in their home are eligible for the STAR exemption on their primary residence; and

Whereas, Basic STAR is available for owner-occupied, primary residences regardless of the owners' ages or incomes and works by exempting the first \$30,000 of the full value of a home from school taxes; and

Whereas, Enhanced STAR is available for the primary residences of senior citizens (age 65 and older) with yearly household incomes not exceeding the statewide standard for the applicable income tax year and works by exempting the first \$60,100 of the full value of their home from school property taxes; and

Whereas, The STAR exemption that would be available pursuant to S.1574/A.2656 would apply to the portion of the home used by the senior for living and the provision of care; and

Whereas, For example, in a 2,000 square foot house, if the senior member occupied one 10x12 room (120 square feet), and there was a second room used for the provision of care of equal size, the amount of the pro-rated STAR exemption would be 12% of the total basic or enhanced exemption; and

Whereas, Caregiving has become an essential element of our health and long-term care system and typically can last years or decades; and

Whereas, According to AARP, the economic value of the nation's family and informal caregivers was estimated at \$375 billion in 2007 and \$25 billion in New York State for the same year; and

Whereas, According to United Hospital Fund reports, there are 1.9 million caregivers in New York State and in New York City, one in every five residents is a caregiver; and

Whereas, The Caregiver Assistance Act would provide some financial relief to family caregivers who dedicate significant time and financial resources to care for aging relatives; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to pass S.1574/A.2656, The Caregiver's Assistance Act.

Referred to the Committee on Aging.

Res. No. 2221

Resolution calling upon the New York State Legislature to amend section 6-134 of the New York State Election Law in order to extend from three to seven business days a candidate's time to cure any violations on submitted petitions, and to allow voters to sign multiple petitions without consequence of disqualification.

By Council Members Vallone Jr., Barron and Felder.

Whereas, In order to appear on a primary ballot in New York State, State Election Law requires major party candidates - challengers as well as incumbents - to file nominating petitions with the Board of Elections; and

Whereas, The petitioning period is restricted to a five week window throughout parts of June and July when candidates must collect a specific number of signatures from voters of the candidate's party who live within the area that would be represented by the candidate; and

Whereas, State Law requires candidates to obtain the signatures of 5 percent of the enrolled voters of the political party in the political unit covered by the office, specifically 900 signatures for a council district race, 7,000 for a borough-wide race, and 9,000 signatures for a city-wide race; and

Whereas, Although the petitioning process encourages candidates to interact with their constituents and to maintain a visible presence throughout their community, the intricacies of New York State Election Law makes petitioning a complex process; and

Whereas, Reform is necessary as State Election Law does not allow for flexibility in terms of non-material errors on a candidate's petition; for example, whole pages of petitioning sheets can be disqualified if a voter did not print his or her full name, or if a street name is misspelled, or even if an abbreviation is used in place of the words "street" or "avenue;" and

Whereas, Because of such errors on nominating petitions, highly viable candidates, who have assembled a broad coalition of support throughout their communities, may be denied access to the ballot; and

Whereas, In order to prevent candidates from being unfairly kept off the ballot, the State Election Law must extend the time it allows candidates to correct errors on petitioning forms from three to seven business days from when the local Board of Elections returns the flawed petitioning forms to the candidate; and

Whereas, Both candidates and voters will benefit from such a change, as candidates will have more time to conduct a thorough review of their petitions and voters will have as many choices as possible on Election Day; and

Whereas, In addition to extending the period for candidates to correct petitioning errors, the New York State Legislature should also amend the State Election Law to allow voters to sign multiple petitions for the same race; and

Whereas, Currently, State Law only permits voters to sign a single nominating petition for any given race; and

Whereas, A voter's signature, however, is not a vote for a candidate nor an indication of how one will vote on Election Day; and

Whereas, Allowing voters to sign one or more nominating petitions for the same race will therefore not violate the principle of "one person, one vote;" and

Whereas, Voters should have the opportunity to sign as many petitions as they desire since such an expression helps to ensure that on Election Day voters will have a diverse field of candidates from which to choose; and

Whereas, Because both aforementioned modifications to the State Election Law will help preserve the integrity of the democratic process and ensure that voters have as many choices as possible on Election Day; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to amend section 6-134 of the New York State Election Law in order to extend from three to seven business days a candidate's time to cure any violations on submitted petitions, and to allow voters to sign multiple petitions without consequence of disqualification.

Referred to the Committee on Governmental Operations.

Res. No. 2222

Resolution calling on the States of New York and New Jersey to enact legislation that dissolves the Waterfront Commission of New York Harbor and calling on the United States Congress to grant its consent.

By Council Member Weprin.

Whereas, Because of the massive corruption in the 1950s that plagued the waterfront of the New York Harbor, the States of New York and New Jersey enacted a compact called the Waterfront Commission Act that formed a bi-state entity to solve this problem; and

Whereas, With the mandate to "investigate, deter, combat, and remedy criminal activity and influence in the Port of New York and New Jersey and to ensure fair hiring and employment practices, so that the Port region can grow and prosper," the bi-state compact was approved by the United States Congress in 1953; and

Whereas, The commission is made up of two commissioners each of whom is appointed by the governors of both states and who serve terms of three years, an Executive Director who oversees the day-to-day operations, and a staff of almost 100 people; and

Whereas, Funded primarily through an assessment on the salaries paid to the workers on the pier, the Waterfront Commission has an annual budget of more than \$11 million; and

Whereas, The duties of the Commission include regulating and licensing all stevedoring companies and individuals that operate on the harbor, regulating the employment of longshoremen, conducting compliance and payroll audits, and investigating crimes that occur within the 1500 square mile port district; and

Whereas, Due to complaints of abuse from an employee of the Commission, former-Governor Eliot Spitzer and Governor David A. Paterson issued several executive orders, beginning in 2007, that directed the New York State Inspector General to investigate the Commission; and

Whereas, After a thorough review, the Inspector General released a report in August 2009 that found the mismanagement and abuses of influence throughout the agency produced an organization fraught with corruption; and

Whereas, The Inspector General specifically found that the Commission failed to issue a permanent license to companies during the prior ten years, resulting in a lack of completed audits and salary assessments which ultimately affected the Commission's budget; and

Whereas, The investigation also revealed inconsistent enforcement of violations, numerous conflict of interest issues involving several Commission officials, the hiring of unqualified candidates in the Police Division, and improper uses of vehicles and police parking placards, among others; and

Whereas, Although the State Governors and officials in the Waterfront Commission are now trying to reorganize the organization, the public should not have to continue to support an agency mired in such corruption and gross misuse of resources; now, therefore, be it

Resolved, That the Council of the City of New York calls on the States of New York and New Jersey to enact legislation that dissolves the Waterfront Commission of New York Harbor and calls on the United States Congress to grant its consent.

Referred to the Committee on Waterfronts.

L.U. No. 1243

By Council Member Weprin:

228 West 17th Street Manhattan, Community District No. 4, Council District No. 3.

Referred to the Committee on Finance.

L.U. No. 1244

By Council Member Katz:

Application no. N 090412 ZRY by the Department of City Planning, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution relating to Article VI, Chapter 3, concerning provisions related to the establishment of FRESH Food Stores.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 1245

By Council Member Katz:

Application no. C 090462 ZMK submitted by the Department of City Planning pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment of the Zoning Map, Section Nos. 16a and 16c.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 1246

By Council Member Katz:

Application no. C 090308 ZMK submitted by the Eldert Lane Residential Development, Ltd. and the Department of Parks and Recreation pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment of the Zoning Map, Section Nos. 18a to rezone two city blocks from R5 to R6A.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 1247

By Council Member Katz:

Application no. C 090307 MMK submitted by the Eldert Lane Residential Development, Ltd and the Department of Parks and Recreation pursuant to §197-c and 199 of the New York City Charter and Section 5-430 of the Administrative Code an amendment of the City Map, Community Board 5, Borough of Brooklyn .

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 1248

By Council Member Katz:

Application no. 20095703 SCX, a proposed site for a new approximately 380 seat Primary School Facility, to be located at 2126 Barnes Avenue (Block 4293, Lot 31), Council District No. 13, Borough of The Bronx. This matter is subject to Council review and action pursuant Section 1732 of the New York State Public Authorities Law.

Referred to the Committee on Land Use and the Subcommittee on Landmarks, Public Siting and Maritime Uses.

At this point the Speaker (Council Member Quinn) made the following announcements:

ANNOUNCEMENTS:

Thursday, October 15, 2009

Committee on HOUSING AND BUILDINGS10:00 A.M. Proposed Int 874-A - By Council Members Dickens, Comrie, Eugene, Gerson, Gonzalez, Liu, Arroyo and Gioia - A Local Law to amend the administrative code of the city of New York, in relation to methane and radon gas vent piping, the approval of mechanical joint piping systems and the approval of non-code prescribed drainage vent systems. Council Chambers – City Hall Erik Martin-Dilan, Chairperson

Committee on FIRE AND CRIMINAL JUSTICE SERVICES jointly with the Committee on TECHNOLOGY IN GOVERNMENT10:00 A.M. Oversight – Citywide Implementation of Notify NYC Committee Room – City Hall James Vacca, Chairperson Gale Brewer, Chairperson

★ Deferred Committee on GENERAL WELFARE 1:00 P.M. Agenda to be announced Council Chambers – City Hall Bill de Blasio, Chairperson

Committee on CONTRACTS jointly with the Committee on CIVIL SERVICE AND LABOR 1:00 P.M. Oversight - Charter Section 312(a) analysis by City agencies and why it did not work for the painters employed by the Department of Homeless Services Committee Room – City Hall Letitia James, Chairperson Michael Nelson, Acting-Chairperson

Monday, October 19, 2009

★ Addition Committee on FINANCE jointly with the Committee on COMMUNITY DEVELOPMENT10:00 A.M. Int 1071 - By Council Members Vann, Dickens, Liu, White, James, Avella, Gentile, Arroyo, Baez, Barron, Comrie, Dilan, Felder, Ferreras, Foster, Gennaro, Gerson, Mark-Viverito, Mendez, Nelson, Sanders Jr., Katz, Weprin, Rivera, Ignizio and Oddo- A Local Law to amend the administrative code of the city of New York, in relation to the sale of water liens. Council Chambers – City Hall David Weprin, Chairperson Albert Vann, Chairperson

Tuesday, October 20, 2009

★ Note Location Change Committee on GOVERNMENTAL OPERATIONS10:00 A.M. Res 2166 - Resolution calling upon the United States House of Representatives to pass both H.R. 22, the United States Postal Service Financial Relief Act, and H.R. 658, the Access to Postal Services Act, which would stop the unnecessary closure of neighborhood post offices and would increase community input as the Post Office reorganizes branches throughout the city of New York.

★ Council Chambers – City Hall Helen Sears, Chairperson

★ *Deferred*

Committee on **SANITATION AND**

SOLID WASTE MANAGEMENT **10:00 A.M.**

~~Int 983 — By Council Members Vacca, Garodnick, Lappin, de Blasio, Vallone Jr., Brewer, Ferreras, Fidler, Gennaro, James, Koppell, Mark Viverito, Sanders Jr. and Stewart — A Local Law to amend the administrative code of the city of New York, in relation to requiring a recycling program for all dry cleaning establishments.~~

~~Int 1019 — By Council Members Lappin, Brewer, James, Seabrook, Stewart and Mitchell — A Local Law to amend the administrative code of the city of New York, in relation to plastic garment bags used by dry cleaning establishments.~~

★ ~~Committee Room — City Simcha Felder, Chairperson~~

Committee on **PARKS AND RECREATION** jointly with the

Committee on **CIVIL RIGHTS**..... **1:00 P.M.**

Oversight - More Than One Year After Wright v. Stern: Ensuring No Future Discrimination at the Parks Department

Committee Room – City Hall Helen Foster, Chairperson

..... Larry Seabrook, Chairperson

Wednesday, October 21, 2009

★ *Deferred*

Committee on **COMMUNITY DEVELOPMENT** **10:00 A.M.**

~~Agenda to be announced~~

~~Hearing Room — 250 Broadway 14th Floor Albert Vann, Chairperson~~

Committee on **LOWER MANHATTAN**

REDEVELOPMENT..... **10:00 A.M.**

Oversight - Status of the Performing Arts Center at the World Trade Center Site

Committee Room – City Hall Alan Gerson, Chairperson

Committee on **CULTURAL AFFAIRS, LIBRARIES &**

INTERNATIONAL INTERGROUP RELATIONS..... **1:00 P.M.**

Oversight - Health Insurance for Artists in New York City

Committee Room – City Hall Domenic M. Recchia Jr., Chairperson

★ *Deferred*

Committee on **VETERANS**..... **1:00 P.M.**

~~Agenda to be announced~~

~~Hearing Room — 250 Broadway, 14th Floor James Sanders, Chairperson~~

Thursday, October 22, 2009

Committee on **TRANSPORTATION** **10:00 A.M.**

Oversight - Is the taxi dispatch system working for people with disabilities?

Hearing Room – 250 Broadway, 14th Floor..... John C. Liu, Chairperson

★ *Deferred*

Committee on **SMALL BUSINESS** **10:00 A.M.**

~~Agenda to be announced~~

~~Committee Room — City Hall David Yassky, Chairperson~~

★ *Deferred*

Committee on **IMMIGRATION** **1:00 P.M.**
 Agenda to be announced
 Hearing Room – 250 Broadway, 14th Floor Kendall Stewart, Chairperson

Committee on **HEALTH** jointly with the
 Committee on **AGING** **1:00 P.M.**
 Oversight - End of Life Care: What Everyone Should Know
 Committee Room – City Hall Joel Rivera, Chairperson
 Maria del Carmen Arroyo, Chairperson

★ *Deferred*

Committee on **EDUCATION** **1:00 P.M.**
 Agenda to be announced
 Council Chambers – City Hall Robert Jackson, Chairperson

Committee on **WATERFRONTS** **1:00 P.M.**
 Oversight - The Regulatory Process for Waterfront Development
 Hearing Room – 250 Broadway, 16th Floor Michael Nelson, Chairperson

Friday, October 23, 2009

★ *Addition*

Committee on **ENVIRONMENTAL PROTECTION** **10:00 A.M.**
 Oversight - The Draft Supplemental Generic Environmental Impact Statement
 Relating to Drilling for Natural Gas in New York State Using Horizontal Drilling
 and Hydraulic Fracturing
 Committee Room – City James F. Gennaro, Chairperson

Monday, October 26, 2009

Subcommittee on **ZONING & FRANCHISES** **9:30 A.M.**
 See Land Use Calendar Available, Wednesday, October 21, 2009 in Room 5 City
 Hall
 Council Chambers – City Hall Tony Avella, Chairperson

Committee on **TECHNOLOGY IN GOVERNMENT** **10:00 A.M.**
 Agenda to be announced
 Hearing Room – 250 Broadway, 14th Floor Gale Brewer, Chairperson

Subcommittee on **LANDMARKS, PUBLIC SITING &
 MARITIME USES** **11:00 A.M.**
 See Land Use Calendar Available, Wednesday, October 21, 2009 in Room 5 City
 Hall
 Committee Room – City Hall Jessica Lappin, Chairperson

Subcommittee on **PLANNING, DISPOSITIONS &
 CONCESSIONS** **1:00 P.M.**
 See Land Use Calendar Available, Wednesday, October 21, 2009 in Room 5 City
 Hall
 Committee Room – City Hall Daniel Garodnick, Chairperson

★ *Addition*

Committee on **IMMIGRATION** **1:00 P.M.**
 Int 787 - By Council Members Stewart, Gerson, Mealy and Recchia - A Local Law
 to amend the administrative code of the city of New York, in relation to establishing
 a temporary Task Force to review strategies to protect children who qualify for
 Special Immigrant Juvenile Status.
 Hearing Room – 250 Broadway, 14th Floor Kendall Stewart, Chairperson

★ *Addition*

Committee on **SANITATION AND SOLID WASTE
 MANAGEMENT** **1:00 P.M.**
 Int 983 - By Council Members Vacca, Garodnick, Lappin, de Blasio, Vallone Jr.,
 Brewer, Ferreras, Fidler, Gennaro, James, Koppell, Mark-Viverito, Sanders Jr. and
 Stewart - A Local Law to amend the administrative code of the city of New York, in
 relation to requiring a recycling program for all dry cleaning establishments.
 Int 1019 - By Council Members Lappin, Brewer, James, Seabrook, Stewart and
 Mitchell - A Local Law to amend the administrative code of the city of New York,
 in relation to plastic garment bags used by dry cleaning establishments.
 Hearing Room – 250 Broadway, 16th Floor Simcha Felder, Chairperson

Tuesday, October 27, 2009

Committee on **JUVENILE JUSTICE** **10:00 A.M.**
 Agenda to be announced
 Hearing Room – 250 Broadway, 14th Floor Sara M. Gonzalez, Chairperson

Committee on **LAND USE** **10:00 A.M.**
 All items reported out of the subcommittees
 AND SUCH OTHER BUSINESS AS MAY BE NECESSARY
 Committee Room – City Hall Melinda R. Katz, Chairperson

★ *Addition*

Committee on **SMALL BUSINESS** **10:00 A.M.**
 Agenda to be announced
 Hearing Room – 250 Broadway, 16th Floor David Yassky, Chairperson

Committee on **HIGHER EDUCATION** jointly with the
 Committee on **VETERANS** **1:00 P.M.**
 Oversight - Backlog of G.I. Bill Benefits: Are New York City's Veterans Able to
 Stay in School?
 Committee Room – City Hall Charles Barron, Chairperson
 James Sanders, Chairperson

Committee on **ENVIRONMENTAL PROTECTION** **1:00 P.M.**
 Agenda to be announced
 Hearing Room – 250 Broadway, 14th Floor James F. Gennaro, Chairperson

Subcommittee on **PUBLIC HOUSING** **1:00 P.M.**
 Agenda to be announced
 Hearing Room – 250 Broadway, 16th Floor Rosie Mendez, Chairperson

Wednesday, October 28, 2009

★ *Addition*

Committee on **FINANCE** **11:00 A.M.**
 Report for L.U. No. 1243 - By Council Member Weprin - 228 West 17th Street
 Manhattan, Community District No. 4,
 Council District No. 3
 AND SUCH OTHER BUSINESS AS MAY BE NECESSARY
 Committee Room – City Hall David Weprin, Chairperson

Stated Council Meeting *Ceremonial Tributes – 1:00 p.m.*
 *Agenda – 1:30 p.m.*

Thursday, October 29, 2009

★ *Addition*

Committee on **ECONOMIC DEVELOPMENT** **10:00 A.M.**
 Int 1014 - By Council Member White, Jr. - A Local Law to amend the administrative
 code of the city of New York, in relation to regionally significant projects and
 empire zones.
 Hearing Room – 250 Broadway 16th Floor Thomas White, Chairperson

Committee on **PUBLIC SAFETY** **10:00 A.M.**
 Oversight - Efforts to combat the “stop snitching” message
 Int 941 - By Council Members Arroyo, Vallone, Jr., Recchia Jr., Avella, Baez,
 Comrie, Dickens, Gentile, James, Koppell, Liu, Mealy, Nelson, Palma and Sears - A
 Local Law to amend the administrative code of the city of New York, in relation to
 unlawful initiation activity.
 Int 945 - By Council Members Recchia, Vallone, Jr., Arroyo, Baez, Brewer, Comrie,
 Fidler, Gennaro, Gentile, Gonzalez, Liu, Nelson, Stewart, Vann, Avella, Mark-
 Viverito, Lappin, Koppell, Vacca, Crowley, Gerson, Ignizio and Oddo - A Local
 Law to amend the administrative code of the city of New York, in relation to
 unlawful solicitation.
 Council Chambers – City Peter Vallone, Chairperson

Committee on **HOUSING AND BUILDINGS**.....**10:00 A.M.**
Agenda to be announced
Hearing Room – 250 Broadway, 14th Floor Erik Martin-Dilan, Chairperson

Committee on **YOUTH SERVICES** **10:00 A.M.**
Agenda to be announced
Committee Room – City Hall Lewis A. Fidler, Chairperson

Committee on **GENERAL WELFARE**..... **1:00 P.M.**
Agenda to be announced
Hearing Room – 250 Broadway, 14th Floor..... Bill de Blasio, Chairperson

Committee on **FIRE AND CRIMINAL JUSTICE SERVICES**..... **1:00 P.M.**
Oversight – Examining the FDNY’s 2009-2010 Strategic Plan
Hearing Room – 250 Broadway, 16th Floor..... James Vacca, Chairperson

Committee on **WOMEN’S ISSUES** **1:00 P.M.**
Agenda to be announced
Committee Room – City Hall Darlene Mealy, Chairperson

Committee on **MENTAL HEALTH, MENTAL RETARDATION,
ALCOHOLISM, DRUG ABUSE AND DISABILITY SERVICES** **1:00 P.M.**
Oversight – The Quality of Housing and Support in Adult Homes and the
Implications of the Disability Advocates, Inc. v. Paterson decision
Council Chambers – City Hall..... G. Oliver Koppell, Chairperson

Friday, October 30, 2009

★ Addition

Committee on **PARKS AND RECREATION**..... **1:00 P.M.**
Proposed Int 1083-A - By Council Member Mark-Viverito, Avella, Jackson, Barron,
Brewer, Dickens, James, Koppell, Lappin, Palma, Sanders Jr., Seabrook, Nelson,
Foster, Ferreras, Vann and Mendez - A LOCAL LAW - To amend the
administrative code of the city of New York, in relation to requiring local
representation on park conservancies.
Committee Room – City HallHelen Foster, Chairperson

Whereupon on motion of the Speaker (Council Member Quinn), the President
Pro Tempore (Council Member Rivera) adjourned these proceedings to meet again
for the Stated Meeting Wednesday, October 28, 2009.

MICHAEL M. McSWEENEY, City Clerk
Clerk of the Council

Editor’s Local Law Note: Int Nos. 622-A (adopted at the September 17, 2009
Stated Council Meeting), 951-A (adopted at the September 30, 2009 Stated Council
Meeting), 986-A (adopted at the September 17, 2009 Stated Council Meeting), 1004-
A , 1042-A , 1058, (all adopted at the September 30, 2009 Stated Council Meeting)
and 1065 (adopted at the September 17, 2009 Stated Council Meeting) were signed
by the Mayor into law on October 7, 2009 as, respectively, Local Law Nos. 61, 62,
63, 64, 65, 66, and 67 of 2009.

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