

SUPPLEMENT TO

# THE CITY RECORD

THE COUNCIL —STATED MEETING OF  
WEDNESDAY, JANUARY 23, 2013

## THE COUNCIL

*Minutes of the Proceedings for the  
STATED MEETING*

*of*  
Wednesday, January 23, 2013, 2:30 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 C. Nelson
Charles Barron	Sara M. Gonzalez	James S. Oddo
Gale A. Brewer	David G. Greenfield	Annabel Palma
Fernando Cabrera	Daniel J. Halloran III	Domenic M. Recchia, Jr.
Margaret S. Chin	Vincent M. Ignizio	Diana Reyna
Leroy G. Comrie, Jr.	Robert Jackson	Joel Rivera
Elizabeth S. Crowley	Letitia James	Ydanis A. Rodriguez
Inez E. Dickens	Andy King	Deborah L. Rose
Erik Martin Dilan	Peter A. Koo	Eric A. Ulrich
Daniel Dromm	G. Oliver Koppell	James Vacca
Mathieu Eugene	Karen Koslowitz	Peter F. Vallone, Jr.
Julissa Ferreras	Bradford S. Lander	James G. Van Bramer
Lewis A. Fidler	Jessica S. Lappin	Mark S. Weprin
Helen D. Foster	Stephen T. Levin	Jumaane D. Williams
Daniel R. Garodnick	Melissa Mark-Viverito	Ruben Wills
James F. Gennaro	Darlene Mealy	

Excused: Council Members Mendez and Vann.

The Majority Leader (Council Member Rivera) assumed the Chair as the President Pro Tempore and Acting Presiding Officer.

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

*There is presently one vacancy in the Council pending the swearing-in of the winner of the scheduled February 19, 2013 Special Election for the 31st Council District (Queens).*

*There were 48 Council Members marked present at this Stated Meeting held in the Council Chambers of City Hall, N.Y., N.Y. 10007.*

## INVOCATION

The Invocation was delivered by Rev. Richard J. Ahlemeyer, Pastor, St. Camillus, 99-15 Rockaway Beach Blvd, Rockaway Park, NY 11694.

Let us bow our heads and begin to pray today:

Let us join with the Council Member [Rodriguez] on this blessed day and ask that the Lord watch over his wife and child to come.

Watch over him and his family

Give her a safe delivery

And watch over all parents especially in our City of New York.

Almighty and Eternal God,

you have revealed your glory to all peoples.

God of power and might, wisdom and justice,

through you, authority is rightly administered;

laws are enacted and judgment decreed.

Let the light of your divine wisdom

direct the deliberations of the City Council this day

and shine forth in all their proceedings

and the laws framed

for the welfare of our city and its leaders.

May the members of this Council

seek to preserve peace, promote justice,

and continue to bring all in our city

the blessings of liberty and equality.

May they be enabled by your powerful protection

to discharge their duties with honesty and ability.

We likewise today commend to your care

all the people of our City

especially those most in need of your love

the poor, the elderly, the frail,

the homeless, the vulnerable, victims of crime,

and those affected by disasters such as the recent hurricane Sandy.

We pray to you our Lord and God forever and ever.

Amen.

Council Member Ulrich 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 the following individuals:

Christine Molnar, 47, President and CEO of Save Space, a major non-profit child care agency, died suddenly on January 11, 2013. Ms. Molnar had previously been with the Community Service Society of New York for fourteen years before joining Save Space in 2009. Her most recent work involved sending caseworkers, hot meals, and counselors to the areas of Southeast Queens affected by Hurricane Sandy. She leaves behind her husband George, her ex-husband Bill, and her two children Sasha and Soren. The floor was then yielded to Council Members Lander and Comrie who both spoke in respectful memory of Ms. Molnar.

Marie Christopher, 65, tenant leader and activist for affordable housing from the Lower East Side, died after a short battle with pancreatic cancer on January 16, 2013. Ms. Christopher was known as an advocate for tenants, environmental justice, and mental health issues. She leaves behind two sons, Melvin and Don, as well as the 170 families she helped organize at her residence at 210 Stanton Street. It was noted that Council Member Mendez was attending her funeral. The floor was then yielded to Council Member Chin who spoke in respectful memory of Ms. Christopher.

Juanita Watkins, 78, former New York City Council Member representing the 31<sup>st</sup> Council District in Queens, died on January 20, 2013. She served in the Council from 1992 to 2001 and served on the Committees on Finance, Rules, Public Safety, General Welfare, Contracts, Consumer Affairs, and Governmental Operations. She was a strong advocate for her community especially in issues involving mega-stores,

commuter vans, and senior services. The floor was yielded to her friend, Council Member Comrie who spoke in respectful memory of Council Member Watkins.

#### ADOPTION OF MINUTES

Council Member Cabrera moved that the Minutes of the Stated Meeting of November 27 and December 10, 2012 be adopted as printed.

#### MESSAGES & PAPERS FROM THE MAYOR

Preconsidered M-1029

**Communication from the Mayor - Submitting the name of LaShann M. DeArcy to the Council for its advice and consent regarding her re-appointment to the Taxi and Limousine Commission.**

January 14, 2013

The Honorable Christine C. Quinn  
Council Speaker  
City Hall  
New York, NY 10007

Dear Speaker Quinn:

Pursuant to Sections 31 and 2301 of the City Charter, I am pleased to present the name of LaShann M. DeArcy to the City Council for advice and consent concerning her reappointment to the Taxi and Limousine Commission. Her reappointment will be for a seven-year term that will expire on January 31, 2019.

Thank you for reviewing the reappointment of Ms. DeArcy.

Sincerely,

Michael R. Bloomberg  
Mayor

Referred to the Committee on Rules, Privileges & Elections.

Preconsidered M-1030

**Communication from the Mayor - Submitting the name of Edward Gonzales to the Council for its advice and consent regarding his re-appointment to the Taxi and Limousine Commission.**

January 14, 2013

The Honorable Christine C. Quinn  
Council Speaker  
City Hall  
New York, NY 10007

Dear Speaker Quinn:

Pursuant to Sections 31 and 2301 of the City Charter, I am pleased to present the name of Edward Gonzales to the City Council for advice and consent regarding his reappointment as a member of the Taxi & Limousine Commission. His reappointment will be for a seven-year term that will expire on January 31, 2019.

Thank you for reviewing the reappointment of Mr. Gonzales.

Sincerely,

Michael R. Bloomberg  
Mayor

Referred to the Committee on Rules, Privileges & Elections.

#### LAND USE CALL UPS

M-1031

By Council Member Wills:

**Pursuant to Rule 11.20b of the Council and §197-d(b)(3) of the New York City Charter, the Council resolves that the action of the City Planning Commission on Uniform Land Use Procedure Application No. C 130023 PPQ shall be subject to review by the Council.**

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, Barron, Brewer, Cabrera, Chin, Comrie, Crowley, Dickens, Dilan, Dromm, Eugene, Ferreras, Fidler, Foster, Garodnick, Gennaro, Gentile, Gonzalez, Greenfield, Halloran, Ignizio, Jackson, James, King, Koo, Koppell, Koslowitz, Lander, Lappin, Levin, Mark-Viverito, Mealy, , Nelson, Palma, Recchia, Reyna, Rodriguez, Rose, Ulrich, Vacca, Vallone Jr., Van Bramer, Weprin, Williams, Wills, Oddo, Rivera and the Speaker (Council Member Quinn) – **48**.

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 Civil Rights

Report for Int. No. 814-A

**Report of the Committee on Civil Rights 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 prohibiting discrimination based on an individual's unemployment.**

The Committee on Civil Rights, to which the annexed amended proposed local law was referred on March 28, 2012 (Minutes, page 1024), respectfully

#### REPORTS:

##### I. Introduction

On Tuesday, January 22, 2013, the Committee on Civil Rights, chaired by Council Member Deborah Rose, will vote on Proposed Introductory Bill Number 814-A (Prop. Int. No. 814-A), a Local Law to amend the administrative code of the city of New York, in relation to prohibiting discrimination based on an individual's unemployment. The Committee previously held a hearing on Introductory Bill Number 814 ("Int. No. 814"), a Local Law to amend the administrative code of the city of New York, in relation to prohibiting discrimination based on one's unemployment status, on June 20, 2012.

##### II. Background

According to the New York State Department of Labor, the unemployment rate in New York City in November 2012 was 8.7 percent, the highest of any metropolitan area in the state.<sup>1</sup> Perhaps even more troubling, at 11.8 percent, the Bronx has the highest unemployment rate out of any county in the state.<sup>2</sup> Unemployment rates among communities of color have historically been significantly higher. For example, a 2010 investigation by the New York City Comptroller found that, in the third quarter of 2010, the unemployment rate for blacks and Hispanics in the city was 15.3 and 13.3 percent, respectively, compared to 5.2 percent for Whites.<sup>3</sup>

Unfortunately, the unemployed are increasingly becoming victims of discrimination as companies screen out candidates on the basis of their unemployment status. In a 2011 examination of online job posting websites, the National Employment Law Project ("NELP") found over 150 advertisements over a four-week period that included language that explicitly required that the candidates be currently employed.<sup>4</sup> According to NELP, excluding unemployed candidates from

for the Lower Ma\_\_\_\_\_

<sup>1</sup> NYS Department of Labor, *Employed, Unemployed, and Rate of Unemployment by Place of Residence for New York State and Major Labor Areas*, <http://www.labor.ny.gov/stats/pressreleases/prtbur.pdf> (last visited January 17, 2013).

<sup>2</sup> NYS Department of Labor, *Counties Ranked by Unemployment Rate, November 2012*, [https://www.labor.ny.gov/stats/ur\\_rank.xls](https://www.labor.ny.gov/stats/ur_rank.xls) (last visited January 17, 2013).

<sup>3</sup> Press Release, Office of the NYC Comptroller, *Persistent Disparities in NYC Unemployment* (Oct. 28, 2010).

<sup>4</sup> National Employment Law Project, *Hiring Discrimination Against the Unemployed: Federal Bill Outlaws Excluding the Unemployed From Job Opportunities, as Discriminatory Ads Persist*, 2, <http://www.nelp.org/page/-/UI/2011/unemployed.discrimination.7.12.2011.pdf?nocdn=1> (last visited January 18, 2013) [hereinafter *NELP*].

consideration allows employers to shrink the pool of prospective employees at a time when there are four times as many unemployed people as there are available positions.<sup>5</sup> NELP also reported that some employers exclude unemployed jobseekers from consideration based on the unfair assumption that those who are unemployed lack the work ethic needed for the job.<sup>6</sup> This discriminatory selection process can have a particularly debilitating effect on groups that already suffer from high rates of unemployment, such as communities of color and recent military veterans. While some of the businesses cited in the NELP report disavowed the language used in the advertisements, others defended the policy, stating that the preferred candidate is one that seeks new employment out of desire, not necessity.<sup>7</sup> Others justified the policy based on the belief that the long-term unemployed lack “a stable job history and recent references.”<sup>8</sup>

Despite the fact that certain groups, such as blacks and Hispanics, are more dramatically impacted because of their unemployment status, the unemployed are not a protected class under federal law or under local laws in most parts of the country.<sup>9</sup> In an effort to address this gap in protections for workers, several jurisdictions have considered laws to protect the unemployed in the hiring process. New Jersey and Oregon have addressed this issue by passing laws that prohibit employers from using language in job advertisements that clearly excludes unemployed applicants.<sup>10</sup> The District of Columbia went further by not only barring discriminatory job advertisements, but also prohibiting employers from considering unemployment status when making employment decisions.<sup>11</sup> Additionally, under the District’s law, aggrieved individuals may make complaints with the District’s Office of Human Rights and they may receive damages.

Moreover, in July 2011, the United States Congress introduced the Fair Employment Opportunity Act of 2011, which prohibits employers from refusing to hire a person because he or she is unemployed and from including any exclusionary language in job advertisements.<sup>12</sup> Discrimination against the unemployed has also caught the attention of President Obama, who proposed similar protections for the unemployed when he announced his jobs bill in September 2011.<sup>13</sup> Some employers, however, resist efforts that would prohibit discrimination against the unemployed, expressing concern that such a law would risk exposing them to litigation in the hiring process.<sup>14</sup>

### III. Testimony on Int. No. 814

In order to address discrimination against the unemployed in New York City, Int. No. 814 was introduced into the City Council on March 28, 2012. Int. No. 814 amended the Human Rights Law to make it an unlawful discriminatory practice for employers to base employment decisions on the unemployment status of a current or prospective employee or to advertise a job vacancy that includes language that being currently employed is a job requirement or that unemployed applicants will not be considered. Int. No. 814 also included language explicitly permitting employers to request or use unemployment status information for an employment decision so long as it was substantially job related and the employer had a bona fide reason for doing so. Additionally, Int. No. 814 included language making it explicit that employers could inquire into the circumstances surrounding an individual’s previous termination or demotion.

The Committee on Civil Rights held a hearing on Int. No. 814 on June 20, 2012, during which the Committee heard testimony in support of the Introduction from advocates and legal practitioners. For example, Mitchell Hirsch, an advocate for the unemployed from NELP, testified in support of the bill, saying it would “keep the doors of employment opportunity open to all qualified job-seekers regardless of their current employment status” and “send a strong message to employers, recruiters and staffing firms nationwide that it is time to stop all discriminatory practices that exclude unemployed workers.”<sup>15</sup> Karen Cacace, a Supervising Attorney in The Legal Aid Society’s Employment Law Unit, expressed support of the bill’s potential to protect job seekers from any unwarranted bias that employers may have against the currently or recently unemployed.<sup>16</sup> Advocates and legal practitioners noted the fact that the bill went beyond prohibiting discriminatory advertising, commenting that a prohibition on discriminatory job postings alone would be insufficient to address

for the Lower Ma\_\_\_\_\_

<sup>5</sup> *Id.* at 5.

<sup>6</sup> *Id.*

<sup>7</sup> Tyler Kingkade, Jordan Howards, and Arthur Delaney, *Unemployment Discrimination: Who’s Afraid to Hire the Jobless?*, The Huffington Post, Aug. 8, 2011, [http://www.huffingtonpost.com/2011/08/11/unemployment-discrimination-slideshow\\_n\\_917641.html#s321678&title=Frankel\\_Staffing\\_Entry](http://www.huffingtonpost.com/2011/08/11/unemployment-discrimination-slideshow_n_917641.html#s321678&title=Frankel_Staffing_Entry), (last visited January 18, 2013) [hereinafter *Afraid to Hire the Jobless*].

<sup>8</sup> Stephen Singer, *For long-unemployed, hiring bias rears its head*, USA Today, Mar. 26, 2012, <http://www.usatoday.com/money/economy/employment/story/2012-03-23/unemployment-discrimination/53783328/1> (last visited January 18, 2013).

<sup>9</sup> *Afraid to Hire the Jobless*, *supra* note 7.

<sup>10</sup> NELP, *supra* note 4, at 6.

<sup>11</sup> B.19-486, enacted Mar. 19, 2012, (on file with Committee Staff).

<sup>12</sup> NELP, *supra* note 4, at 6.

<sup>13</sup> Robert Pear, *Obama Proposes Protecting Unemployed Against Hiring Bias*, NY Times, Sept. 26, 2011, [http://www.nytimes.com/2011/09/27/us/politics/obama-proposes-adding-unemployed-to-protected-status.html?\\_r=1](http://www.nytimes.com/2011/09/27/us/politics/obama-proposes-adding-unemployed-to-protected-status.html?_r=1) (last visited January 18, 2013).

<sup>14</sup> Jonathan Horn, *Unemployment discrimination bill clears another committee*, The San Diego Union-Tribune, Apr. 17, 2012, <http://www.utsandiego.com/news/2012/apr/17/unemployment-discrimination-bill-clears-another-co/> (last visited January 18, 2013).

<sup>15</sup> Written Testimony of Mitchell Hirsch, National Employment Law Project, before the Committee on Civil Rights, 3 (June 20, 2012) (on file with Committee Staff).

<sup>16</sup> Written Testimony of Karen Cacace, Employment Law Unit, The Legal Aid Society, before the Committee on Civil Rights, 2 (June 20, 2012) (on file with Committee Staff).

discriminatory actions by employers against the unemployed.<sup>17</sup> Specifically, they pointed out that recruiters are being told not to look at unemployed job applicants and companies are using screening software that contains keyword searches that ultimately eliminate the unemployed, both facts that make it essential to find a way to address the underlying problem.<sup>18</sup>

The Committee also received testimony from Bill Heinzen, Deputy Counselor to Mayor Bloomberg, who, on behalf of the Bloomberg Administration, supported the concept of prohibiting job postings and advertisements from indicating that the unemployed need not apply, with the caveat that employers needed to be free to “seek recent relevant work experience.”<sup>19</sup> Mr. Heinzen also expressed certain additional concerns about the proposed legislation.

### IV. Proposed Int. No. 814-A

Following the June 20, 2012 hearing on Int. No. 814, several changes were made to address concerns raised by the Administration and to clarify any ambiguities about the rights and obligations of employers and job applicants under this bill. Changes to the bill are as follows:

- Int. No. 814 defined the term “unemployment status” as one’s “current or recent unemployment.” The Administration found the definition to be ambiguous, undefined, and an unnecessary expansion of the bill’s scope.<sup>20</sup> In order to address this concern and to make it clear who would be able to seek relief under these provisions of the Human Rights Law, the terms “unemployed” and “unemployment” are defined in Proposed Int. No. 814-A as “not having a job, being available for work, and seeking employment.”
- Int. No. 814 contained language prohibiting employers from basing employment decisions on an individual’s unemployment in the context of termination, promotion, demotion, and discipline. The prohibitions set forth in Proposed Int. No. 814-A are narrower, however, and would only apply to employment decisions related to hiring, compensation or the terms, conditions or privileges of employment.
- Int. No. 814 included an exemption for employers who consider unemployment status information where it is “substantially job related” and “where the employer has a bona fide reason for doing so.” In order to address any concerns that these are two different standards that provide inadequate guidance to employers,<sup>21</sup> this section has been changed. Proposed Int. No. 814-A only contains the “substantially job-related” standard.
- Recognizing that, unlike race, there might be valid reasons for an employer to consider an applicant’s unemployment, circumstances in which an employer would be permitted to consider an applicant’s unemployment are set forth in Proposed Int. No. 814-A. Specifically, Proposed Int. No. 814-A would explicitly permit employers to consider, among other things, substantially job-related qualifications when making employment decisions; advertise job openings that include substantially job-related qualifications; give priority to applicants currently employed by the employer; and make employment decisions based on an applicant’s actual experience.
- In order to harmonize the prohibition on unemployment discrimination with certain other laws, section three of Proposed Int. No. 814-A provides, among other things, that the provisions of the City Human Rights Law related to unemployment-based discrimination would not apply to certain employment actions taken by the City’s Department of Citywide Administrative Services pursuant to the City’s Charter or in administering the Civil Service Law and other applicable laws.
- Recognizing the fact that litigation, and its risk, are a more significant risk for smaller businesses, Proposed Int. No. 814-A would exempt businesses with fewer than four employees from being subject to private actions for unemployment based discrimination claims and disparate impact claims. These small businesses would, however, be subject to the prohibition against discriminatory advertising under Proposed Int. No. 814-A.
- Proposed Int. No. 814-A would give the Commission the authority to educate the public on their rights and obligations with regard to unemployment discrimination in order to ensure the adequate and appropriate dissemination of information.

### IV. Effective Date

This local law would take effect 90 days after its enactment into law.

### V. Penalties

Pursuant to Proposed Int. No. 814-A, an individual who believes that he or she has been unlawfully discriminated against on the basis of his or her

for the Lower Ma\_\_\_\_\_

<sup>17</sup> Int. No. 814, a Local Law to amend the administrative code of the city of New York, in relation to prohibiting discrimination based on one’s unemployment status, before the Committee on Civil Rights, 37, 40 (June 20, 2012) (testimony of Mitchell Hirsch, NELP, and Karen Cacace, The Legal Aid Society).

<sup>18</sup> *Id.* at 37 (testimony of Mitchell Hirsch, NELP).

<sup>19</sup> Written Testimony of Bill Heinzen, Deputy Counselor to the Mayor, Office of Mayor Bloomberg, 1 (June 20, 2012) (on file with Committee Staff).

<sup>20</sup> *Id.* at 3.

<sup>21</sup> *Id.* at 4.

unemployment may bring an action in court for damages, injunctive relief and other appropriate remedies,<sup>22</sup> or make a complaint to the Commission on Human Rights.<sup>23</sup> Upon a finding that an employer has engaged in an unlawful discriminatory practice in violation of the City Human Rights Law, the Commission may issue an order to the employer to “cease and desist” the unlawful discriminatory practice.<sup>24</sup> In addition, the Commission could require the employer to hire a prospective employee; award back pay and front pay; or pay compensatory damages, among other things.<sup>25</sup> Failure to comply with such an order may result in a civil penalty of no more than \$50,000 and an additional civil penalty of no more than \$100 per day.<sup>26</sup> Should the Commission find that an employer engaged in an unlawful discriminatory practice, it may impose a civil penalty of \$125,000.<sup>27</sup> If the unlawful discriminatory practice resulted from the employer’s “willful, wanton or malicious act,” the Commission may impose a civil penalty of not more than \$250,000.<sup>28</sup> Should a person willfully violate an order of the Commission, he or she may be guilty of a misdemeanor that is punishable by imprisonment for not more than one year, or by a fine of not more than \$10,000, or by both.<sup>29</sup>

(The following is the text of the Fiscal Impact Statement for Int. No. 814-A:)



THE COUNCIL OF THE CITY OF NEW YORK  
 FINANCE DIVISION  
 PRESTON NIBLACK, DIRECTOR  
 JEFFREY RODUS, FIRST DEPUTY DIRECTOR  
 FISCAL IMPACT STATEMENT

PROPOSED INTRO. NO: 814-A  
 COMMITTEE: Civil Rights

**TITLE:** To amend the administrative code of the city of New York, in relation to prohibiting discrimination based on an individual’s unemployment.

**SPONSOR(S):** By Council Members Comrie, Gentile, the Speaker (Council Member Quinn), Barron, Cabrera, Chin, Dickens, Dromm, Eugene, Ferreras, Gonzalez, Jackson, James, Koo, Koppell, Lander, Levin, Palma, Reyna, Rose, Sanders Jr., Vann, Williams, Rodriguez, Foster, Arroyo, Van Bramer, Vacca, Mark-Viverito, Garodnick, Brewer, Wills and Ulrich

**SUMMARY OF LEGISLATION:** Proposed Int. No. 814-A would amend the City’s Human Rights Law to make it an unlawful discriminatory practice for employers to base hiring decisions on an applicant’s unemployment absent a substantially job-related reason for doing so and, to indicate in an advertisement for a job opening that being currently employed is a requirement for the job or individuals who are unemployed will not be considered for the position. As it relates to an employer’s hiring decisions the legislation would apply only to employers with at least four employees. All employers irrespective of the number of employees would be required to adhere to the advertisement guidelines. Proposed Int. No. 814-A would also define the terms “unemployed” and “unemployment” to mean “not having a job, being available for work and seeking employment.”

Additionally, Proposed Int. No. 814-A would permit employers to inquire into the circumstances surrounding an applicant’s separation from prior employment; consider, among other things, substantially job-related qualifications when making employment decisions; advertise job openings that include substantially job-related qualifications; give priority to applicants currently employed by the employer; and make employment decisions based on an applicant’s actual experience.

Pursuant to Proposed Int. No. 814-A, an individual who believes that he or she has been unlawfully discriminated against on the basis of his or her unemployment could make a complaint to the Commission on Human Rights (CHR) or bring an action in court. At the discretion of the Commissioner if the employer fails to comply with its order for violating the law, the Commission may: 1) issue a civil penalty of no more than \$50,000 and an additional civil penalty of no more than \$100 per day; 2) impose a civil penalty of \$125,000, if an employer engaged in an unlawful discriminatory practice or; 3) impose a civil penalty of not more than \$250,000, if the unlawful discriminatory practice resulted from the employer’s “willful, wanton or malicious act.” Should a person willfully violate an order of the CHR, he or she will be guilty of a misdemeanor and be punishable by imprisonment for not more than one year, or by a fine of not more than \$10,000, or by both. In addition, Proposed Int. No. 814-A would require the CHR to educate the public on their rights and obligations with regard to unemployment discrimination.

**EFFECTIVE DATE:** This local law shall take effect ninety days after it shall have been enacted into law.

**FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED:** Fiscal 2014

**FISCAL IMPACT STATEMENT:**

	Effective FY13	FY Succeeding Effective FY14	Full Fiscal Impact FY14
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	\$0	\$0	\$0
Net	\$0	\$0	\$0

**IMPACT ON REVENUES:** There would be no impact on revenues from the enactment of this legislation. The fines are meant to deter certain behavior and ensure compliance, not generate revenues.

**IMPACT ON EXPENDITURES:** The Finance Division expects that CHR could carry out the mandates of this legislation using existing resources.

**SOURCE OF FUNDS TO COVER ESTIMATED COSTS:** NA

**SOURCE OF INFORMATION:** New York City Council Finance Division

**ESTIMATE PREPARED BY:** Eisha N. Wright, Unit Head

**ESTIMATE REVIEWED BY:** Regina Poreda Ryan, Deputy Director, and Tanisha Edwards, Finance Counsel

**LEGISLATIVE HISTORY:** On March 28, 2012, Proposed Intro. 814 was introduced by the Council and referred to the Committee on Civil Rights. On June 20, 2012 the Committee held a hearing regarding this legislation, which was then laid over and subsequently amended. The Committee will consider an amended version of the legislation, Proposed Intro. 814-A, on January 22, 2013. Following a successful Committee vote, on January 23, 2013, the Full Council will vote on Proposed Int. 814-A.

*Accordingly, this Committee recommends its adoption, as amended.*

(The following is the text of Int. No. 814-A:)

for the Lower Ma\_\_\_\_\_

<sup>22</sup> Admin. Code §8-502.

<sup>23</sup> Admin. Code §8-109.

<sup>24</sup> Admin. Code §8-120(a).

<sup>25</sup> *Id.*

<sup>26</sup> Admin. Code §8-124.

<sup>27</sup> Admin. Code §8-126(a).

<sup>28</sup> *Id.*

<sup>29</sup> Admin. Code §8-129.

Int. No. 814-A

By Council Members Comrie, Gentile, the Speaker (Council Member Quinn), Barron, Cabrera, Chin, Dickens, Dromm, Eugene, Ferreras, Gonzalez, Jackson, James, Koo, Koppell, Lander, Levin, Palma, Reyna, Rose, Vann, Williams, Rodriguez, Foster, Arroyo, Van Bramer, Vacca, Mark-Viverito, Garodnick, Brewer, Wills, Koslowitz, King, Lappin, Gennaro and Ulrich.

**A Local Law to amend the administrative code of the city of New York, in relation to prohibiting discrimination based on an individual's unemployment.**

*Be it enacted by the Council as follows:*

Section 1. Subdivision 5 of section 8-102 of chapter one of title eight of the administrative code of the city of New York, as amended by local law 39 of 1991, is amended to read as follows:

5. For purposes of subdivisions one, two, [and] three, *subparagraph one of paragraph a of subdivision twenty-one, and paragraph e of subdivision twenty-one* of section 8-107 of this chapter, the term "employer" does not include any employer with fewer than four persons in his or her employ. For purposes of this subdivision, natural persons employed as independent contractors to carry out work in furtherance of an employer's business enterprise who are not themselves employers shall be counted as persons in the employ of such employer.

§2. Section 8-102 of chapter one of title eight of the administrative code of the city of New York, as amended by local law number 36 for the year 2011, is amended by adding a new subdivision 27 to read as follows:

27. The terms "unemployed" or "unemployment" shall mean not having a job, being available for work, and seeking employment.

§3. Section 8-107 of chapter one of title eight of the administrative code of the city of New York, as amended by local law number 39 for the year 1991, is amended by adding a new subdivision 21 to read as follows:

21. *Employment; an individual's unemployment.* a. *Prohibition of discrimination based on an individual's unemployment.*

(1) *Except as provided in paragraphs b and c of this subdivision, an employer, employment agency, or agent thereof shall not base an employment decision with regard to hiring, compensation or the terms, conditions or privileges of employment on an applicant's unemployment.*

(2) *Unless otherwise permitted by city, state or federal law, no employer, employment agency, or agent thereof shall publish, in print or in any other medium, an advertisement for any job vacancy in this city that contains one or more of the following:*

(a) *Any provision stating or indicating that being currently employed is a requirement or qualification for the job;*

(b) *Any provision stating or indicating that an employer, employment agency, or agent thereof will not consider individuals for employment based on their unemployment.*

b. *Effect of subdivision.* (1) *Paragraph a of this subdivision shall not be construed to prohibit an employer, employment agency, or agent thereof from (a) considering an applicant's unemployment, where there is a substantially job-related reason for doing so; or (b) inquiring into the circumstances surrounding an applicant's separation from prior employment.*

(2) *Nothing set forth in this subdivision shall be construed as prohibiting an employer, employment agency, or agent thereof, when making employment decisions with regard to hiring, compensation, or the terms, conditions or privileges of employment, from considering any substantially job-related qualifications, including but not limited to: a current and valid professional or occupational license; a certificate, registration, permit, or other credential; a minimum level of education or training; or a minimum level of professional, occupational, or field experience.*

(3) *Nothing set forth in this subdivision shall be construed as prohibiting an employer, employment agency, or agent thereof from publishing, in print or in any other medium, an advertisement for any job vacancy in this city that contains any provision setting forth any substantially job-related qualifications, including but not limited to: a current and valid professional or occupational license; a certificate, registration, permit, or other credential; a minimum level of education or training; or a minimum level of professional, occupational, or field experience.*

(4)(a) *Nothing set forth in this subdivision shall be construed as prohibiting an employer, employment agency, or agent thereof, when making employment decisions with regard to hiring, compensation, or the terms, conditions or privileges of employment, from determining that only applicants who are currently employed by the employer will be considered for employment or given priority for employment or with respect to compensation or terms, conditions or privileges of employment. In addition, nothing set forth in this subdivision shall prevent an employer from setting compensation or terms or conditions of employment for a person based on that person's actual amount of experience.*

(b) *For the purposes of this subparagraph, all persons whose salary or wages are paid from the city treasury, and all persons who are employed by public agencies or entities headed by officers or boards including one or more individuals appointed or recommended by officials of the city of New York, shall be deemed to have the same employer.*

c. *Applicability of subdivision.* (1) *This subdivision shall not apply to: (a) actions taken by the New York city department of citywide administrative services in furtherance of its responsibility for city personnel matters pursuant to chapter thirty-*

*five of the charter or as a municipal civil service commission administering the civil service law and other applicable laws, or by the mayor in furtherance of the mayor's duties relating to city personnel matters pursuant to chapter thirty-five of the charter, including, but not limited to, the administration of competitive examinations, the establishment and administration of eligible lists, and the establishment and implementation of minimum qualifications for appointment to positions;*

(b) *actions taken by officers or employees of other public agencies or entities charged with performing functions comparable to those performed by the department of citywide administrative services or the mayor as described in paragraph one of this subdivision;*

(c) *agency appointments to competitive positions from eligible lists pursuant to subsection one of section sixty-one of the state civil service law; or*

(d) *the exercise of any right of an employer or employee pursuant to a collective bargaining agreement.*

(2) *This subdivision shall apply to individual hiring decisions made by an agency or entity with respect to positions for which appointments are not required to be made from an eligible list resulting from a competitive examination.*

d. *Public education campaign.* *The commission shall develop courses of instruction and conduct ongoing public education efforts as necessary to inform employers, employment agencies, and job applicants about their rights and responsibilities under this subdivision.*

e. *Disparate impact.* *An unlawful discriminatory practice based on disparate impact under this subdivision is established when: (1) the commission or a person who may bring an action under chapter four or five of this title demonstrates that a policy or practice of an employer, employment agency, or agent thereof, or a group of policies or practices of such an entity results in a disparate impact to the detriment of any group protected by the provisions of this subdivision; and (2) such entity fails to plead and prove as an affirmative defense that each such policy or practice has as its basis a substantially job-related qualification or does not contribute to the disparate impact; provided, however, that if the commission or such person who may bring an action demonstrates that a group of policies or practices results in a disparate impact, the commission or such person shall not be required to demonstrate which specific policies or practices within the group results in such disparate impact; provided further, that a policy or practice or group of policies or practices demonstrated to result in a disparate impact shall be unlawful where the commission or such person who may bring an action produces substantial evidence that an alternative policy or practice with less disparate impact is available to such entity and such entity fails to prove that such alternative policy or practice would not serve such entity as well. A "substantially job-related qualification" shall include, but not be limited to, a current and valid professional or occupational license; a certificate, registration, permit, or other credential; a minimum level of education or training; or a minimum level of professional, occupational, or field experience.*

§4. This local law shall take effect ninety days after it shall have been enacted into law.

DEBORAH L. ROSE Chairperson; JULISSA FERRERAS, MARGARET S. CHIN, JAMES G. VAN BRAMER; Committee on Civil Rights, January 22, 2013.

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 Finance

At this point the Speaker (Council Member Quinn) announced that the following items had been **preconsidered** by the Committee on Finance and had been favorably reported for adoption.

Report for Res. No. 1641

#### Report of the Committee on Finance in favor of approving a Resolution approving the new designation and changes in the designation of certain organizations to receive funding in the Expense Budget.

The Committee on Finance, to which the annexed resolution was referred on January 23, 2013, respectfully

#### REPORTS:

**Introduction.** The Council of the City of New York (the "Council") annually adopts the City's budget covering expenditures other than for capital projects (the "expense budget") pursuant to Section 254 of the Charter. On June 28, 2012, the Council adopted the expense budget for fiscal year 2013 with various programs and initiatives (the "Fiscal 2013 Expense Budget").

**Analysis.** This Resolution, dated January 23, 2013, amends the description for the Description/Scope of Flatbush Development Corporation, an organization receiving local discretionary funding in accordance with the Fiscal 2013 Expense

Budget in the amount of \$20,000 within the budget of the Department of Youth and Community Development. This Resolution changes the Description/Scope of Services to read: "Funds to support a supplemental sanitation program for the Cortelyou Road and Newkirk Avenue commercial corridors and provide assistance to other community-based projects in the Ditmas Park and greater Flatbush area"

Additionally, this Resolution amends the description for the Description/Scope of Services for One Stop Richmond Hill Community Center, Inc., an organization receiving youth discretionary funding in accordance with the Fiscal 2013 Expense Budget in the amount of \$10,000 within the budget of the Department of Youth and Community Development. This Resolution changes the Description/Scope of Services to read: "This funding will be used for salaries and fringe benefits for Program Director, Receptionist, Maintenance worker and 2 teachers, insurance, supplies, rent, CPA and computer tech fees, and postage related to the Computer Technology and Videoconferencing program. Also any and all expenses related to the "mommies and me" program."

Moreover, this Resolution amends the description for the Description/Scope of Services for

Ali Forney Center, an organization receiving funding through the Runaway and Homeless Youth PEG Restoration initiative in accordance with the Fiscal 2013 Expense Budget in the amount of \$287,376 within the budget of the Department of Youth and Community Development. This Resolution changes the Description/Scope of Services to read: "To provide Manhattan Drop-In Center and Auxiliary Services."

Additionally, this Resolution amends the description for the Description/Scope of Services for the Department of Sanitation, an organization receiving local discretionary funding in accordance with the Fiscal 2013 Expense Budget in the amount of \$14,085 within the budget of the Department of Sanitation. This Resolution changes the Description/Scope of Services to read: "Additional litter basket service on Saturdays for 26 weeks and every other Sunday service for Roosevelt Av between 82nd Street and 104th."

Moreover, this Resolution amends the description for the Description/Scope of Services for Brooklyn Community Services, an organization receiving funding through the OST initiative in accordance with the Fiscal 2013 Expense Budget in the amount of \$40,000 within the budget of the Department of Youth and Community Development. This Resolution changes the Description/Scope of Services to read: "To be used for middle-school OST program."

Additionally, this Resolution amends the description for the Description/Scope of Services for Brooklyn Community Services, an organization receiving funding through the EarlyLearn / Childcare initiative in accordance with the Fiscal 2013 Expense Budget in the amount of \$250,000 within the budget of the Administration for Children's Services. This Resolution changes the Description/Scope of Services to read: "Funds to be used as listed: \$94,000: Early childhood literacy program. Funding will support a full-time early childhood literacy coordinator as well as supervision at center director and program director level. Program serves 110 children; \$140,000: "Extended day" services to Head Start and public assistance voucher children. Funds will allow BCS to extend the day up to 8 to 10 hours \$16,000: Non-capital facilities improvements and supplies and equipment. Funding will support much-needed repainting of the interior courtyard area (surrounding the children's play yard), and new exterior signage. If funds remain, they would be used for supplies and play equipment for the classrooms serving Head Start and public assistance voucher children."

This resolution approves new designations and changes in the designation of certain organizations receiving local, aging, and youth discretionary funding in accordance with the Fiscal 2013 Expense Budget, and approves the new designations and changes in the designation of certain organizations to receive funding pursuant to certain initiatives in such budgets.

In an effort to continue to make the budget process more transparent, the Council is providing a list setting forth new designations and/or changes in the designation of certain organizations receiving local, aging, and youth discretionary funding, as well as new designations and/or changes in the designation of certain organizations to receive funding pursuant to certain initiatives in the Fiscal 2013 Expense Budget.

This resolution sets forth new designations and specific changes in the designation of certain organizations receiving local initiative funding pursuant to the Fiscal 2013 Expense Budget, as described in Chart 1; sets forth new designations and changes in the designation of aging discretionary funding pursuant to the Fiscal 2013 Expense Budget, as described in Chart 2; sets forth new designations and changes in the designation of youth discretionary funding pursuant to the Fiscal 2013 Expense Budget, as described in Chart 3; and sets forth the new designations and changes in the designation of certain organizations that will receive funding pursuant to certain initiatives in the Fiscal 2013 Expense Budget, as described in Charts 4 - 8.

The charts, attached to the Resolution, contain the following information: name of the council member(s) designating the organization to receive funding or name of the initiative, as set forth in Adjustments Summary/Schedule C/ Fiscal 2013 Expense Budget, dated June 28, 2012.

Specifically, Chart 1 sets forth the new designation and changes in the designation of certain organizations receiving local discretionary funding in accordance with the Fiscal 2013 Expense Budget.

Chart 2 sets forth the new designation and changes in the designation of a certain organization receiving aging discretionary funding in accordance with the Fiscal 2013 Expense Budget.

Chart 3 sets forth the new designation and changes in the designation of certain organizations receiving youth discretionary funding in accordance with the Fiscal 2013 Expense Budget.

Chart 4 sets forth the new designation and changes in the designation of a certain organization receiving funding pursuant to the Runaway and Homeless Youth PEG Restoration Initiative in accordance with the Fiscal 2013 Expense Budget.

Chart 5 sets forth the new designation and changes in the designation of a certain organization receiving funding pursuant to the Anti-Gun Violence Initiative in accordance with the Fiscal 2013 Expense Budget.

Chart 6 sets forth the new designation and changes in the designation of a certain organization receiving funding pursuant to the OST Initiative in accordance with the Fiscal 2013 Expense Budget.

Chart 7 sets forth the new designation and changes in the designation of a certain organization receiving funding pursuant to the Cultural After School Adventure Initiative in accordance with the Fiscal 2013 Expense Budget.

Chart 8 sets forth an Initiative Fund Transfer between multiple initiatives in various agencies in accordance with the Fiscal 2013 Expense Budget.

It is to be noted that organizations identified in the attached Charts with an asterisk (\*) have not yet completed or began the prequalification process conducted by the Mayor's Office of Contract Services (for organizations to receive more than \$10,000) by the Council (for organizations to receive \$10,000 or less total), or other government agency. Organizations identified without an asterisk have completed the appropriate prequalification review.

It should be further noted that funding for organizations in the attached Charts with a double asterisk (\*\*) will not take effect until the passage of a budget modification.

Description of Above-captioned Resolution. In the above-captioned Resolution, the Council would approve the new designation and changes in the designation of certain organizations to receive funding in the Fiscal 2013 Expense Budget. Such Resolution would take effect as of the date of adoption.

*Accordingly, this Committee recommends its adoption.*

**(The following is the text of Res No. 1641:)**

Res. No. 1641

**Resolution approving the new designation and changes in the designation of certain organizations to receive funding in the Expense Budget.**

By Council Members Recchia, Comrie, Koo, Palma and Wills.

**Whereas**, On June 28, 2012 the Council of the City of New York (the "City Council") adopted the expense budget for fiscal year 2013 with various programs and initiatives (the "Fiscal 2013 Expense Budget"); and

**Whereas**, The City Council is hereby implementing and furthering the appropriations set forth in the Fiscal 2013 Expense Budget by approving the new designation and changes in the designation of certain organizations receiving local, aging and youth discretionary funding, and by approving the new designation and changes in the designation of certain organizations to receive funding pursuant to certain initiatives in accordance therewith; and

**Resolved**, That the City Council approves the new designation and changes in the designation of certain organizations receiving local discretionary funding in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 1; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of a certain organization receiving aging discretionary funding in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 2; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of certain organizations receiving youth discretionary funding in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 3; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of a certain organization receiving funding pursuant to the Runaway and Homeless Youth PEG Restoration Initiative in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 4; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of a certain organization receiving funding pursuant to the Anti-Gun Violence Initiative in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 5; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of a certain organization receiving funding pursuant to the OST Initiative in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 6; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of a certain organization receiving funding pursuant to the Cultural After School Adventure Initiative in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 7.

**Resolved**, That the City Council approves the Initiative Fund Transfers in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 8.

ATTACHMENT:

CHART 1: Local Initiatives - Fiscal 2013

Member	Organization	EIN Number	Agency	Amount	Agy #	U/A	Fiscal Conduit/Sponsoring Organization	Conduit EIN	Fiscal
Rose	Wagner College **	13-569499	DYCD	(\$5,000.00)	260	005			
Rose	Wagner College **	13-569499	DSRS	\$5,000.00	801	002			
Rose	Wagner College **	13-569499	DYCD	(\$5,000.00)	260	005			
Rose	Wagner College **	13-569499	DSRS	\$5,000.00	801	002			
Arroyo	Patterson Volunteer Committee, Inc.	13-379426	DYCD	(\$5,000.00)	260	005			*
Arroyo	Teamwork Foundation, Inc.	13-3073873	DYCD	\$5,000.00	260	312			*
Recchia	Our Lady of Grace Roman Catholic Church	11-1694947	DYCD	(\$5,000.00)	260	005			*
Recchia	Our Lady of Grace Roman Catholic Church - Widows Support Group	11-1694947	DYCD	\$5,000.00	260	005			*
Recchia	Our Lady of Grace Roman Catholic Church	11-1694947	DFTA	(\$15,000.00)	125	003			*
Recchia	Our Lady of Grace Roman Catholic Church - Golden Age Group	11-1694947	DFTA	\$15,000.00	125	003			*
CC	Harlem Hospital Center	13-2655001	DCHMH	(\$25,000.00)	816	113			*
CC	Harlem Hospital Center	13-308278	DCHMH	\$25,000.00	816	113			*
Dian	Brain Tumor Foundation, The **	13-400929	DCHMH	(\$10,000.00)	816	113			*
Dian	Brooklyn Housing and Family Services, Inc. **	11-2412584	HPD	\$10,000.00	808	009			*
Fidler	8th Precinct Community Council, Inc.	23-7314869	DYCD	(\$5,000.00)	260	312			*
Fidler	Bergen Basin Community Development Corporation d/b/a Millennium Development	11-3189940	DYCD	\$5,000.00	260	312			*
Chin	Cabrini Center For Nursing And Rehabilitation	13-3742993	DYCD	(\$5,000.00)	260	005			*
Chin	St. Agnes Project Inc., The	20-0386383	DYCD	\$5,000.00	260	005			*
Drumm	Queens College Foundation, Inc. - Kupferberg Center Performances **	11-6080521	DYCD	(\$7,500.00)	260	005			*
Drumm	Queens College Foundation, Inc. - Kupferberg Center Performances **	11-6080521	DCLA	\$7,500.00	126	003			*
Vann	Children of Promise NYC	83-0440008	DYCD	(\$4,000.00)	260	312			*

\* Indicates pending completion of pre-qualification review.  
 \*\* Requires a budget modification for the changes to take effect

CHART 2: Aging Initiatives - Fiscal 2013

Member	Organization	EIN Number	Agency	Amount	Agy #	U/A	Fiscal Conduit/Sponsoring Organization	Conduit EIN	Fiscal
Mealy	Fort Greene Council - Christopher Brennan Senior Center	11-2300840	DFTA	(\$1,000.00)	125	003			
Mealy	Wayde Out-Reach Development, Inc. (WORD) - Brewort Senior Center	11-3528680	DFTA	(\$4,844.00)	125	003			
Mealy	Wayde Out-Reach Development, Inc. (WORD) - Mt. Ararat	11-3528680	DFTA	(\$5,000.00)	125	003			
Mealy	Wayde Out-Reach Development, Inc. (WORD) - Rosetta Gaston Senior Center	11-3528680	DFTA	(\$5,000.00)	125	003			
Mealy	Wayde Out-Reach Development, Inc. (WORD) - Tilden Senior Center	11-3528680	DFTA	(\$10,000.00)	125	003			
Mealy	Wayde Out-Reach Development, Inc. (WORD) - Tilden Senior Center	11-3528680	DFTA	(\$5,000.00)	125	003			
Mealy	Wayde Out-Reach Development, Inc. (WORD) - Van Dyke I Senior Center	11-3528680	DFTA	(\$2,156.00)	125	003			
Mealy	New York City Housing Authority - Marcus Garvey Senior Center	13-8400434	DFTA	\$26,000.00	125	003			
Mealy	Fort Greene Council - Hugh Gilroy Senior Center	11-2300840	DFTA	\$5,000.00	125	003			
Vann	Fort Greene Council - Jazz967	11-2300840	DFTA	(\$10,000.00)	125	003			
Vann	Fort Greene Council - Jazz966	11-2300840	DFTA	\$10,000.00	125	003			
Viverito	Institute for the Puerto Rican/Hispanic Elderly, Inc. - Leonard Covello Senior Center	13-2987263	DFTA	(\$5,500.00)	125	003			
Viverito	Center Burden Center for the Aging, Inc. - Leonard Covello Senior Center	23-7129499	DFTA	\$5,500.00	125	003			

\* Indicates pending completion of pre-qualification review.

CHART 3: Youth Initiatives - Fiscal 2013

Member	Organization	EIN Number	Agency	Amount	Agy #	U/A	Fiscal Conduit/Sponsoring Organization	Conduit EIN	Fiscal
Vann	Children of Promise NYC	83-0440008	DYCD	\$4,000.00	260	312			*

\* Indicates pending completion of pre-qualification review.

CHART 4: Runaway and Homeless Youth PEG Restoration - Fiscal 2013

Organization	EIN Number	Agency	Amount	Agy #	U/A
All Fomey Center - Brooklyn Drop-In Center and Auxiliary Services	30-0104507	DYCD	(\$287,376.00)	260	312
All Fomey Center - Manhattan Drop-In Center and Auxiliary Services	30-0104507	DYCD	\$287,376.00	260	312

\* Indicates pending completion of pre-qualification review.

CHART 5: Anti-Gun Violence Initiative - Fiscal 2013

Organization	EIN Number	Agency	Amount	Agy #	U/A
Fund for the City of New York, Inc. - Man Up	13-2612524	DOP	(\$129,400.00)	781	003
Men Up!, Inc.	03-0553092	DOP	\$129,400.00	781	003

\* Indicates pending completion of pre-qualification review.

CHART 6: OST - Fiscal 2013

Organization	EIN Number	Agency	Amount	Agy #	U/A
Women's Housing and Economic Development Corporation (WHEDCO) - PS 218 R Hernandez Dual Lang (X218)	11-3099604	DYCD	(\$65,000.00)	260	312
Women's Housing and Economic Development Corporation (WHEDCO) - IS 218 R Hernandez Dual Lang (X218)	11-3099604	DYCD	\$65,000.00	260	312

\* Indicates pending completion of pre-qualification review.

CHART 7: Cultural After School Adventure - Fiscal 2013

Member	Organization	EIN Number	Agency	Amount	Agy #	U/A
Quinn	More Art, Inc - Clinton School	35-2345641	DCLA	(\$20,000.00)	126	003
Quinn	More Art, Inc. - NYC Lab Middle School	35-2345641	DCLA	\$20,000.00	126	003

\* Indicates pending completion of pre-qualification review.

CHART 8: Initiative Fund Transfers - Fiscal 2013

Source	Organization	EIN Number	Agency	Amount	Agy #	U/A
Anti-Gun Violence Initiative	Anti-Gun Violence Initiative **	13-6400434	DCHMH	(\$120,411.00)	816	114
Anti-Gun Violence Initiative	Anti-Gun Violence Initiative	13-6400434	DYCD	(\$20,000.00)	260	312
OST	Flatbush Action Community Day Care Center, Inc.	11-2253246	DYCD	(\$120,000.00)	260	312
Anti-Gun Violence Initiative	Anti-Gun Violence Initiative	13-6400434	DYCD	\$35,000.00	260	005
Local/CC	Council for Unity, Inc. **	11-2880221	DYCD	\$150,000.00	260	312
New Skills / New Jobs	Department of Small Business Services **	13-6400434	DSBS	(\$300,000.00)	801	011
MWBE Leadership Association	New York Women's Chamber of Commerce, Inc.	14-1845651	DSBS	\$30,000.00	801	002
Senior Centers and Programs Restoration	Aging in America Community Services, Inc. - Glebe Senior Center **	13-4099045	DFTA	(\$76,335.00)	125	003
Transportation - Operating Costs	Department for the Aging	13-6400434	DFTA	(\$25,000.00)	125	003
Senior Centers and Programs Restoration	Mid-Bronx Senior Citizens Council, Inc.	23-7354073	DFTA	\$65,000.00	125	003
Local/CC	CBO Training **	13-6400434	MAYOR	\$80,758.00	002	021
EarlyLearn/Childcare	Williamsbridge NAACP **	13-2886894	ACS	\$300,988.00	068	004

\* Indicates pending completion of pre-qualification review.  
 \*\* Requires a budget modification for the changes to take effect

DOMENIC M. RECCHIA, Jr., Chairperson; JOEL RIVERA, DIANA REYNA, GALE A. BREWER, LEROY G.COMRIE, Jr., LEWIS A. FIDLER, HELEN D. FOSTER, ROBERT JACKSON, G. OLIVER KOPPELL, JULISSA FERRERAS, FERNANDO CABRERA, KAREN KOSLOWITZ, JAMES G. VAN BRAMER, VINCENT M. IGNIZIO, JAMES S. ODDO; Committee on Finance, January 23, 2013.

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).

At this point the Speaker (Council Member Quinn) announced that the following items had been **preconsidered** by the Committee on Finance and had been favorably reported for adoption.

Report for L.U. No. 754

**Report of the Committee on Finance in favor of approving Associated Blind, Block 799, Lot 21, Manhattan, Community District No.5, Council District No. 3.**

The Committee on Finance, to which the annexed resolution was referred on January 23, 2013, respectfully

**REPORTS:**

**(The following is the text of the Memo to the Finance Committee from the Finance Division of the New York City Council:)**

January 22, 2013

TO: Hon. Domenic M. Recchia, Jr.  
Chair, Finance Committee

Members of the Finance Committee

FROM: Amy Stokes, Finance Division

RE: Finance Committee Agenda of January 22, 2013 - Resolution approving a tax exemption for two preconsidered Land Use Items (Council District 3).

HPD has submitted a request to the Council to approve property a partial tax exemption for the Associated Blind property and a full exemption for the 307 West 43<sup>rd</sup> Street property, both located in Speaker Quinn's district.

Associated Blind (Block 799, Lot 21) in Manhattan consists of one building with 205 units of rental housing for the elderly. The project was developed under the Section 202 Supportive Housing Program for the Elderly, with financing and operating subsidies from the United States Department of Housing and Urban Development ("HUD") and tax exemption from the City. The Associated Blind Housing Development Fund Corporation, Inc. ("HDFC") wishes to refinance its original HUD mortgage in order to fund repairs, decrease debt service, and meet other financial obligations.

307 West 43<sup>rd</sup> Street (Block 1034, Lot 38) in Manhattan consists of one building with nine units of rental housing for persons and families of low income, as well as theater space used by a non-profit organization. Clinton Housing Development Fund Corporation ("HDFC") requests the exemption in order to ensure the continued affordability of the property.

Both items have the approval of Speaker Quinn.

**(For coupled resolution of LU No. 755, please see the Report of the Committee on Finance for LU No. 755 printed in these Minutes; for text of coupled resolution of LU No.. 754, please see immediately below)**

*Accordingly, this Committee recommends the adoption of LU No. 754 and LU No. 755.*

In connection herewith, Council Member Recchia offered the following resolution:

Res. No. 1643

**Resolution approving a partial exemption from real property taxes for property located at (Block 799, Lot 21) Manhattan, pursuant to Section 577 of the private Housing Finance Law (Preconsidered L.U. No. 754).**

By Council Member Recchia.

**WHEREAS**, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council its request dated January 9, 2013 that the Council take the following action regarding a housing project to be located at (Block 799, Lot 21) Manhattan ("Exemption Area"):

Approve an exemption of the Project from real property taxes pursuant to Section 577 of the Private Housing Finance Law (the "Tax Exemption");

**WHEREAS**, the project description that HPD provided to the Council states that the purchaser of the Project (the "Sponsor") is a duly organized housing development fund company under Article XI of the Private Housing Finance Law;

**WHEREAS**, the Council has considered the financial implications relating to the Tax Exemption;

**RESOLVED:**

The Council hereby grants an exemption from real property taxes as follows:

1. For the purposes hereof, the following terms shall have the following meanings:
  - (a) "Effective Date" shall mean the date upon which the Secretary of HUD certifies on the New Mortgage Loan Note that the total sum of the New Mortgage has been approved for insurance, provided, however, that (i) the Exemption Area has continued to be owned by either a housing development fund company or an entity wholly controlled by a housing development company during the term of the Prior Exemption, and (ii) the Prior Exemption has not been terminated prior to the Effective Date.
  - (b) "Exemption Area" shall mean the real property located in the Borough of Manhattan, City and State of New York, identified as Block 799, Lot 21 on the Tax Map of the City of New York.
  - (c) "Expiration Date" shall mean the earlier to occur of (i) a date which is forty (40) years from the Effective Date, (ii) the date of the expiration or termination of the Regulatory Agreement, or (iii) the date upon which the Exemption Area ceases to be owned by either a housing development fund company or an entity wholly controlled by a housing development fund company.
  - (d) "HDFC" shall mean Associated Blind Housing Development Fund Corporation, Inc.
  - (e) "HPD" shall mean the Department of Housing Preservation and Development of the City of New York.
  - (f) "HUD" shall mean the United States Department of Housing and Urban Development.
  - (g) "New Exemption" shall mean the exemption from real property taxation provided hereunder with respect to the Exemption Area.
  - (h) "New Mortgage" shall mean the HUD mortgage loan to be insured pursuant to Section 221(d)(4) of the National Housing Act, as amended.
  - (i) "New Mortgage Loan Note" shall mean the mortgage loan note made by the Owner for the New Mortgage.
  - (j) "Owner" shall mean the HDFC or any future owner of the Exemption Area.
  - (k) "Prior Exemption" shall mean the exemption from real property taxation for the Exemption Area approved by the Board of Estimate on June 9, 1978 (Cal. No. 123), as amended by the Board of Estimate on December 15, 1988 (Cal. No. 345).
  - (l) "Regulatory Agreement" shall mean an agreement by and between HPD and the Owner which commences on or before the Effective Date, runs with the land, binds all subsequent parties in interest to the Exemption Area until a date which is forty (40) years from the Effective Date, and requires, *inter alia*, that the Exemption Area continue to operate on terms at least as advantageous to existing and future tenants as the terms required by the original Section 202 loan agreement or any Section 8 rental assistance payments contract or any other rental housing assistance contract and all applicable federal regulations.
2. The Prior Exemption shall terminate upon the Effective Date.
3. All of the value of the property in the Exemption Area, including both the land and any improvements (excluding those portions, if any, devoted to business or commercial use), shall be exempt from real property taxation, other than assessments for local improvements, for a period commencing upon the Effective Date and terminating upon the Expiration Date.
4. Commencing upon the Effective Date, and during each year thereafter until the Expiration Date, the Owner shall make real property tax payments in the sum of (i) \$510,452.00, plus (ii) on and after the first anniversary of the Effective Date, an additional amount equal to twenty-five percent (25%) of the amount by which the total contract rents applicable to the housing

project for that year (as adjusted and established pursuant to Section 8 of the United States Housing Act of 1937, as amended), exceed the total contract rents which are authorized as of the Effective Date. Notwithstanding the foregoing, the total annual real property tax payment by the Owner shall not at any time exceed the amount of real property taxes that would otherwise be due in the absence of any form of exemption from or abatement of real property taxation provided by an existing or future local, state, or federal law, rule or regulation.

5. Notwithstanding any provision hereof to the contrary:

- a. The New Exemption shall terminate if HPD determines at any time that (i) the Exemption Area is not being operated in accordance with the requirements of Article XI of the Private Housing Finance Law, (ii) the Exemption Area is not being operated in accordance with the requirements of the Regulatory Agreement, (iii) the Exemption Area is not being operated in accordance with the requirements of any other agreement with, or for the benefit of, the City of New York, or (iv) the demolition of any private or multiple dwelling on the Exemption Area has commenced without the prior written consent of HPD. HPD shall deliver written notice of any such determination to Owner and all mortgagees of record, which notice shall provide for an opportunity to cure of not less than sixty (60) days. If the noncompliance specified in such notice is not cured within the time period specified therein, the New Exemption shall prospectively terminate.
- b. The New Exemption shall not apply to any building constructed on the Exemption Area which did not have a permanent certificate of occupancy or an equivalent document satisfactory to HPD recording the occupancy and configuration of the building on the Effective Date.
- c. Nothing herein shall entitle the HDFC to a refund of any real property taxes which accrued and were paid with respect to the Exemption Area prior to the Effective Date.

6. In consideration of the New Exemption, the owner of the Exemption Area, for so long as the New Exemption shall remain in effect, shall waive the benefits of any additional or concurrent exemption from or abatement of real property taxation which may be authorized under any existing or future local, state or federal law, rule or regulation.

DOMENIC M. RECCHIA, Jr., Chairperson; JOEL RIVERA, DIANA REYNA, GALE A. BREWER, LEROY G. COMRIE, Jr., LEWIS A. FIDLER, HELEN D. FOSTER, ROBERT JACKSON, G. OLIVER KOPPELL, JULISSA FERRERAS, FERNANDO CABRERA, KAREN KOSLOWITZ, JAMES G. VAN BRAMER, VINCENT M. IGNIZIO, JAMES S. ODDO; Committee on Finance, January 23, 2013.

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).

At this point the Speaker (Council Member Quinn) announced that the following items had been **preconsidered** by the Committee on Finance and had been favorably reported for adoption.

Report for L.U. No. 755

**Report of the Committee on Finance in favor of approving 307 West 43<sup>rd</sup> Street, Block 1034, Lot 38, Manhattan, Community District No. 4, Council District No. 3**

The Committee on Finance, to which the annexed resolution was referred on January 23, 2013, respectfully

#### REPORTS:

**(For text of the report, please see the Report of the Committee on Finance for LU No. 754 printed in these Minutes)**

*Accordingly, this Committee recommends its adoption.*

In connection herewith, Council Member Recchia offered the following resolution:

Res. No. 1644

**Resolution approving a partial exemption from real property taxes for property located at (Block 1034, Lot 38) Manhattan, pursuant to Section 577 of the private Housing Finance Law (Preconsidered L.U. No. 755).**

By Council Member Recchia.

**WHEREAS**, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council its request dated January 9, 2013 that the Council take the following action regarding a housing project to be located at (Block 1034, Lot 38) Manhattan ("Exemption Area"):

Approve an exemption of the Project from real property taxes pursuant to Section 577 of the Private Housing Finance Law (the "Tax Exemption");

**WHEREAS**, the project description that HPD provided to the Council states that the purchaser of the Project (the "Sponsor") is a duly organized housing development fund company under Article XI of the Private Housing Finance Law;

**WHEREAS**, the Council has considered the financial implications relating to the Tax Exemption;

#### RESOLVED:

The Council hereby grants an exemption from real property taxes as follows:

1. For the purposes hereof, the following terms shall have the following meanings:
  - (a) "Effective Date" shall mean the date of conveyance of the Exemption Area to the HDFC.
  - (b) "Exemption" shall mean the exemption from real property taxation provided hereunder.
  - (c) "Exemption Area" shall mean the real property located in the Borough of Manhattan, City and State of New York, identified as Block 1034, Lot 38 on the Tax Map of the City of New York.
  - (d) "Expiration Date" shall mean the earlier to occur of (i) a date which is forty (40) years from the Effective Date, (ii) the date of the expiration or termination of the Regulatory Agreement, or (iii) the date upon which the Exemption Area ceases to be owned by either a housing development fund company or an entity wholly controlled by a housing development fund company.
  - (e) "HDFC" shall mean Clinton Housing Development Fund Corporation.
  - (f) "HPD" shall mean the Department of Housing Preservation and Development of the City of New York.
  - (g) "Regulatory Agreement" shall mean the June 28, 2007 regulatory agreement between HPD, West 44th Street Project Acquisition LLC and the HDFC establishing certain controls upon the operation of the Exemption Area during the term of the Exemption.
  - (h) "Residential Property" shall mean all of the real property, other than the Theater-Related Space, included in the Exemption Area, excluding, those portions, if any, devoted to business or commercial use.
  - (i) "Theater-Related Space" shall mean those portions of the Exemption Area delineated on the Drawing attached as Exhibit A to Exhibit C of the Declaration of Restrictions dated as of September 23, 2008, by West 44th Street Hotel LLC, including 235 square feet of lobby space, a studio and accessory space of 1,583 square feet at the cellar level, and a studio and accessory space of 1,916 square feet at the subcellar level, where such accessory spaces include restrooms, a pantry, green room waiting area, three user storage spaces, circulation space and utility rooms, where such portions of the Exemption Area will be operated as below market hourly rental studio space for use by multiple not-for-profit theater companies for their rehearsals, workshops, play development and auditions and shall not be used for performance purposes.
2. All of the value of the Residential Property and the Theater-Related Space in the Exemption Area, including both the land and any improvements, shall be exempt from real property taxation, other than assessments for local improvements, for a period commencing upon the Effective Date and terminating upon the Expiration Date.
3. Notwithstanding any provision hereof to the contrary:

- a. The Exemption shall terminate if HPD determines at any time that
    - (i) the Exemption Area is not being operated in accordance with the requirements of Article XI of the Private Housing Finance Law,
    - (ii) the Exemption Area is not being operated in accordance with the requirements of the Regulatory Agreement,
    - (iii) the Exemption Area is not being operated in accordance with the requirements of any other agreement with, or for the benefit of, the City of New York, or
    - (iv) the demolition of any private or multiple dwelling on the Exemption Area has commenced without the prior written consent of HPD. HPD shall deliver written notice of any such determination to the HDFC and all mortgagees of record, which notice shall provide for an opportunity to cure of not less than sixty (60) days. If the noncompliance specified in such notice is not cured within the time period specified therein, the Exemption shall prospectively terminate.
  - b. The Exemption shall not apply to any building constructed on the Exemption Area that was not issued a permanent certificate of occupancy on June 9, 2011.
  - c. Nothing herein shall entitle the HDFC to a refund of any real property taxes which accrued and were paid with respect to the Exemption Area prior to the Effective Date.
4. In consideration of the Exemption, the owner of the Exemption Area, for so long as the Exemption shall remain in effect, shall waive the benefits of any additional or concurrent exemption from or abatement of real property taxation which may be authorized under any existing or future local, state or federal law, rule or regulation.

DOMENIC M. RECCHIA, Jr., Chairperson; JOEL RIVERA, DIANA REYNA, GALE A. BREWER, LEROY G. COMRIE, Jr., LEWIS A. FIDLER, HELEN D. FOSTER, ROBERT JACKSON, G. OLIVER KOPPELL, JULISSA FERRERAS, FERNANDO CABRERA, KAREN KOSLOWITZ, JAMES G. VAN BRAMER, VINCENT M. IGNIZIO, JAMES S. ODDO; Committee on Finance, January 23, 2013.

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 Governmental Operations

Report for Int. No. 978-A

#### Report of the Committee on Governmental Operations in favor of approving and adopting, as amended, a Local Law to amend the New York city charter, in relation to the campaign finance board.

The Committee on Governmental Operations, to which the annexed amended proposed local law was referred on December 10, 2012 (Minutes, page 4549), respectfully

#### REPORTS:

##### 1. INTRODUCTION

Today, the Committee on Governmental Operations, chaired by Council Member Gale Brewer, will meet to conduct a vote on Proposed Introduction Number 978-A, and a hearing and vote on a Resolution authorizing the Speaker to file or join amicus briefs on behalf of the Council in the litigation captioned *Shelby County v. Holder*, currently pending before the United States Supreme Court, for the purpose of supporting the federal government's position that Section 5 of the Voting Rights Act is constitutional.

##### 2. BACKGROUND ON INT. NO. 978-A

In the 2010 Charter revision, New York City voters passed a series of revisions to the Charter, one of which required public disclosure of expenditures made by individuals and entities that are independent from candidates and that attempt to influence an election outcome. Accordingly, the Campaign Finance Board ("the Board") proposed rules specifying the classes of expenditures that would be covered under this provision.<sup>1</sup> These rules sought to ensure that members of the public are aware of who is attempting to influence their votes in local elections.

After hearing from many entities, including membership organizations, such as civic and community groups and labor unions, during the rulemaking process, the Board's final rule exempted many internal communications made between members within membership organizations.<sup>2</sup> Certain internal communications between members of these organizations were not exempted, however, and are required to be reported by the membership organization to the Board. For example, the Board's independent expenditure guidance document stipulates that membership

organizations that send out mass mailings that go only to their members must comply with the entirety of the Board's independent expenditure reporting requirements.<sup>3</sup> The bill being voted on today would exclude such internal communications of membership organizations from the requirements of the independent expenditure rules. This bill was previously heard before this committee on January 16, 2013, and is unchanged from the version heard on that date.

### 3. ANALYSIS OF INT. NO. 978-A

#### Section 1

Section 1 of the bill amends section 1052 of the New York city charter by adding a fifth class of expenditure to the existing four classes of expenditure that are not considered independent expenditures for the purposes of the City's campaign finance law. The class of expenditure added by this section encompasses communications by membership organizations that are aimed solely at their members or by a corporation aimed at its stockholders.

Members are defined as individuals who have the right to vote for the election of the organization's director(s) or officer(s), or on merger or dissolution votes, or on amendments to the organization's bylaws, or who pay membership dues, or who reside in the same household as an individual who meets one of these criteria. Members of local unions are considered members of any national or international union, or federation, of which the local union is a part.

Stockholders are defined as individuals who own stock in a company, or who reside in the same household as an individual who meets this criterion.

Incidental communications by membership organizations or corporations with non-members or non-stockholders is similarly exempted from qualifying as an independent expenditure, so long as reasonable efforts are made to restrict the communication to members and stockholders.

#### Section 2

The bill would take effect immediately upon its enactment.

### 4. PRECONSIDERED RESOLUTION 1640

Following the Civil War, the Thirteenth, Fourteenth, and Fifteenth Amendments were added to the United States Constitution, prohibiting slavery and the deprivation of life, liberty, or property, without due process of law, and guaranteeing equal protection of the laws and the right of citizens to vote. The Fourteenth and Fifteenth Amendments give Congress the power to pass appropriate enforcement legislation.

As early as 1890, several jurisdictions began employing tests and devices specifically designed to prevent black citizens from voting, including poll taxes, literacy tests, grandfather clauses, and property qualifications, as well as enacting laws intended to dilute black voting strength.

To combat these pernicious efforts, Congress passed the Voting Rights Act of 1965 (the "Act"). Section 2 of the Act forbids any "standard, practice, or procedure" that "results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color". Under Section 5, a covered jurisdiction seeking to change its election laws or procedures must either submit the change to the Attorney General or seek preclearance from a three-judge panel in federal district court. Preclearance may be granted only if the jurisdiction demonstrates that the proposed change to its voting law "does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color".

Section 4(b) contains a formula for determining whether a state or political subdivision is subject to the preclearance requirements of Section 5. Such formula considers the use of voting eligibility tests or devices and the rate of registration and turnout among all voters.

In 2006, Congress extended the Voting Rights Act for another twenty-five years. The 2006 legislation was immediately challenged as unconstitutional by a covered locality in federal court, but the district court interpreted the Act to allow any covered jurisdiction to seek an exemption from its provisions, thus avoiding the need to resolve the larger question of the Act's constitutionality.

In April 2010, Shelby County, Alabama, filed suit in the District Court for the District of Columbia, seeking both a declaratory judgment that Sections 4(b) and 5 are facially unconstitutional and a permanent injunction prohibiting the Attorney General from enforcing them. Shelby County alleges that the extraordinary problems of discrimination that led to the enactment of the Act in 1965 no longer exist, and that the burdens it imposes on states and localities are no longer justifiable. On September 21, 2011, the district court upheld the constitutionality of Sections 5 and the formula set out in Section 4(b) that triggers Section 5 coverage. On May 18, 2012, the U.S. Court of Appeals for the District of Columbia Circuit affirmed the district court's ruling. Shelby County petitioned the U.S. Supreme Court to grant *certiorari* to hear the appeal.

On November 9, 2012, the U.S. Supreme Court granted *certiorari* to decide the question of "whether Congress' decision in 2006 to reauthorize Section 5 of the Voting Rights Act under the pre-existing coverage formula of Section 4(b) of the Voting Rights Act exceeded its authority under the Fourteenth and Fifteenth Amendments and thus violated the Tenth Amendment and Article IV of the United States Constitution".

Three counties in New York City are subject to Section 5 preclearance: Bronx, Kings and New York. Compliance with Section 5 does not impose undue burdens on covered jurisdictions, and Section 5 continues to provide substantial benefits to the nation by eliminating barriers to minority political participation. Section 5 has also helped secure the rights of racial and language-minority voters. Moreover, the advance guidance provided by Section 5 can help covered jurisdictions avoid potentially costly and burdensome litigation.

<sup>1</sup> RCNY tit. 52, § 13-01 *et seq.*

<sup>2</sup> RCNY tit. 52, § 13-02(b)(2).

<sup>3</sup> *Guide to CFB Independent Expenditure Rules*, page 3, available at <http://www.nycfb.info/PDF/rulemaking/Independent-Expenditures-Guidance.pdf>.

(The following is the text of the Fiscal Impact Statement for Int. No. 978-A:)



THE COUNCIL OF THE CITY OF NEW YORK  
 FINANCE DIVISION  
 PRESTON NIBLACK, DIRECTOR  
 JEFFREY RODUS, FIRST DEPUTY DIRECTOR  
 FISCAL IMPACT STATEMENT

PROPOSED INTRO. NO: 978-A  
 COMMITTEE:  
 Governmental Operations

**TITLE:** Local Law to amend the New York city charter, in relation to the campaign finance board.  
**SPONSORS:** By Council Members Mendez, Van Bramer, Williams, Wills and Rodriguez.

**SUMMARY OF LEGISLATION:** The bill amends section 1052 of the New York city charter by adding a fifth class of expenditure to the existing four classes of expenditure that are not considered independent expenditures for the purposes of the City's campaign finance law. The class of expenditure added by this section encompasses communications by membership organizations that are aimed solely at their members or by a corporation aimed at its stockholders. This exemption does not apply to party committees, constituted committees, political clubs, or other entities organized primarily for the purpose of influencing elections.

Incidental communications by membership organizations or corporations with non-members or non-stockholders is similarly exempted from qualifying as an independent expenditure, so long as reasonable efforts are made to restrict the communication to members and stockholders.

**EFFECTIVE DATE:** The bill would take effect immediately upon its enactment.

**FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED:** N/A

**FISCAL IMPACT STATEMENT:**

	Effective FY13	FY Succeeding Effective FY14	Full Fiscal Impact FY14
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	\$0	\$0	\$0
Net	\$0	\$0	\$0

**IMPACT ON REVENUES:** There would be no impact on City revenues resulting from the enactment of this legislation.

**IMPACT ON EXPENDITURES:** There would be no impact on City expenditures resulting from the enactment of this legislation.

**SOURCE OF FUNDS TO COVER ESTIMATED COSTS:** N/A

**SOURCE OF INFORMATION:** New York City Council Finance Division

**ESTIMATE PREPARED BY:** John Russell, Principal Legislative Financial Analyst

**ESTIMATE REVIEWED BY:** Latonia Mckinney, Deputy Director, and Tanisha Edwards, Finance Counsel

**LEGISLATIVE HISTORY:** This legislation was introduced to the full Council on December 10, 2012 as Int. 978 and referred to the Committee on Governmental Operations. On January 16, 2013, the Committee held a hearing regarding this legislation, an amendment was proposed and the bill was laid over. The Committee on Governmental Operations will consider Proposed Intro. No. 978-A on January 22, 2013.

(For text of preconsidered Res No. 1640, please see the Introduction and Reading of Bills section printed in these Minutes; see also Report of the

**Committee on Governmental Operations for Res No. 1640 printed in the voice-vote Resolutions section of these Minutes)**

Accordingly, the Committee recommends the adoption of Int No. 978-A and Res No. 1640.

(The following is the text of Int. No. 978-A:)

Int. No. 978-A

By Council Member Mendez, Van Bremer, Williams, Willis, Rodriguez, Barron, Gennaro, Jackson and King.

**A Local Law to amend the New York city charter, in relation to the campaign finance board.**

Be it enacted by the Council as follows:

Section 1. Clause i of subparagraph a of paragraph 15 of subdivision a of section 1052 of the New York city charter is amended to read as follows:

(i) "Independent expenditure" shall mean a monetary or in-kind expenditure made, or liability incurred, in support of or in opposition to a candidate in a covered election or municipal ballot proposal or referendum, where no candidate, nor any agent or political committee authorized by a candidate, has authorized, requested, suggested, fostered or cooperated in any such activity. The term "independent expenditure" shall not include:

(1) the value of services provided without compensation by individuals who volunteer a portion or all of their time,

(2) the use of real or personal property and the cost of invitations, food and beverages voluntarily provided by an individual, to the extent such services do not exceed five hundred dollars in value,

(3) the travel expenses of any individual who on his or her own behalf volunteers his or her personal services, to the extent such expenses are unreimbursed and do not exceed five hundred dollars in value, [and]

(4) any expenditure made, or liability incurred, that is considered to be a contribution to a candidate under any provision of this charter or local law, or under any rule promulgated by the board[.], and

(5) any communication by a labor or other membership organization aimed at its members, or by a corporation aimed at its stockholders. This exemption does not apply to party committees, constituted committees, political clubs, or other entities organized primarily for the purpose of influencing elections. For purposes of this subparagraph:

(A) "member" shall mean (I) any individual who, pursuant to a specific provision of an organization's articles or bylaws, has the right to vote directly or indirectly for the election of a director or directors or an officer or officers or on a disposition of all or substantially all of the assets of the organization or on a merger or on a dissolution; (II) any individual who is designated in the articles or bylaws as a member and, pursuant to a specific provision of an organization's articles or bylaws, has the right to vote on changes to the articles or bylaws, or pays or has paid membership dues in an amount predetermined by the organization so long as the organization is tax exempt under section 501(c) of the Internal Revenue Code of 1986; or (III) any individual who resides within the same household as a "member" as defined in this paragraph;

(B) members of a local union shall be considered to be members of any national or international union of which the local union is a part and of any federation with which the local, national or international union is affiliated; and

(C) "stockholder" shall mean any individual who has a vested beneficial interest in stock, has the power to direct how that stock shall be voted, if it is voting stock, and has the right to receive dividends, or any individual who resides within the same household as a "stockholder" as defined in this paragraph.

(6) any de minimis, incidental communication by a labor or other membership organization or corporation with non-members or non-stockholders, provided that the labor or other membership organization or corporation uses reasonable efforts to restrict the communication to its members or stockholders.

§ 2. This local law shall take effect immediately.

GALE A. BREWER, Chairperson; ERIK MARTIN DILAN, DOMENIC M. RECCHIA, Jr., INEZ E. DICKENS; Committee on Governmental Operations, January 22, 2013

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 Rules, Privileges and Elections**

At this point the Speaker (Council Member Quinn) announced that the following items had been **preconsidered** by the Committee on Rules, Privileges and Elections and had been favorably reported for adoption.

Report for M-1029

**Report of the Committee on Rules, Privileges and Elections approving the re-appointment by the Mayor of LaShann DeArcy as a member of the New York City Taxi and Limousine Commission**

The Committee on Rules, Privileges and Elections, to which the annexed resolution was referred on January 23, 2013, respectfully

**REPORTS:**

**Topic:** *New York City Taxi and Limousine Commission — (Mayoral Candidates for re-appointment by the Council)*

- **LaShann DeArcy [Preconsidered-M-1029]**
- **Edward Gonzales [Preconsidered-M-1030]**

The New York City Taxi and Limousine Commission ("TLC") was created pursuant to Local Law 12 of 1971. Section 2300 of Chapter 65 of the *New York City Charter* ("*Charter*") states that there shall be a TLC, the purposes of which shall be, *inter alia*, the "continuance, further development and improvement of taxi and limousine service in the City. It shall be the further purpose of the [TLC], consonant with the promotion and protection of the public comfort and convenience, to adopt and establish an overall public transportation policy governing taxi, coach, limousine and wheelchair accessible van services as it relates to the overall public transportation network of the City." The TLC is also responsible for establishing certain rates, standards and criteria for the licensing of vehicles, drivers and chauffeurs, owners and operators engaged in such services, and for providing "authorization" to persons to operate commuter van services within the City [*Rules of the City of New York*, Title 35, § 9-02].

The TLC consists of nine members appointed by the Mayor, all with the advice and consent of the New York City Council. Five of said members, one resident from each of the five boroughs of the City, are recommended for appointment by a majority vote of the Council Members of the respective borough [*New York City Charter* § 2301 (a)]. TLC members are appointed for terms of seven years, and can serve until the appointment and qualification of a successor. Vacancies, other than those that occur at the expiration of a term, shall be filled for the unexpired term. The Mayor may remove any such member for cause, upon stated charges [*New York City Charter* § 2301 (b)].

The Mayor designates one member of the TLC to act as the Chairperson and Chief Executive Officer. The Chairperson shall have charge of the organization of his/her office and have authority to employ, assign and superintend the duties of such officers and employees as may be necessary to carry out the provisions of Chapter 65 of the *Charter*. The *Charter* provides that the Chairperson shall devote his/her full time to this position and, as such, receive compensation as set by the Mayor [*New York City Charter* § 2301 (c)]. The Chair currently receives \$192,198.00 annually. Other members of the TLC are not entitled to compensation [*New York City Charter* § 2301 (d)].

Pursuant to the *Charter*, all proceedings of the TLC and all documents and records in its possession shall be public records and the TLC shall make an annual report to the City Council on or before the second Monday of January in each year [*New York City Charter* § 2302].

If re-appointed, Ms. DeArcy, a resident of Manhattan, will be eligible to serve the remainder of a seven-year term that expires on January 31, 2019. Copies of Ms. DeArcy's resume and report/resolution are annexed to this briefing paper.

If re-appointed, Mr. Gonzales, a resident of Queens, will be eligible to serve the remainder of a seven-year term that expires on January 31, 2019. Copies of Mr. Gonzales' resume and report/resolution are annexed to this briefing paper.

*After interviewing the candidates and reviewing the relevant material, this Committee decided to approve the re-appointment of the nominees; for nominee Edward Gonzales (M-1030), please see the Report of the Committee on Rules, Privileges and Elections for M-1030 printed in these Minutes; for LaShann M. DeArcy (M-1029), please see immediately below:*

The Committee on Rules, Privileges and Elections respectfully reports:

Pursuant to §§ 31 and 2300 of the *New York City Charter*, the Committee on Rules, Privileges and Elections, hereby approves the re-appointment by the Mayor of LaShann DeArcy as a member of the New York City Taxi and Limousine Commission to serve the remainder of a seven-year term that expires on January 31, 2019.

This matter was referred to the Committee on January 23, 2013.

In connection herewith, Council Member Rivera offered the following resolution:

Res. No. 1645

**RESOLUTION APPROVING THE RE-APPOINTMENT BY THE MAYOR OF LASHANN DEARCY AS A MEMBER OF THE NEW YORK CITY TAXI AND LIMOUSINE COMMISSION**

By Council Member Rivera.

**RESOLVED**, that pursuant to §§ 31 and 2300 of the *New York City Charter*, the Council does hereby approve the re-appointment by the Mayor of LaShann DeArcy as a member of the New York City Taxi and Limousine Commission to serve the remainder of a seven-year term that expires on January 31, 2019.

JOEL RIVERA, Chairperson; LEROY G. COMRIE, Jr., ERIK MARTIN-DILAN, LEWIS A. FIDLER, ROBERT JACKSON, VINCENT J. GENTILE, INEZ E. DICKENS, JAMES VACCA, ELIZABETH S. CROWLEY, KAREN KOSLOWITZ, JAMES S. ODDO, CHRISTINE C. QUINN; Committee on Rules, Privileges and Elections, January 23, 2013.

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).

At this point the Speaker (Council Member Quinn) announced that the following items had been **preconsidered** by the Committee on Rules, Privileges and Elections and had been favorably reported for adoption.

Report for M-1030

**Report of the Committee on Rules, Privileges and Elections approving the re-appointment by the Mayor of Edward Gonzales as a member of the New York City Taxi and Limousine Commission**

The Committee on Rules, Privileges and Elections, to which the annexed resolution was referred on January 23, 2013, respectfully

**REPORTS:**

**(For text of Briefing Paper, please see the Report of the Committee on Rules, Privileges and Elections for M-1029 printed in these Minutes; for Committee decision, please see below)**

The Committee on Rules, Privileges and Elections respectfully reports:

Pursuant to §§ 31 and 2300 of the *New York City Charter*, the Committee on Rules, Privileges and Elections, hereby approves the re-appointment by the Mayor of Edward Gonzales as a member of the New York City Taxi and Limousine Commission to serve the remainder of a seven-year term that expires on January 31, 2019.

This matter was referred to the Committee on January 23, 2013.

In connection herewith, Council Member Rivera offered the following resolution:

Res. No. 1646

**RESOLUTION APPROVING THE RE-APPOINTMENT BY THE MAYOR OF EDWARD GONZALES AS A MEMBER OF THE NEW YORK CITY TAXI AND LIMOUSINE COMMISSION**

By Council Member Rivera

**RESOLVED**, that pursuant to §§ 31 and 2300 of the *New York City Charter*, the Council does hereby approve the re-appointment by the Mayor of Edward Gonzales as a member of the New York City Taxi and Limousine Commission to serve the remainder of a seven-year term that expires on January 31, 2019.

JOEL RIVERA, Chairperson; LEROY G. COMRIE, Jr., ERIK MARTIN-DILAN, LEWIS A. FIDLER, ROBERT JACKSON, VINCENT J. GENTILE, INEZ E. DICKENS, JAMES VACCA, ELIZABETH S. CROWLEY, KAREN KOSLOWITZ, JAMES S. ODDO, CHRISTINE C. QUINN; Committee on Rules, Privileges and Elections, January 23, 2013.

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).

**Rules Reports Section Supplement**

**STANDING COMMITTEES OF THE COUNCIL**  
**January 9, 2013**

AGING	CIVIL RIGHTS	CIVIL SERVICE & LABOR	COMMUNITY DEVELOPMENT
LAPPIN, CHAIR ARROYO BREWER FOSTER GENTILE MARK-VIVERITO VACCA CHIN KOO ROSE GREENFIELD	ROSE, CHAIR FERRERAS CHIN VAN BRAMER KING	NELSON, CHAIR GENNARO MARK-VIVERITO RECCHIA ULRICH	VANN, CHAIR FOSTER GENTILE KOPPELL MARK-VIVERITO REYNA
CONSUMER AFFAIRS	CONTRACTS	CULTURAL AFFAIRS, LIBRARIES & INTERNATIONAL INTERGROUP RELATIONS	ECONOMIC DEVELOPMENT
GARODNICK, CHAIR BARRON COMRIE KOPPELL KOSLOWITZ NELSON FERRERAS	MEALY, CHAIR JACKSON JAMES MARK-VIVERITO NELSON	VAN BRAMER, CHAIR COMRIE CROWLEY DICKENS RECCHIA DROMM KING	KOSLOWITZ, CHAIR EUGENE FERRERAS JAMES LANDER LEVIN REYNA VANN WEPRIN WILLS
EDUCATION	ENVIRONMENTAL PROTECTION	FINANCE	FIRE & CRIMINAL JUSTICE SERVICES
JACKSON, CHAIR BARRON FIDLER FOSTER GARODNICK KOPPELL LAPPIN VACCA VANN CABRERA CHIN DROMM KOSLOWITZ LEVIN ROSE WEPRIN IGNIZIO ULRICH GREENFIELD	GENNARO, CHAIR CROWLEY KOPPELL VALLONE LANDER LEVIN	RECCHIA, CHAIR BREWER COMRIE FIDLER FOSTER JACKSON KOPPELL MEALY REYNA RIVERA VANN CABRERA FERRERAS KOSLOWITZ VAN BRAMER IGNIZIO ODDO	CROWLEY, CHAIR EUGENE GENTILE VALLONE RODRIGUEZ HALLORAN MENDEZ
GENERAL WELFARE	GOVERNMENTAL OPERATIONS	HEALTH	HIGHER EDUCATION
PALMA, CHAIR ARROYO BREWER FOSTER LANDER LEVIN RODRIGUEZ VAN BRAMER WILLS	BREWER, CHAIR DICKENS DILAN RECCHIA VALLONE	ARROYO, CHAIR DICKENS EUGENE FERRERAS FOSTER MENDEZ RIVERA VALLONE VANN ROSE VAN BRAMER	RODRIGUEZ, CHAIR BREWER VACCA CABRERA ROSE WILLIAMS KING

January 9, 2013

Created by: Ruthie DelFranco

HOUSING & BUILDINGS	IMMIGRATION	JUVENILE JUSTICE	LAND USE
DILAN, CHAIR BREWER COMRIE CROWLEY FIDLER GENNARO JACKSON JAMES LANDER MARK-VIVERITO MENDEZ RIVERA WILLIAMS ULRICH ODDO	DROMM, CHAIR BARRON EUGENE RODRIGUEZ WILLIAMS	GONZALEZ, CHAIR ARROYO CABRERA DROMM	COMRIE, CHAIR ARROYO BARRON DICKENS GARODNICK GONZALEZ JACKSON LAPPIN MENDEZ PALMA REYNA RIVERA VANN KOO LANDER LEVIN WEPRIN WILLIAMS HALLORAN IGNIZIO WILLS
LOWER MANHATTAN REDEVELOPMENT	MENTAL HEALTH, DEVELOPMENTAL DISABILITY, ALCOHOLISM, DRUG ABUSE & DISABILITY SERVICES	OVERSIGHT & INVESTIGATIONS	PARKS & RECREATION
CHIN, CHAIR MENDEZ CABRERA LEVIN KING	KOPPELL, CHAIR BREWER HALLORAN GREENFIELD WILLS	WILLIAMS, CHAIR NELSON KOO ROSE WEPRIN	MARK-VIVERITO, CHAIR CROWLEY FERRERAS GENTILE VACCA DROMM VAN BRAMER
PUBLIC HOUSING	PUBLIC SAFETY	RULES, PRIVILEGES & ELECTIONS	SANITATION & SOLID WASTE MANAGEMENT
MENDEZ, CHAIR ARROYO DILAN FOSTER GARODNICK GENNARO GENTILE HALLORAN VAN BRAMER	VALLONE, CHAIR DILAN FOSTER GENNARO GENTILE HALLORAN ULRICH GREENFIELD	RIVERA, CHAIR COMRIE DICKENS DILAN FIDLER JACKSON VACCA VANN KOSLOWITZ ODDO QUINN CROWLEY GENTILE	JAMES, CHAIR ARROYO GENNARO JACKSON NELSON
SMALL BUSINESS	STANDARDS & ETHICS	STATE & FEDERAL LEGISLATION	TECHNOLOGY
REYNA, CHAIR EUGENE JAMES CHIN KOO WILLS KING	DICKENS, CHAIR JACKSON PALMA RIVERA KOSLOWITZ IGNIZIO ODDO	FOSTER, CHAIR DILAN FIDLER RECCHIA RIVERA CROWLEY	CABRERA, CHAIR BREWER JAMES KOPPELL WEPRIN

January 9, 2013

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TRANSPORTATION	VETERANS	WATERFRONTS	WOMEN'S ISSUES
<b>VACCA, CHAIR</b> BREWER GARODNICK GREENFIELD KOPPELL KOO LAPPIN MEALY RODRIGUEZ ROSE VAN BRAMER IGNIZIO ULRICH	<b>EUGENE, CHAIR</b> FIDLER GENTILE CABRERA DROMM GREENFIELD	<b>KOO, CHAIR</b> BREWER VALLONE LANDER NELSON ULRICH	<b>FERRERAS, CHAIR</b> BARRON CHIN PALMA WILLS
<b>YOUTH SERVICES</b>			
<b>FIDLER, CHAIR</b> GONZALEZ MARK-VIVERITO MEALY PALMA CABRERA KOO RODRIGUEZ WILLIAMS KING			

**LAND USE  
SUBCOMMITTEES**

LANDMARKS, PUBLIC SITING & MARITIME USES	PLANNING, DISPOSITION & CONCESSIONS	ZONING & FRANCHISES
<b>LANDER, CHAIR</b> ARROYO HALLORAN MENDEZ PALMA WILLIAMS	<b>LEVIN, CHAIR</b> BARRON DICKENS GONZALEZ KOO	<b>WEPRIN, CHAIR</b> COMRIE GARODNICK JACKSON LAPPIN REYNA RIVERA VANN IGNIZIO KING

**SUBCOMMITTEES**

DRUG ABUSE (Mental Health, Mental Retardation, Alcoholism, Drug Abuse & Disability Services)	SENIOR CENTERS (Aging)
<b>WILLS, CHAIR</b>	<b>GREENFIELD, CHAIR</b>

**SELECT COMMITTEES**

<b>LIBRARIES</b>
<b>GENTILE, CHAIR</b>

**TASK FORCE**

<b>TASK FORCE TO COMBAT GUN VIOLENCE</b>
<b>CABRERA, CO-CHAIR</b>
<b>WILLIAMS, CO-CHAIR</b>

January 9, 2013

Created by: Ruthie DellFranco

**GENERAL ORDER CALENDAR**

Report for Int. No. 702-A

**Report of the Committee on Consumer Affairs 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 requiring that all signs advertising the price of gasoline and/or diesel motor fuel disclose the total selling price for cash and credit card purchases.**

The Committee on Consumer Affairs, to which the annexed amended proposed local law was referred on November 3, 2011 (Minutes, page 4838), and was originally before the Council before being laid over on both December 18, 2012 (Minutes, page 4631) and January 9, 2013 (Minutes, page ), respectfully

**REPORTS:**

**INTRODUCTION**

On Monday, December 17, 2012, the Consumer Affairs Committee, chaired by Council Member Dan Garodnick, will vote on Proposed Introductory Bill Number 702-A ("Proposed Int. No. 702-A"), a Local Law to amend the administrative code of the city of New York, in relation to requiring that all gas stations post road signs displaying the total selling price of gasoline and/or diesel motor fuel and that such road signs and any other sign, poster or placard advertising the price of gasoline and/or diesel motor fuel disclose the total selling price for cash and credit or debit card purchases. The Committee previously heard aversion of Int. No. 702 on December 14, 2012.

**BACKGROUND**

During economically uncertain times, fluctuations in the price of certain goods, such as gasoline, can have a debilitating impact on working families. Unfortunately, gasoline prices have experienced an upward trend in the past year in the New York

City metropolitan area According to the New York State Energy Research & Development Authority, regular grade gasoline averaged nearly \$3.65 per gallon on December 3, 2012.<sup>1</sup> For the majority of New York City residents, the price of gasoline is a major concern. According to the Siena Research Institute, in August of 2012, 53% of residents within the five boroughs considered gasoline prices to be "a somewhat or very serious

<sup>1</sup> N.Y.S. Research & Dev. Auth. "Weekly Average Motor Gasoline Prices," at [http://www.nyserdany.gov/Page-Sections/Energy-Prices-Supplies-and-Weather-Data/Motor-](http://www.nyserdany.gov/Page-Sections/Energy-Prices-Supplies-and-Weather-Data/Motor)

Gasoline-Weekly-Average-Motor-Gasoline-Prices.aspx (accessed September 12, 2012).

problem."<sup>2</sup> The necessity of gasoline in daily life became all too clear in the aftermath of Hurricane Sandy, when fuel shortages shuttered some gas stations and left others with lines of cars stretching several blocks long. In light of its expense, and the fact that gas is often not an optional purchase, it is critically important that consumer protection regulations are enforced and that gasoline pricing policies be as transparent as possible.

a. State and Local Regulation of Gas Stations

Several provisions in State and local law address gasoline pricing and regulate the form and manner by which prices are disclosed in order to promote clear and accurate communication of information to consumers. First, consumers are protected against price gouging of any consumer goods and services by the State General Business Law, which prohibits offering or selling goods and services considered "vital and necessary," such as gasoline, at "unconscionably excessive" prices during times of "abnormal disruption" of the market.<sup>3</sup> When price gouging is alleged, the State Attorney General can apply to enjoin or restrain the offensive activity, and whether or not the activity violates the price gouging prohibition becomes a question for the court.<sup>4</sup>

Second, local consumer protection laws prohibit, among other deceptive practices, acts that result in "a gross disparity between the value received by a consumer and the price paid, to the consumer's detriment."<sup>5</sup> Specifically, local law defines fraudulent practices in which sellers of gasoline and petroleum products ("gas stations") are

<sup>2</sup>Siena Research Inst. "Seriousness of Gas and Food Prices: Percentage of NY'ers," at [http://www.siena.edu/uploader/files/home/parents\\_and\\_community/community\\_pages/sri/nyscc/Gas%20and%20Food%20Table0812.pdf](http://www.siena.edu/uploader/files/home/parents_and_community/community_pages/sri/nyscc/Gas%20and%20Food%20Table0812.pdf) (accessed on September 12, 2012).

<sup>3</sup> N.Y.S. Gen. Bus. Law § 396-r.

<sup>4</sup> *id.*

<sup>5</sup> N.Y.C. Admin. Code § 20-710(b).

prohibited to engage, such as the sale of gasoline "in any manner so as to deceive, or tend to deceive the purchaser as to the price, nature, quality or identity thereof."<sup>6</sup>

Additionally, the State Agriculture and Markets Law requires that the selling price per gallon of gasoline be posted on all dispensing devices from which gasoline is extracted, and the law dictates the size and style of such posting.<sup>7</sup> The law also requires the posting of multiple prices on a dispensing device that offers more than one type or grade of gasoline for sale. A civil penalty of \$100 is assessed for violating the law once and subsequent violations can be punished by fines of up to \$500. The law authorizes DCA to enforce the provisions that relate to price posting at the pump.<sup>8</sup>

Local law provides further regulations on price posting for gas stations in New York City. All signs displaying the price of gasoline at or near the premises of a gas station, such as road signs visible to drivers, must state the name or brand, grade or quality, and the total selling price per gallon of the gasoline.<sup>8</sup> The total selling price is defined as "the sum of the basic price per gallon plus all applicable taxes."<sup>10</sup> Further, local law dictates the size and style of such postings, requiring that all numbers and letters relating to the price of the gasoline be the same size and that the font shall be black on white background."

In 2006, the Council passed Local Law 38, which requires that sellers of gasoline adhere to the prices posted on such road signs, and prohibits such sellers from raising the posted prices for a period of 24 hours once they are posted.<sup>12</sup> The local law also

<sup>6</sup> N.Y.C. Admin. Code § 20-673.

<sup>7</sup> N.Y.S. Agri. & Mkt. Law § 192(5). <sup>8</sup>/*c.*

<sup>9</sup> N.Y.C. Admin. Code § 20-672.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> LL 38/2006; see N.Y.C. Admin. Code § 20-672(b).

contained recordkeeping requirements related to pricing.<sup>13</sup> Additionally, the Agriculture and Markets Law and the Administrative Code both regulate disclosures at the pump related to octane ratings and proper representation of gasoline as either leaded or unleaded.<sup>14</sup>

## b. Enforcement

Fortunately for drivers in New York City, DCA is tasked with ensuring that those who purchase gasoline are getting their money's worth. DCA's "gas squad" inspects each gas station at least once a year, testing for "pump dispensing accuracy; gas octane at levels advertised as priced; proper maintenance of gasoline storage tanks; properly marked fill ports for gas delivery; functioning equipment, including indicator lights, nozzles, air compressors, and valves; and proper signage, including matching prices on pumps and curb signs."<sup>15</sup> According to DCA, its inspectors check the accuracy of every pump in the City, visiting each gas station about twice a year.<sup>16</sup>

In 2010, DCA conducted a sweep of gas stations in the City and found a 97% compliance rate for accuracy at the pump.<sup>17</sup> The department inspected over 1,800 gas stations and 10,850 gas pumps, 345 of which were faulty and taken out of commission pending repairs.<sup>18</sup> Three hundred eighty-two violations were issued for reasons that included failing to disclose octane ratings, improper priming of pumps, short measure on pumps, deceptive practices, and scales that failed to conform to the standards for weights

<sup>13</sup> *Id.*

<sup>14</sup> N.Y.S. Agric. & Mkt. Law §§ 192-A, 192-B and 192-C; N.Y.C. Admin. Code §§ 20-673.1 and 20-673.2.

<sup>15</sup> N.Y.C. Dep't of Consumer Affairs, "Department of Consumer Affairs Keeps Close Watch Over Gas Station Accuracy," Press Release, July 1, 2009, at [http://www.nyc.gov/html/dca/html/pr2009/pr\\_070109.shtml](http://www.nyc.gov/html/dca/html/pr2009/pr_070109.shtml).

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

and measures as laid out by the National Institute of Standards and Technology.<sup>19</sup> Of the 382 violations, 28 related to signage problems, including improper curb signage.<sup>23</sup> That year, DCA also received approximately 645 complaints about gas stations.<sup>21</sup> The most common complaints were "overcharging, inaccurate meters and defective fuel pumps."<sup>22</sup>

In 2011, the Office of New York State Attorney General Eric Schneiderman launched an investigation into possible price gouging and zone pricing in response to dramatic price fluctuations that were occurring throughout the state. Examining 89 gas stations throughout the state between February 1 and April 1 of 2011, the Attorney General's office ultimately concluded that despite the dramatic rise in gasoline prices during the period studied, and with the exception of two gas stations outside of New York City, price gouging did not occur and retail mark-ups on gasoline remained relatively consistent.<sup>23</sup> The fluctuations in gasoline prices, it was determined, were simply a reflection of the changes in the price of crude oil.<sup>24</sup> The Attorney General's office did, however, find that gasoline wholesalers were engaged in zone pricing, a practice where different gas stations are charged different prices depending on their location.<sup>25</sup> The report noted that, while such practice was banned by the State in 2008, weaknesses in the law's language render it unenforceable.<sup>26</sup>

Attorney General Schneiderman revisited the issue of price gouging in 2012 in the wake of Hurricane Sandy. Prior to the storm making landfall, the Attorney General's

<sup>19</sup> N.Y.C. Dep't of Consumer Affairs, data submitted via email to Council staff on February 28, 2012.

<sup>20</sup> *Id.*

<sup>21</sup> N.Y.C. Dep't of Consumer Affairs, *supra* note 14. <sup>22</sup> *Id.*

<sup>23</sup> Office of the N.Y.S. Attorney General "Report on New York Gasoline Prices," December 2011, at 3. <sup>24</sup> *Id.*

<sup>25</sup> *Id.*, at 4. <sup>26</sup> *Id.*

office warned vendors in certain areas of the state against engaging in price gouging.<sup>27</sup> After the hurricane, the office received hundreds of complaints relating to price gouging, the majority of which related to gasoline prices.<sup>28</sup> The Attorney General subsequently launched an investigation into these allegations.<sup>29</sup> To date, his office has initiated enforcement proceedings against 25 gas retailers in the state, twelve of which are located in New York City.<sup>30 31</sup>

## c. Cash Versus Credit Pricing

Despite the broad compliance with applicable laws and apparent lack of price gouging in New York, consumers still have reason to exercise caution when patronizing a gas station. A 2008 investigation of gas stations launched by then-Attorney General Andrew Cuomo found that roughly one quarter of the 130 stations examined in the New York City area were engaged in deceptive practices.<sup>32</sup> Specifically, the Attorney General's office found that the offending gas stations were "charging customers more for using a credit card [and] posting only the lower cash prices on their large, street-facing signs in order to lure patrons to their station and then charging them more at the pump."<sup>33</sup>

<sup>27</sup> Office of the N.Y.S. Attorney General, "A.G. Schneiderman Details Post-Hurricane Price Gouging Investigation As Consumer Complaints Rise," Press Release, November 5, 2012, at <http://www.ag.ny.gov/press-releases/ag-schneiderman-details-post-hurricane-price-gouging-investigation-consumers-complaints>.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> Office of the N.Y.S. Attorney General, "A.G. Schneiderman Announced 12 More Enforcement Actions Against Gas Retailers in Post-Sandy Price Gouging Investigation," Press

Release, November 29, 2012, at <http://www.ag.ny.gov/press-releases/ag-schneiderman-announces-12-more-enforcement-actions-against-gas-retailers-post-sandy>.

<sup>31</sup> Office of the N.Y.S. Attorney General, "A.G. Schneiderman Brings First Series of Enforcement Actions in Post-Hurricane Price Gouging Investigation As Consumer Complaints Rise," Press Release, November 15, 2012, at <http://www.ag.ny.gov/press-releases/ag-schneiderman-brings-first-series-enforcement-actions-post-hurricane-price-gouging>.

<sup>32</sup> Office of the N.Y.S. Attorney General, "Attorney General Cuomo Issues Consumer alert for NYC Drivers After Investigation Reveals Nearly 25% of NYC Area Gas Stations Inspected Engaged in Deceptive Practices," Press Release, August 28, 2008, at <http://www.ag.ny.gov/press-releases/attorney-general-cuomo-issues-consumer-alert-nyc-drivers-after-investigation-reveals>.

<sup>33</sup> *Id.*

The Attorney General's office found that while some of the gas stations did include the word "cash" in their street-level signs, the font size was too small to be legible from the street.<sup>34</sup>

The New York State General Business Law prohibits retailers from applying a surcharge to purchases made with a credit card.<sup>35</sup> Nevertheless, State law does not prohibit retailers from applying discounts to their sales. Therefore, gas stations are permitted to charge a discounted price for gasoline purchases made in cash. Many gas stations do so, charging the higher "non-discounted" price on non-cash purchases to offset the processing fees (also known as "interchange" fees) incurred when a consumer uses a debit or credit card.<sup>36</sup> It has been reported that gas stations in New York State are advertising only the (often lower) cash price on their street-level signs without adequate disclosure that such advertised price applies to cash transactions only.<sup>37</sup> As the 2008 investigation revealed, it is not always clear that the price being advertised on the street-level sign reflects only the cash price until the consumer has already pulled into the gas station next to a pump.

Price differentials received renewed attention earlier this year when drivers in Long Island complained about disparities of up to two dollars between cash and credit purchases.<sup>38</sup> This significant markup, combined with the high cost of fuel and the failure of gas stations to adequately label the cash price, prompted New York State Senator Lee Zeldin (R, C, I-Shirley) to introduce a bill that would require gas stations to post the

<sup>34</sup> *Id.*

<sup>35</sup> N.Y.S. Gen. Bus. Law §518.

<sup>36</sup> Morell, J., "Filling up the tank? It may pay to use cash," *CreditCards.com*, August 28, 2008, Available at <http://www.creditcards.com/credit-card-news/gas-discounts-for-cash-1275.php>.

<sup>37</sup> Polsky, C., "Ire over credit card pricing," *Newsday*, July 11, 2008, at A 19.

<sup>38</sup> "New York Senator Takes Aim At Gas Cash-Credit Price Gap," *CBS New York*, April 24, 2012, Available at <http://newyork.cbslocal.com/2012/04/24/new-york-senator-takes-aim-at-gas-cash-credit-price-gap>.

credit price on street-level signs when the disparity between the cash and credit price exceeds seven percent.<sup>39</sup> A similar bill was passed by the Westchester County Board of Legislators in December 2011, though that bill simply required that both cash and credit prices be displayed.<sup>40</sup> That same month, in response to price disparities in Long Island, Senator Charles Schumer (D-NY) sent a letter to the Federal Trade Commission asking them to consider rules that would require street-level signs at gas stations to more clearly disclose the cash and credit prices of gasoline.<sup>41</sup>

## d. September Gas Station Hearing

The Committee first heard Int. No. 702 on September 20, 2012 along with an oversight hearing entitled "Gas Stations in New York City: Putting a Premium on Consumer Protection." At that hearing, Council Member Fidler, the sponsor of Int. No. 702, asked Jeffrey Frediani, a Legislative Analyst at AAA New York, for his opinion on whether all gas stations in New York City should be required to have street-level signs so that gas prices are legible to drivers on the road. Mr. Frediani stated that this requirement would give consumers more information prior to entering the gas station. In light of this information, Int. No. 702 was amended to require that all gas stations have such street-level signs advertising the gas prices.

<sup>39</sup> "Gas Price Gap Between Credit And Cash Up to \$2 A Gallon At Some L.I.," *CBS New York*, April 20, 2012, Available at <http://newyork.cbslocal.com/2012/04/20/tri-ang-gas-price-gap-between-credit-and-cash-up-to-2-a-gallon-at-some-l-i-stations/>.

<sup>40</sup> Swift, J., "Westchester Legislators Okay New Gas Pricing Law," *Peekskill Daily Voice*, December 1, 2011, Available at <http://peekskilldailyvoice.com/news/kaplowitzs-law-gasoline-price-disclosure>.

<sup>41</sup> Coen, A., "Sen. Schumer Appears in Wantagh Calling for Better Cash Price Disclosure," *WantaghSeaford Patch*, December 6, 2011, Available at <http://wantagh.patch.com/articles/sen-schumer-appears-in-wantagh-calling-for-better-cash-price-disclosure>.

## III. PROPOSED INT. NO. 702-A

Proposed Int. No. 702-A would require all gas stations in New York City to maintain a sign, poster or placard advertising the selling price of gasoline that is visible to drivers of approaching vehicles. It would also require all gas

stations to clarify any price differences that may exist between cash and credit or debit purchases on such road signs, posters or placards. It would require gas stations that charge cash-paying customers less than customers who pay with credit or debit cards to post the total selling price for each type of accepted payment. Proposed Int. No. 702-A would also require that the language distinguishing the price for cash purchases from credit or debit purchases be written in letters no less than half the size of the numbers displaying the price.

New York City Council Finance Division

**HISTORY:** Int. 702 was introduced to the City Council and referred to the Consumer Affairs Committee on November 3, 2011. A hearing was held on September 20, 2012, and the bill was laid over. The Committee held another hearing on an amended version, Proposed Int. 702-A, on December 14, 2012. The Committee will vote on Proposed Int. 702-A on December 17, 2012.

(The following is the text of the Fiscal Impact Statement for Int. No. 702-A:)

Accordingly, this Committee recommends its adoption, as amended.



THE COUNCIL OF THE CITY OF NEW YORK  
FINANCE DIVISION  
PRESTON NIBLACK, DIRECTOR  
FISCAL IMPACT STATEMENT

(The following is the text of Int. No. 702-A:)

PROPOSED INTRO. NO: 702-A  
COMMITTEE:  
Consumer Affairs

Int. No. 702-A

By Council Members Fidler, Rivera, Brewer, Dickens, Eugene, Gentile, James, Koppell, Lander, Mendez, Nelson, Recchia, Rose, Williams, Rodriguez, Dromm, Garodnick, Jackson, Greenfield, Barron, Vallone Jr., Crowley, Gennaro, Lappin and Levin.

**TITLE:** A Local Law to amend the administrative code of the city of New York, in relation to requiring that all gas stations post road signs displaying the total selling price of gasoline and/or diesel motor fuel and that such road signs and any other sign, poster or placard advertising the price of gasoline and/or diesel motor fuel disclose the total selling price for cash and credit or debit card purchases.

**SPONSORS:** Council Members Fidler, Rivera, Brewer, Dickens, Eugene, Gentile, James, Koppell, Lander, Mendez, Nelson, Recchia, Rose, Williams, Rodriguez, Dromm, Garodnick, and Jackson

**A Local Law to amend the administrative code of the city of New York, in relation to requiring that all gas stations post road signs displaying the total selling price of gasoline and/or diesel motor fuel and that such road signs and any other sign, poster or placard advertising the price of gasoline and/or diesel motor fuel disclose the total selling price for cash and credit or debit card purchases.**

Be it enacted by the Council as follows:

**SUMMARY OF LEGISLATION:** Proposed Int. 702-A would require all gas stations to post clearly visible road signs displaying the total selling price of gasoline and/or diesel motor fuels. If gas prices cost less with cash than with non-cash payments, the signs must clearly post the gas prices for cash, credit, and debit card purchases.

Section 1. Subdivision b of section 20-672 of the administrative code of the city of New York, as amended by local law number 38 for the year 2006, is amended to read as follows:

Noncompliance will result in the following fines: For the first violation, a misdemeanor punishable by fine of \$500 to \$10,000; for a second violation within one year, a fine of \$1,000 to \$15,000.

[(b)]. [Where a sign, poster or placard advertises the selling price per gallon of gasoline or diesel motor fuel on, at or about the premises where such gasoline or diesel motor fuel is sold or offered for sale, or where such] *In addition to any sign or placard required pursuant to subdivision five of section one hundred ninety-two of the agriculture and markets law, there shall be a sign, poster or placard clearly visible to drivers of approaching motor vehicles on the premises of every location at which gasoline and/or diesel motor fuel are sold or offered for sale. Such sign shall be in a size and style to be determined by the commissioner. Such sign, in addition to any other sign, poster or placard that advertises the selling price of gasoline and directly or indirectly refers to a premises where the advertised gasoline [or] and/or diesel motor fuel [is] are sold or offered for sale, [such sign, poster or placard] shall state the name, trade name, brand, mark or symbol and grade or quality classification of such gasoline or diesel motor fuel, together with the total selling price per gallon. Total selling price shall be the sum of the basic price per gallon plus all applicable taxes. Such sign, poster or placard shall conform to the rules and regulations of all governmental agencies with jurisdiction as to structure and location.*

**EFFECTIVE DATE:** This local law would take effect 120 days after it would have been enacted into law. The Department of Consumer Affairs and Department of Transportation Commissioners may take any actions necessary for the implementation of this local law prior to such effective date including, but not limited to, promulgating rules.

1. A retail dealer shall only sell at [such posted] the total selling price. Any such price when posted may not be raised for a period of not less than twenty-four hours. [Such sign, poster or placard shall conform to the rules and regulations of all governmental agencies with jurisdiction as to structure and location.]

**FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED:** 2013

**FISCAL IMPACT STATEMENT:**

2. *Where the total selling price for purchases made with cash is less than the total selling price for purchases made with credit card, debit card or other form of non-cash payment, such sign, poster or placard shall state the total selling price for each type of accepted payment.*

	Effective FY13	FY Succeeding Effective FY14	Full Fiscal Impact FY13
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	\$0	\$0	\$0
Net	\$0	\$0	\$0

§2. Subdivision c of section 20-672 of the administrative code of the city of New York, as relettered by local law number 31 for the year 1988, is amended to read as follows:

**IMPACT ON REVENUES:** The penalties associated with non-compliance are not intended to generate revenue, but instead deter non-compliance. Accordingly, it is expected that there would be no impact on revenues by the enactment of this legislation.

c. All numbers referring to price shall be the same height, width and thickness. Identification of the gasoline or diesel motor fuel offered for sale, *and any non-numerical language distinguishing the total cash selling price from the total credit card, debit card or other form of non-cash payment selling price* shall be in letters and numbers not less than one-half of the height, width and thickness of the numbers referring to price. Letters and numbers shall be black on a white background.

**IMPACT ON EXPENDITURES:** There will be no impact on expenditures by the enactment of this legislation. The gas station owners will bear the cost of posting the signs.

§ 3. This local law shall take effect one hundred twenty days after it shall have been enacted into law; provided that the commissioner and the commissioner of the department of transportation may take any actions necessary for the implementation of this local law prior to such effective date including, but not limited to, promulgating rules.

**SOURCE OF FUNDS TO COVER ESTIMATED COSTS:** N/A

DANIEL R. GARODNICK, Chairperson; MICHAEL C. NELSON, CHARLES BARRON, LEROY G. COMRIE, Jr., JULISSA FERRERAS, KAREN KOSLOWITZ; Committee on Consumer Affairs, December 17, 2012.

**SOURCE OF INFORMATION:** Department of Consumer Affairs

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).

**ESTIMATE PREPARED BY:** Ralph P. Hernandez, Principal Legislative Financial Analyst

Nathan Toth, Deputy Director

**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>
Nicole Pino	185 Audubon Avenue #55 New York, N.Y. 10033	10
Caroline Bolanos	142-20 130 <sup>th</sup> Avenue #2 Queens, N.Y. 11436	28
Kieveth Stewart	144-37 181 <sup>st</sup> Street Queens, N.Y. 11413	31
Cheryl A. Guilford	824 Macon Street Brooklyn, N.Y. 11233	41
Christina DeBonis	84 LaTourette Street Staten Island, N.Y. 10309	50

*Approved New Applicants and Reapplicants*

<u>Name</u>	<u>Address</u>	<u>District #</u>
Eva Foggie	156-20 Riverside Drive West #11H New York, N.Y. 10032	7
Janira Rodriguez	2092 8 <sup>th</sup> Avenue #2A New York, N.Y. 10026	9
Vilma Guadalupe	75 West Mosholu Pkwy North #6M Bronx, N.Y. 10467	11
Mildred Mejia	245 East 207 <sup>th</sup> Street Bronx, N.Y. 10467	11
Maribel Rivera	75 West Mosholu Pkwy North #6K Bronx, N.Y. 10467	11
Antoine F. Davis	3921 Hill Avenue Bronx, N.Y. 10466	12
Scott Krikawa	39-65 51 <sup>st</sup> Street #2E Woodside, N.Y. 11377	26
Demar Ewans	170-30 130 <sup>th</sup> Avenue #13E Queens, N.Y. 11434	28
Dilma S. Torres	142-18 133 <sup>rd</sup> Avenue Jamaica, N.Y. 11436	28
Jeffrey Makhmaltchi	75-33 67 <sup>th</sup> Road #2 Middle Village, N.Y. 11379	30
Kenneth Mankowitz	83-55 Woodhaven Blvd #5J Queens, N.Y. 11421	30
Erika Michel	66-71 74 <sup>th</sup> Street Queens, N.Y. 11379	30
Jean Morton	6801 Shore Road #1H Brooklyn, N.Y. 11220	43
Yesenia Yasmin Colon	55 Roma Avenue Staten Island, N.Y. 10306	50
Michael J. Sarubbi	27 Seguin Place Staten Island, N.Y. 10312	51

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 814-A -** In relation to prohibiting discrimination based on an individual's unemployment
- (2) **Res 1641 -** Designation of funding in the Expense Budget (**Transparency Resolution**).

- (3) **L.U. 754 & Res 1643 -** Associated Blind, Block 799, Lot 21, Manhattan, Community District No.5, Council District No. 3
- (4) **L.U. 755 & Res 1644 -** 307 West 43<sup>rd</sup> Street, Block 1034, Lot 38, Manhattan, Community District No. 4, Council District No. 3
- (5) **Int 978-A -** In relation to the campaign finance board.
- (6) **M 1029 & Res 1645 - -** LaShann DeArcy New York City Taxi and Limousine Commission
- (7) **M 1030 & Res 1646 - -** Edward Gonzales New York City Taxi and Limousine Commission
- (8) **Int 702-A -** In relation to requiring that all signs advertising the price of gasoline and/or diesel motor fuel disclose the total selling price for cash and credit card purchases.

**(9) Resolution approving various persons Commissioners of Deeds.**

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, Barron, Brewer, Cabrera, Chin, Comrie, Crowley, Dickens, Dilan, Dromm, Eugene, Ferreras, Fidler, Foster, Garodnick, Gennaro, Gentile, Gonzalez, Greenfield, Halloran, Ignizio, Jackson, James, King, Koo, Koppell, Koslowitz, Lander, Lappin, Levin, Mark-Viverito, Mealy, Nelson, Palma, Recchia, Reyna, Rodriguez, Rose, Ulrich, Vacca, Vallone, Jr., Van Bramer, Weprin, Williams, Wills, Oddo, Rivera, and the Speaker (Council Member Quinn) – **48**.

**The General Order vote recorded for this Stated Meeting was 48-0-0 as shown above with the exception of the votes for the following legislative items:**

The following was the vote recorded for **Int No. 814-A:**

**Affirmative** – Arroyo, Barron, Brewer, Cabrera, Chin, Comrie, Crowley, Dickens, Dilan, Dromm, Eugene, Ferreras, Fidler, Foster, Garodnick, Gennaro, Gentile, Gonzalez, Greenfield, Jackson, James, King, Koo, Koppell, Koslowitz, Lander, Lappin, Levin, Mark-Viverito, Mealy, Nelson, Palma, Recchia, Reyna, Rodriguez, Rose, Ulrich, Vacca, Van Bramer, Weprin, Williams, Wills, Rivera, and the Speaker (Council Member Quinn). –**44**.

**Negative** - Halloran, Ignizio, Vallone, Jr. and Oddo – **4**

The following was the vote recorded for **Int No. 978-A:**

**Affirmative** – Arroyo, Barron, Brewer, Cabrera, Chin, Comrie, Crowley, Dickens, Dilan, Dromm, Eugene, Ferreras, Foster, Garodnick, Gennaro, Gentile, Gonzalez, Greenfield, Halloran, Ignizio, Jackson, James, King, Koo, Koppell, Koslowitz, Lander, Lappin, Levin, Mark-Viverito, Mealy, Nelson, Palma, Recchia, Reyna, Rodriguez, Rose, Ulrich, Vacca, Vallone, Jr., Van Bramer, Weprin, Williams, Wills, Oddo, Rivera, and the Speaker (Council Member Quinn). – **47**.

**Negative** – Fidler – **1**.

*The following Introductions were sent to the Mayor for his consideration and approval: Int Nos.814-A, 978-A, and 702-A.*

For **Introduction and Reading of Bills**, see the material following the **Resolutions** section below:

**RESOLUTIONS**

*Presented for voice-vote*

**The following are the respective Committee Reports for each of the Resolutions referred to the Council for a voice-vote pursuant to Rule 8.50 of the Council:**

Report for voice-vote Res. No. 1635-A

**Report of the Committee on Women's Issues in favor of approving a Resolution, as amended, commemorating the 40th anniversary of Roe v. Wade and**

**calling on the United States Congress to support funding for comprehensive reproductive health care.**

The Committee on Women's Issues, to which the annexed amended resolution was referred on January 9, 2013 (Minutes, page 57), respectfully

**REPORTS:**

**INTRODUCTION**

On January 18, 2013, the Women's Issues Committee, chaired by Council Member Julissa Ferreras, held a public hearing on Proposed Resolution No. 1635-A, a resolution commemorating the 40th anniversary of Roe v. Wade and calling on the United States Congress to support funding for comprehensive reproductive health care. The Resolution was passed by the Committee with a 5-0 vote.

**BACKGROUND**

On January 22, 1973 the United States Supreme Court ruled unconstitutional a state law that banned abortions except to save the life of the mother.<sup>30</sup> This decision, Roe v. Wade, "ruled that the states were forbidden from outlawing or regulating any aspect of abortion performed during the first trimester of pregnancy, could only enact abortion regulations reasonably related to maternal health in the second and third trimesters, and could enact abortion laws protecting the life of the fetus only in the third trimester."<sup>31</sup> At the time of the Roe v. Wade decision, most states restricted or banned abortion.<sup>32</sup> The Court's decision concluded that abortion lies within a pregnant woman's "zone of privacy" and therefore is a fundamental right protected by the Constitution.<sup>33</sup>

Since 1973, numerous challenges to Roe v. Wade have been mounted in various ways including through policy, legislation, budgetary restrictions and public campaigns. Many states have passed laws limiting women's ability to access abortion, often without consideration to maternal health and privacy. According to the Guttmacher Institute, in 2012 there were the second-highest number of abortion restrictions ever.<sup>34</sup> Additionally, since the passage of the Patient Protection and Affordable Care Act (PPACA), which among other things, provides for the establishment of state-level health care exchanges aimed at assisting individuals and small businesses in purchasing a private health insurance plans, some states have already enacted laws restricting the abortion coverage that will be available in plans purchased through the exchanges.

January 22, 2013 commemorates 40 years since Roe v. Wade was decided.

**RESOLUTION NO. 1635-A**

Resolution No. 1635-A would note that every woman needs access to a range of safe, affordable and comprehensive reproductive health care throughout her life, including cancer and sexually transmitted infection screenings, contraceptive services, abortion care, prenatal care, and labor and delivery services. The Resolution would state that on January 22, 1973, the United States Supreme Court legalized abortion throughout the country with the Roe v. Wade decision. Resolution No. 1635-A would further state that since 1973, many states have passed laws limiting women's ability to access the procedure, often without consideration of maternal health and privacy. The Resolution would indicate that many of these laws reduce options for women facing major life decisions as well as for the doctors treating them.

Resolution No. 1635-A would point out that according to the Guttmacher Institute, twenty states have laws that could be used to restrict the legal status of abortion if Roe v. Wade were overturned. The Resolution would note that in addition, budgetary actions taken by the federal government have increased barriers to accessing such services by restricting abortion coverage for those enrolled in public insurance programs.

The Resolution would state that when a woman needs to end her pregnancy it is important that she have access to safe medical care, and insurance coverage can help ensure such care is available. Resolution No. 1635-A would further state that all women, regardless of income, should also have insurance coverage to ensure that economic barriers do not play a role in critical health care decisions and access. The Resolution would note that reproductive health is a vital component of women's overall health, and reproductive freedom is equally vital to women's safety and well-being.

Resolution No. 1635-A would point out that for 40 years Roe v. Wade has established women's rights to make medical choices for themselves and has strengthened their doctors' ability to make medical decisions based on their best judgment. The Resolution would note that funding family planning services is vital to ensuring women can lead full healthy lives and participate equally in society. Finally, the Resolution would note that the Council of the City of New York

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<sup>30</sup> The Supreme Court History, Expanding Civil Rights, Landmark Cases, Roe v. Wade, PBS, accessed at [http://www.pbs.org/wnet/supremecourt/rights/landmark\\_roe.html](http://www.pbs.org/wnet/supremecourt/rights/landmark_roe.html) on January 14, 2013; see also Roe v. Wade, 410 U.S. 113 (1973).

<sup>31</sup> Id.

<sup>32</sup> Id.

<sup>33</sup> Id.

<sup>34</sup> Guttmacher Institute, 2012 Saw Second-Highest Number of Abortion Restrictions Ever, accessed at <http://www.guttmacher.org/media/inthenews/2013/01/02/index.html> on January 15, 2013.

commemorates the 40<sup>th</sup> anniversary of Roe v. Wade and calls upon the United States Congress to support funding for comprehensive reproductive health care.

*Accordingly, this Committee recommends its adoption, as amended.*

**(The following is the text of Res. No. 1635-A:)**

Res. No. 1635-A

**Resolution commemorating the 40th anniversary of Roe v. Wade and calling on the United States Congress to support funding for comprehensive reproductive health care.**

By Council Members Ferreras, Lappin, Mendez, Arroyo, The Speaker (Council Member Quinn), Mark-Viverito, Koppell, Palma, Rodriguez, Brewer, Rose, Weprin, Garodnick, Reyna, Barron, Chin, Comrie, Dromm, Gonzalez, Jackson, James, Koo, Koslowitz, Lander, Recchia, Van Bramer, Wills, Foster, King, Dickens, Gennaro and Levin.

**Whereas**, Every woman needs access to a range of safe, affordable and comprehensive reproductive health care throughout her life, including cancer and sexually transmitted infection screenings, contraceptive services, abortion care, prenatal care, and labor and delivery services; and

**Whereas**, On January 22, 1973, the United States Supreme Court legalized abortion throughout the country with the Roe v. Wade decision; and

**Whereas**, Since 1973, many states have passed laws limiting women's ability to access the procedure, often without consideration of maternal health and privacy; and

**Whereas**, Many of these laws reduce options for women facing major life decisions as well as for the doctors treating them; and

**Whereas**, According to the Guttmacher Institute, twenty states have laws that could be used to restrict the legal status of abortion if Roe v. Wade were overturned; and

**Whereas**, In addition, budgetary actions taken by the federal government have increased barriers to accessing such services by restricting abortion coverage for those enrolled in public insurance programs; and

**Whereas**, When a woman needs to end her pregnancy it is important that she have access to safe medical care, and insurance coverage can help ensure such care is available; and

**Whereas**, All women, regardless of income, should also have insurance coverage to ensure that economic barriers do not play a role in critical health care decisions and access; and

**Whereas**, Reproductive health is a vital component of women's overall health, and reproductive freedom is equally vital to women's safety and well-being; and

**Whereas**, For 40 years Roe v. Wade has established women's rights to make medical choices for themselves and has strengthened their doctors' ability to make medical decisions based on their best judgment; and

**Whereas**, Funding family planning services is vital to ensuring women can lead full healthy lives and participate equally in society; now, therefore, be it

**Resolved**, That the Council of the City of New York commemorates the 40th anniversary of Roe v. Wade and calls upon the United States Congress to support funding for comprehensive reproductive health care.

JULISSA FERRERAS Chairperson; CHARLES BARRON, ANNABEL PALMA, MARGARET S. CHIN, RUBEN WILLS; Committee on Women's Issues, January 18, 2013.

Pursuant to Rule 8.50 of the Council, The President Pro Tempore (Council Member Rivera) called for a voice vote. Hearing those in favor, the President Pro Tempore (Council Member Rivera) declared the Resolution to be adopted.

The following 5 Council Members formally voted against this item: Council Members Oddo, Ulrich, Halloran, Ignizio, and Cabrera.

The following Council Member formally abstained to vote on this item: Council Member Vallone, Jr.

Adopted by the Council by voice-vote.

At this point the Speaker (Council Member Quinn) announced that the following items had been **preconsidered** by the Committee on Governmental Operations and had been favorably reported for adoption.

Report for voice-vote Res. No. 1640

**Report of the Committee on Governmental Operations in favor of approving a Resolution authorizing the Speaker to file or join amicus briefs on behalf of the Council in the litigation captioned Shelby County v. Holder, currently pending before the United States Supreme Court, for the purpose of supporting the federal government's position that Section 5 of the Voting Rights Act is constitutional.**

The Committee on Governmental Operations, to which the annexed resolution was referred on January 23, 2013, respectfully

**REPORTS:****1. INTRODUCTION**

Today, the Committee on Governmental Operations, chaired by Council Member Gale Brewer, will meet to conduct a vote on Proposed Introduction Number 978-A, and a hearing and vote on a Resolution authorizing the Speaker to file or join amicus briefs on behalf of the Council in the litigation captioned *Shelby County v. Holder*, currently pending before the United States Supreme Court, for the purpose of supporting the federal government's position that Section 5 of the Voting Rights Act is constitutional.

**2. BACKGROUND ON INT. NO. 978-A**

In the 2010 Charter revision, New York City voters passed a series of revisions to the Charter, one of which required public disclosure of expenditures made by individuals and entities that are independent from candidates and that attempt to influence an election outcome. Accordingly, the Campaign Finance Board ("the Board") proposed rules specifying the classes of expenditures that would be covered under this provision.<sup>35</sup> These rules sought to ensure that members of the public are aware of who is attempting to influence their votes in local elections.

After hearing from many entities, including membership organizations, such as civic and community groups and labor unions, during the rulemaking process, the Board's final rule exempted many internal communications made between members within membership organizations.<sup>36</sup> Certain internal communications between members of these organizations were not exempted, however, and are required to be reported by the membership organization to the Board. For example, the Board's independent expenditure guidance document stipulates that membership organizations that send out mass mailings that go only to their members must comply with the entirety of the Board's independent expenditure reporting requirements.<sup>37</sup> The bill being voted on today would exclude such internal communications of membership organizations from the requirements of the independent expenditure rules. This bill was previously heard before this committee on January 16, 2013, and is unchanged from the version heard on that date.

**3. ANALYSIS OF INT. NO. 978-A****Section 1**

Section 1 of the bill amends section 1052 of the New York city charter by adding a fifth class of expenditure to the existing four classes of expenditure that are not considered independent expenditures for the purposes of the City's campaign finance law. The class of expenditure added by this section encompasses communications by membership organizations that are aimed solely at their members or by a corporation aimed at its stockholders.

Members are defined as individuals who have the right to vote for the election of the organization's director(s) or officer(s), or on merger or dissolution votes, or on amendments to the organization's bylaws, or who pay membership dues, or who reside in the same household as an individual who meets one of these criteria. Members of local unions are considered members of any national or international union, or federation, of which the local union is a part.

Stockholders are defined as individuals who own stock in a company, or who reside in the same household as an individual who meets this criterion.

Incidental communications by membership organizations or corporations with non-members or non-stockholders is similarly exempted from qualifying as an independent expenditure, so long as reasonable efforts are made to restrict the communication to members and stockholders.

**Section 2**

The bill would take effect immediately upon its enactment.

**4. PRECONSIDERED RESOLUTION 1640**

Following the Civil War, the Thirteenth, Fourteenth, and Fifteenth Amendments were added to the United States Constitution, prohibiting slavery and the deprivation of life, liberty, or property, without due process of law, and guaranteeing equal protection of the laws and the right of citizens to vote. The Fourteenth and Fifteenth Amendments give Congress the power to pass appropriate enforcement legislation.

As early as 1890, several jurisdictions began employing tests and devices specifically designed to prevent black citizens from voting, including poll taxes, literacy tests, grandfather clauses, and property qualifications, as well as enacting laws intended to dilute black voting strength.

To combat these pernicious efforts, Congress passed the Voting Rights Act of 1965 (the "Act"). Section 2 of the Act forbids any "standard, practice, or procedure" that "results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color". Under Section 5, a covered jurisdiction seeking to change its election laws or procedures must either submit the change to the Attorney General or seek preclearance from a three-judge panel in federal district court. Preclearance may be granted only if the jurisdiction demonstrates that the proposed change to its voting law "does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color".

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<sup>35</sup> RCNY tit. 52, § 13-01 *et seq.*

<sup>36</sup> RCNY tit. 52, § 13-02(b)(2).

<sup>37</sup> *Guide to CFB Independent Expenditure Rules*, page 3, available at <http://www.nycfb.info/PDF/rulemaking/Independent-Expenditures-Guidance.pdf>.

Section 4(b) contains a formula for determining whether a state or political subdivision is subject to the preclearance requirements of Section 5. Such formula considers the use of voting eligibility tests or devices and the rate of registration and turnout among all voters.

In 2006, Congress extended the Voting Rights Act for another twenty-five years. The 2006 legislation was immediately challenged as unconstitutional by a covered locality in federal court, but the district court interpreted the Act to allow any covered jurisdiction to seek an exemption from its provisions, thus avoiding the need to resolve the larger question of the Act's constitutionality.

In April 2010, Shelby County, Alabama, filed suit in the District Court for the District of Columbia, seeking both a declaratory judgment that Sections 4(b) and 5 are facially unconstitutional and a permanent injunction prohibiting the Attorney General from enforcing them. Shelby County alleges that the extraordinary problems of discrimination that led to the enactment of the Act in 1965 no longer exist, and that the burdens it imposes on states and localities are no longer justifiable. On September 21, 2011, the district court upheld the constitutionality of Sections 5 and the formula set out in Section 4(b) that triggers Section 5 coverage. On May 18, 2012, the U.S. Court of Appeals for the District of Columbia Circuit affirmed the district court's ruling. Shelby County petitioned the U.S. Supreme Court to grant certiorari to hear the appeal.

On November 9, 2012, the U.S. Supreme Court granted certiorari to decide the question of "whether Congress' decision in 2006 to reauthorize Section 5 of the Voting Rights Act under the pre-existing coverage formula of Section 4(b) of the Voting Rights Act exceeded its authority under the Fourteenth and Fifteenth Amendments and thus violated the Tenth Amendment and Article IV of the United States Constitution".

Three counties in New York City are subject to Section 5 preclearance: Bronx, Kings and New York. Compliance with Section 5 does not impose undue burdens on covered jurisdictions, and Section 5 continues to provide substantial benefits to the nation by eliminating barriers to minority political participation. Section 5 has also helped secure the rights of racial and language-minority voters. Moreover, the advance guidance provided by Section 5 can help covered jurisdictions avoid potentially costly and burdensome litigation.

**(For text of preconsidered Res No. 1640, please see the Introduction and Reading of Bills section printed in these Minutes)**

*Accordingly, this Committee recommend the adoption of Int No. 978-A and Res No. 1640.*

GALE A. BREWER, Chairperson; ERIK MARTIN DILAN, DOMENIC M. RECCHIA, Jr., INEZ E. DICKENS; Committee on Governmental Operations, January 22, 2013

Pursuant to Rule 8.50 of the Council, The President Pro Tempore (Council Member Rivera) called for a voice vote.

Hearing those in favor, the President Pro Tempore (Council Member Rivera) declared the Resolution to be adopted.

The following Council Member formally voted against this item: Council Members Halloran.

The following 3 Council Members formally abstained to vote on this item: Council Members Oddo, Ulrich, and Ignizio.

Adopted by the Council by voice-vote.

**INTRODUCTION AND READING OF BILLS**

Preconsidered Res. No. 1640

**Resolution authorizing the Speaker to file or join amicus briefs on behalf of the Council in the litigation captioned *Shelby County v. Holder*, currently pending before the United States Supreme Court, for the purpose of supporting the federal government's position that Section 5 of the Voting Rights Act is constitutional.**

By The Speaker (Council Member Quinn) and Council Members Brewer, Jackson, Cabrera, Williams, Gonzalez, Chin, Wills, Arroyo, Foster, Barron, Comrie, Dickens, Dromm, Eugene, James, Koo, Koslowitz, Lander, Levin, Mark-Viverito, Palma and Rose.

**Whereas**, Following the Civil War, the Thirteenth, Fourteenth, and Fifteenth Amendments were added to the United States Constitution, prohibiting slavery and the deprivation of life, liberty, or property, without due process of law, and guaranteeing equal protection of the laws and the right of citizens to vote; and

**Whereas**, The Fourteenth and Fifteenth Amendments give Congress the power to pass appropriate enforcement legislation; and

**Whereas**, As early as 1890, several jurisdictions began employing tests and devices specifically designed to prevent black citizens from voting, including poll taxes, literacy tests, grandfather clauses, and property qualifications, as well as enacting laws intended to dilute black voting strength; and

**Whereas**, To combat these pernicious efforts, Congress passed the Voting Rights Act of 1965 (the “Act”); and

**Whereas**, Section 2 of the Act forbids any “standard, practice, or procedure” that “results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color”; and

**Whereas**, Under Section 5, a covered jurisdiction seeking to change its election laws or procedures must either submit the change to the Attorney General or seek preclearance from a three-judge panel in federal district court; and

**Whereas**, Preclearance may be granted only if the jurisdiction demonstrates that the proposed change to its voting law “does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color”; and

**Whereas**, Section 4(b) contains a formula for determining whether a state or political subdivision is subject to the preclearance requirements of Section 5; such formula considers the use of voting eligibility tests or devices and the rate of registration and turnout among all voters; and

**Whereas**; In 2006, Congress extended the Voting Rights Act for another twenty-five years; and

**Whereas**, The 2006 legislation was immediately challenged as unconstitutional by a covered locality in federal court, but the district court interpreted the Act to allow any covered jurisdiction to seek an exemption from its provisions, thus avoiding the need to resolve the larger question of the Act’s constitutionality; and

**Whereas**, In April 2010, Shelby County, Alabama, filed suit in the District Court for the District of Columbia, seeking both a declaratory judgment that Sections 4(b) and 5 are facially unconstitutional and a permanent injunction prohibiting the Attorney General from enforcing them; and

**Whereas**, Shelby County alleges that the extraordinary problems of discrimination that led to the enactment of the Act in 1965 no longer exist, and that the burdens it imposes on states and localities are no longer justifiable; and

**Whereas**, On September 21, 2011, the district court upheld the constitutionality of Sections 5 and the formula set out in Section 4(b) that triggers Section 5 coverage; and

**Whereas**, On May 18, 2012, the U.S. Court of Appeals for the District of Columbia Circuit affirmed the district court’s ruling; and

**Whereas**, Shelby County petitioned the U.S. Supreme Court to grant *certiorari* to hear the appeal; and

**Whereas**; On November 9, 2012, the U.S. Supreme Court granted *certiorari* to decide the question of “whether Congress’ decision in 2006 to reauthorize Section 5 of the Voting Rights Act under the pre-existing coverage formula of Section 4(b) of the Voting Rights Act exceeded its authority under the Fourteenth and Fifteenth Amendments and thus violated the Tenth Amendment and Article IV of the United States Constitution”; and

**Whereas**, Three counties in New York City are subject to Section 5 preclearance: Bronx, Kings and New York; and

**Whereas**, Compliance with Section 5 does not impose undue burdens on covered jurisdictions; and

**Whereas**, Section 5 continues to provide substantial benefits to the nation by eliminating barriers to minority political participation; and

**Whereas**, Section 5 has helped secure the rights of racial and language-minority voters; and

**Whereas**, The advance guidance provided by Section 5 can help covered jurisdictions avoid potentially costly and burdensome litigation; now, therefore, be it

**Resolved**, That the Council of the City of New York authorizes the Speaker to file or join amicus briefs on behalf of the Council in the litigation captioned *Shelby County v. Holder*, currently pending before the United States Supreme Court, for the purpose of supporting the federal government’s position that Section 5 of the Voting Rights Act is constitutional.

Adopted by the Council by voice-vote (preconsidered and approved by the Committee on Governmental Operations).

Int. No. 998

By Council Members Jackson, Comrie, Dickens, Gentile, James, Koo, Mark-Viverito, Williams, Wills and Halloran.

**A Local Law to amend the administrative code of the city of New York, to establish a maximum period of time for the landmarks preservation commission to take final action on any item calendared by the Commission.**

Section 1. Section 25-302 of chapter 3 of title 25 of the administrative code of the city of New York is amended by adding a new subsection c-2 to read as follows:

c-2. “*Calendared.*” *The date on which the commission takes an action, including approval of a motion to calendar, which results in an item being brought before the commission for consideration of possible landmark designation.*

§2. Section 25-303 of chapter 3 of title 25 of the administrative code of the city of New York is amended by adding a new subsection l to read as follows:

l. a. *The commission shall make a final determination on any item under consideration for landmark designation within the three year period*

*immediately following the date that the item is calendared by the commission. The commission’s failure to make a final determination within said three year period shall be deemed a denial of the landmark designation of that item by the commission. In the event the commission either (1) denies the landmark designation, or (2) fails to act within the three year period set forth in this subsection, the item shall not be calendared by the commission for possible landmark designation for a period of not less than three years from date of its denial pursuant to this subsection.*

b. *For all items calendared which have not been approved by the effective date of the local law that added this subsection and have had been on the commission’s calendar for more than three years, the commission must take final action on said items within 180 days of the effective date of the local law which added this subsection, and upon expiration of said 180 day period, if no final action is taken, it shall be deemed a denial by the commission pursuant to this subsection.*

§3. This local law shall take effect immediately.

Referred to the Committee on Land Use.

Preconsidered Res. No. 1641

**Resolution approving the new designation and changes in the designation of certain organizations to receive funding in the Expense Budget.**

By Council Members Recchia, Comrie, Koo, Palma and Wills.

**Whereas**, On June 28, 2012 the Council of the City of New York (the “City Council”) adopted the expense budget for fiscal year 2013 with various programs and initiatives (the “Fiscal 2013 Expense Budget”); and

**Whereas**, The City Council is hereby implementing and furthering the appropriations set forth in the Fiscal 2013 Expense Budget by approving the new designation and changes in the designation of certain organizations receiving local, aging and youth discretionary funding, and by approving the new designation and changes in the designation of certain organizations to receive funding pursuant to certain initiatives in accordance therewith; and

**Resolved**, That the City Council approves the new designation and changes in the designation of certain organizations receiving local discretionary funding in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 1; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of a certain organization receiving aging discretionary funding in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 2; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of certain organizations receiving youth discretionary funding in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 3; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of a certain organization receiving funding pursuant to the Runaway and Homeless Youth PEG Restoration Initiative in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 4; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of a certain organization receiving funding pursuant to the Anti-Gun Violence Initiative in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 5; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of a certain organization receiving funding pursuant to the OST Initiative in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 6; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of a certain organization receiving funding pursuant to the Cultural After School Adventure Initiative in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 7.

**Resolved**, That the City Council approves the Initiative Fund Transfers in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 8.

Adopted by the Council (preconsidered and approved by the Committee on Finance; for text of the Exhibits, please see the attachment to the resolution following the Report of the Committee on Finance for Res No. 1641 printed in these Minutes).

Res. No. 1642

**Resolution in support of S.7671/A.10758, also known as the “Public Assistance Integrity Act,” which would prohibit the sale or purchase of alcohol, tobacco products or lottery tickets with public assistance benefits and prohibit the use of an electronic benefit transfer card at liquor stores, casinos or adult entertainment facilities.**

By Council Members Vallone Jr., Cabrera, Fidler, Koo, Mealy, Nelson, Wills and Halloran.

**Whereas**, Welfare recipients receive food stamps and cash assistance on Electronic Benefit Transfer (“EBT”) cards; and

**Whereas**, Currently, there is no ban on where welfare recipients can withdraw cash assistance in New York; and

**Whereas**, Section 4000 of the federal Middle Class Tax Relief and Job Creation Act of 2012, approved on February 22, 2012, requires states to maintain policies and practices to prevent public assistance benefits from being used in any electronic benefit transfer transaction in liquor stores, casinos, or adult entertainment facilities; and

**Whereas**, Additionally, the Middle Class Tax Relief and Job Creation Act of 2012 penalizes states that do not comply with its provisions and/or fail to report their efforts to comply to the United States Department of Health and Human Services within two years of enactment; and

**Whereas**, Current New York State law does not prohibit recipients from using their cash assistance to purchase alcohol, tobacco, lottery tickets, and adult entertainment; and

**Whereas**, According to a June 14, 2012 New York Post article, if New York State does not comply with the Middle Class Tax Relief and Job Creation Act of 2012 by 2014, the State would have to forfeit 5 percent of its welfare funding, which equals \$120 million; and

**Whereas**, On June 19, 2012 the New York State Senate approved the Public Assistance Integrity Act; and

**Whereas**, The Public Assistance Integrity Act makes the purchase of alcohol, tobacco, lottery tickets, or adult entertainment a violation for welfare recipients, and recipients who violate the law would lose benefits for one month for their first offense, two months for a second offense, and could permanently lose benefits for a third offense; and

**Whereas**, Several states have already passed legislation to enact restrictions on the use of public assistance funds, including Arizona, California, Colorado, Indiana, Massachusetts, Minnesota, Missouri, Pennsylvania and Washington; now, therefore, be it

**Resolved**, That the Council of the City of New York supports S.7671/A.10758, also known as the “Public Assistance Integrity Act,” which would prohibit the sale or purchase of alcohol, tobacco products or lottery tickets with public assistance benefits and prohibit the use of an electronic benefit transfer card at liquor stores, casinos or adult entertainment facilities.

Referred to the Committee on General Welfare.

Preconsidered L.U. No. 754

By Council Member Recchia:

**Associated Blind, Block 799, Lot 21, Manhattan, Community District No.5, Council District No. 3**

Adopted by the Council (preconsidered and approved by the Committee on Finance).

Preconsidered L.U. No. 755

By Council Member Recchia:

**307 West 43<sup>rd</sup> Street, Block 1034, Lot 38, Manhattan, Community District No. 4, Council District No. 3**

Adopted by the Council (preconsidered and approved by the Committee on Finance).

L.U. No. 756

By Council Member Comrie:

**Application No. C 090154 ZMK, submitted by Fairmont Lanes, LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 22d, changing from an M1-1 District to an R6A District property bounded by the southerly boundary line of the Long Island Railroad right-of-way (Bay Ridge Division), 60th Street, 16<sup>th</sup> Avenue, and 61st Street, Borough of Brooklyn, Community Board 12, Council District 38.**

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

L.U. No. 757

By Council Member Comrie:

**Application No. C 120380 ZMM submitted by The Rector, Church-Wardens and Vestrymen of Trinity Church in the City of New York pursuant to Sections 197-c and 201 of the New York City Charter for the amendment of the Zoning Map, Section No. 12a, changing an M1-5B District to an M1-6 District and establishing a Special Hudson Square District, Borough of Manhattan, Community Board 2, Council District 3.**

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

L.U. No. 758

By Council Member Comrie:

**Application No. N 120381 (A) ZRM submitted by The Rector, Church-Wardens and Vestrymen of Trinity Church in the City of New York pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, to add Article VIII Chapter 8, establishing the Special Hudson Square District and to modify related Sections, Borough of Manhattan, Community Board 2, Council District 3.**

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

L.U. No. 759

By Council Member Comrie:

**Application no. 20135318 HHR by New York City Health and Hospitals Corporation pursuant to §7385(6) of its Enabling Act requesting approval to lease a parcel of land to Meals on Wheels of Staten Island, Inc., on a portion of the Sea View Hospital Rehabilitation Center and Home campus located at 460 Brielle Avenue, Borough of Staten Island, Community Board 2, Council District 50.**

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

L.U. No. 760

By Council Member Comrie:

**Application No. C 130023 PPQ, submitted by NYC Department of Citywide Administrative Services pursuant to Section 197-c of the New York City Charter for the disposition of city-owned property located in the JFK Industrial Business Zone, on the south side of 146<sup>th</sup> Avenue, between 153<sup>rd</sup> Court and 157<sup>th</sup> Street (Block 14260, p/o Lot 1), Borough of Queens, Community District 13, Council District 28.**

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions.

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

**ANNOUNCEMENTS:**

**Thursday, January 24, 2013**

**★ Deferred**

~~Committee on **PARKS AND RECREATION**.....10:00 A.M.~~

~~Agenda to be announced~~

~~Committee Room—250 Broadway, ★14<sup>th</sup> Floor~~

~~.....Melissa Mark Viverito, Chairperson~~

**★ Deferred**

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

~~Agenda to be announced~~

~~Committee Room—250 Broadway, 14<sup>th</sup> Floor~~

~~.....James Vacca, Chairperson~~

**★ Note Time Change**

Committee on **HEALTH** jointly with the

Committee on **MENTAL HEALTH, DEVELOPMENTAL DISABILITY, ALCOHOLISM,**

**DRUG ABUSE AND DISABILITY SERVICES** and the

Committee on **AGING**..... 10:00 A.M.  
**Oversight** - Emergency Planning and Management During and After the Storm: Emergency Preparedness and Response at the City's Healthcare Facilities.  
 Committee Room – 250 Broadway, 16<sup>th</sup> Floor  
 ..... Maria del Carmen Arroyo, Chairperson  
 ..... Oliver Koppell, Chairperson  
 ..... Jessica Lappin, Chairperson

★ **Addition**

Committee on **JUVENILE JUSTICE** ..... 1:00 P.M.  
**Oversight** - Re-examining ACS' Resident Advocacy Program.  
 Committee Room – 250 Broadway, 14<sup>th</sup> Floor ..... Sara Gonzalez, Chairperson

Friday, January 25, 2013

★ **Deferred**

Committee on **SMALL BUSINESS**..... 10:00 A.M.  
 Agenda to be announced  
 Committee Room – 250 Broadway, 14<sup>th</sup> Floor ..... Diana Reyna, Chairperson

★ **Addition**

Committee on **IMMIGRATION**... ..... 10:00 A.M.  
**Int. 982** - By The Speaker (Council Member Quinn) and Council Members Mark-Viverito, Dromm, Brewer, Chin, Comrie, Eugene, Ferreras, Jackson, James, Lander, Mendez, Palma, Reyna, Williams and Wills - **A Local Law** to amend the administrative code of the city of New York, in relation to persons not to be detained.  
**Int. 989** - By Council Members Mark-Viverito, the Speaker (Council Member Quinn), Dromm, Chin, Comrie, Eugene, Ferreras, Jackson, James, Koppell, Lander, Mendez, Palma, Reyna, Vann, Williams and Wills - **A Local Law** to amend the administrative code of the city of New York, in relation to persons not to be detained by the Department of Correction.  
 Committee Room – 250 Broadway, 16<sup>th</sup> Floor ..... Daniel Dromm, Chairperson

★ **Deferred**

Committee on **CULTURAL AFFAIRS, LIBRARIES & INTERNATIONAL INTERGROUP RELATIONS**..... 1:00 P.M.  
 Agenda to be announced  
 Committee Room – 250 Broadway, 14<sup>th</sup> Floor  
 ..... James Van Bramer, Chairperson

Monday, January 28, 2013

★ **Deferred**

Committee on **EDUCATION**..... 10:00 A.M.  
 Agenda to be announced  
 Committee Room – 250 Broadway, 16<sup>th</sup> Floor ..... Robert Jackson, Chairperson

★ **Deferred**

Committee on **CIVIL RIGHTS** ..... 10:00 A.M.  
 Agenda to be announced  
 Committee Room – 250 Broadway, 14<sup>th</sup> Floor ..... Deborah Rose, Chairperson

★ **Note Topic and Committee Addition**

Committee on **ECONOMIC DEVELOPMENT** jointly with the  
 Committee on **WATERFRONTS**..... 1:00 P.M.  
**Oversight** - New York City Waterfront: Zones of Opportunity for Diverse Economic Development  
 Committee Room – 250 Broadway, 14<sup>th</sup> Floor  
 ..... Karen Koslowitz, Chairperson  
 ..... Peter Koo, Chairperson

Committee on **CONTRACTS**..... 1:00 P.M.  
**Int. 193** – By Council Members Foster, Chin, Comrie, Fidler, Recchia, Williams, Rodriguez and Nelson - **A Local Law** to amend the New York City charter to require notification to the Council of emergency procurements.  
**Oversight** - Exploring the City's Use of Emergency Procurement  
 Committee Room – 250 Broadway, 16<sup>th</sup> Floor ..... Darlene Mealy, Chairperson

Tuesday, January 29, 2013

Subcommittee on **ZONING & FRANCHISES**..... 9:30 A.M.

**SEE LAND USE CALENDAR AVAILABLE THURSDAY, JANUARY 24, 2013**  
 Committee Room – 250 Broadway, 16<sup>th</sup> Floor ..... Mark Weprin, Chairperson

★ **Addition**

Committee on **VETERANS** ..... 10:00 A.M.  
**Oversight** - Confidential Care for Veterans  
 Committee Room – 250 Broadway, 14<sup>th</sup> Floor ..... Mathieu Eugene, Chairperson

Subcommittee on **LANDMARKS, PUBLIC SITING & MARITIME USES**..... 11:00 A.M.  
**See Land Use Calendar** Available Thursday, January 24, 2013  
 Committee Room – 250 Broadway, 16<sup>th</sup> Floor ..... Brad Lander, Chairperson

Subcommittee on **PLANNING, DISPOSITIONS & CONCESSIONS**.. 1:00 P.M.  
**See Land Use Calendar** Available Thursday, January 24, 2013  
 Committee Room – 250 Broadway, 16<sup>th</sup> Floor ..... Stephen Levin, Chairperson

★ **Note Committee and Topic Addition**

Committee on **YOUTH SERVICES** jointly with the  
 ★ Committee on **SMALL BUSINESS** ..... 1:00 P.M.  
 ★ **Oversight** - Exploring Youth and Entrepreneurship in New York City  
 Committee Room – 250 Broadway, 14<sup>th</sup> Floor ..... Lewis Fidler, Chairperson  
 ..... Diana Reyna, Chairperson

Wednesday, January 30, 2013

Committee on **COMMUNITY DEVELOPMENT**..... 10:00 A.M.  
**Oversight** - Transitional Employment Programs in NYC – Potential Ladders Out of Poverty?  
 Committee Room – 250 Broadway, 14<sup>th</sup> Floor ..... Albert Vann, Chairperson

★ **Note Topic and Committee Addition**

Committee on **SANITATION AND SOLID WASTE MANAGEMENT** jointly with the  
 ★ Committee on **PUBLIC HOUSING**..... 10:00 A.M.  
 ★ **Oversight** - Recycling at NYCHA Developments  
 Committee Room – 250 Broadway, 16<sup>th</sup> Floor ..... Letitia James, Chairperson  
 ..... Rosie Mendez, Chairperson

★ **Deferred**

Committee on **HEALTH** jointly with the  
 Committee on ~~MENTAL HEALTH, DEVELOPMENTAL DISABILITY, ALCOHOLISM, DRUG ABUSE AND DISABILITY SERVICES~~ the  
 Committee on **AGING** and the  
 Committee on **GENERAL WELFARE**..... 1:00 P.M.  
~~Oversight~~ – Emergency Planning and Management During and After the Storm: Shelter Management  
 Committee Room – 250 Broadway, 16<sup>th</sup> Floor  
 ..... Maria del Carmen Arroyo, Chairperson  
 ..... Oliver Koppell, Chairperson  
 ..... Jessica Lappin, Chairperson  
 ..... Annabel Palma, Chairperson

★ **Note Topic Addition**

Committee on **ENVIRONMENTAL PROTECTION** ..... 1:00 P.M.  
**Oversight** - Implementation of Local Laws 77 of 2003, 38 of 2005, 39 of 2005, 40 of 2005, 41 of 2005, 42 of 2005 (the "clean fleet" laws) and the status of PlaNYC's goal to expand the use of biodiesel in the City's fleet.  
 Committee Room – 250 Broadway, 14<sup>th</sup> Floor ..... James Gennaro, Chairperson

★ **Note Topic Addition**

Committee on **PARKS AND RECREATION**..... 1:00 P.M.  
**Oversight**: Examining the State of the Parks Department's Recreation Centers  
 Committee Room – 250 Broadway, 16<sup>th</sup> Floor  
 ..... Melissa Mark-Viverito, Chairperson

Thursday, January 31, 2013

Committee on **HIGHER EDUCATION** ..... 10:00 A.M.

**Oversight - How Can Student Debt Impact College Success?**

Committee Room – 250 Broadway, 14<sup>th</sup> Floor Ydanis  
Rodriguez, 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 – 250 Broadway, 16<sup>th</sup> Floor ..... Leroy Comrie, Chairperson

★ ***Deferred***

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

~~**Oversight - Emergency Planning and Management During and After the Storm: MTA's Response and the Long term Impact on the City's Public Transportation System.**~~

~~Committee Room – 250 Broadway, 16<sup>th</sup> Floor ..... James Vacca, Chairperson~~

★ ***Deferred***

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

~~Agenda to be announced~~

~~Committee Room – 250 Broadway, 14<sup>th</sup> Floor ..... Michael Nelson, Chairperson~~

**Monday, February 4, 2013**

Committee on **HEALTH** jointly with the

Committee on **WOMEN'S ISSUES** ..... **10:00 A.M.**

**Oversight - The Mishandling of DNA in Sexual Assault Cases by the Office of the Chief Medical Examiner**

Committee Room – City Hall ..... Maria del Carmen Arroyo, Chairperson

..... Julissa Ferreras, Chairperson

**Tuesday, February 5, 2013**

Committee on **HEALTH** jointly with the

Committee on **MENTAL HEALTH, DEVELOPMENTAL DISABILITY, ALCOHOLISM,**

**DRUG ABUSE AND DISABILITY SERVICES** the

Committee on **AGING**

Committee on **OVERSIGHT AND INVESTIGATIONS** and the

Committee on **GENERAL WELFARE**..... **1:00 P.M.**

**Oversight - Emergency Planning and Management During and After the Storm: Shelter Management**

Committee Room – 250 Broadway, 16<sup>th</sup> Floor

..... Maria del Carmen Arroyo, Chairperson

..... Oliver Koppell, Chairperson

..... Jessica Lappin, Chairperson

..... Jumaane Williams, Chairperson

..... Annabel Palma, Chairperson

**Wednesday, February 6, 2013**

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

..... *Agenda – 1:30 p.m.*

*Location*..... *~ Council Chambers ~ City Hall*

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 on Wednesday, February 6, 2013.

ALISA FUENTES, Deputy City Clerk  
Acting Clerk of the Council

***Editor's Local Law Note:*** *Int Nos. 939-A, adopted at the December 18, 2012 Stated Council Meeting, was returned unsigned by the Mayor on January 17, 2013. Pursuant to the City Charter, this bill later became law on January 18, 2013 due to Mayoral inaction within the Charter-prescribed thirty day time period. Int No. 939-A was assigned subsequently as Local Law 5 of 2013.*

