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Gale A. Brewer, Borough President

**Testimony of Gale A. Brewer, Manhattan Borough President  
Hearing of the New York City Council Committee on Committee on Civil Service and Labor  
November 23, 2015**

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My name is Gale A. Brewer and I am the Manhattan Borough President. I want to thank Chair Miller and the members of the Committee on Civil Service and Labor for the opportunity to testify today.

The pre-considered bills being discussed today represent common sense amendments that build on established protections for our city's building service workers. These employees represent a vital sector of our workforce and are entrusted with the safety and overall well-being of our commercial and residential buildings. For that reason and many more this is a sector that deserves the same level of security that they provide to the buildings they steward. I commend Council Members Miller and Rodriguez for their respective pieces of legislation and am proud to stand with you both as a stalwart supporter.

As a member of the New York City Council I was an early co-sponsor of Intro. 2019 of 2002, later established as Local Law 39 of 2002. I immediately recognized the importance of establishing basic job protections and predictability for workers uncertain of how transition in ownership would impact the future of their employment and their ability to continue providing for their families. Prior to the passage of the bill, the absence of local worker retention laws presented a problem for workers, owners, and their clients with the hearings that followed exposing the adverse effects of abrupt workforce turnover. The testimony highlighted that decisions by some owners to replace experienced professionals with entry-level personnel in an effort to cut costs came at the expense of poor service delivery to their tenants. The result of these business choices was greater economic costs for building operations in the short-term and city social services in the long-term. Failing to prevent instances of immediate worker turnover meant instability that extended beyond the workers and into their neighborhoods and local economies.

These facts represented what many in the property management and real estate community already understood. The drafters of this legislation recognize the challenges it would pose for owners and took care to provide levers of relief with clear compliance rules that allowed organizations like the Realty Advisory Board on Labor Relations to provide supplementary materials to guide their members.

Broader than an economic development pilot or wage regulation and stronger than a feature within a community benefits agreement, this legislation presented a clear and balanced approach for both owners and employees to embrace. This law has been supported by the National Labor Relations Board and has contributed to the growing list of cities and county governments across the country that have enacted similar protections for their own workers.

It is critical that a law of this significance be reviewed over time to see how it can be improved. The changes detailed in the bills before this committee today suggest a thoughtful approach to making the goals of this law even more successful than Local 39. Both bills include the addition of new qualifying job titles providing that a knowledgeable workforce in emergency response and public safety planning is retained. In particular, Council Member Rodriguez's bill would seek to include food service workers, a measure I also support. Eliminating the exemption for city-owned buildings and including some larger commercial office employers removes the double standard for service workers who carry out the same level of work and deserve equal protections and safeguards. Regarding the question of a salary cap the current ceiling of \$25 is no longer appropriate. The salary cap is a feature that risks leaving portions of the workforce exposed since the original legislation created no mechanism for keeping pace with inflation and the cost of living.

The amendment also addresses issues that arise with insourcing and outsourcing of onsite work. As new companies grow and new owners reassess the financials of recently acquired assets they often take jobs in-house or contract with a third party, without taking into account the well-being of the workers currently in place. The law protects service staff even if the owners part ways with the holdover contractor. Workers under an outside contract may experience the same hardship from a turnover as workers who are directly employed and they should have the same rights – this is a gap in the law that should be closed.

Finally allowing for language that extends the law's coverage to any job related to building service work is an important deterrent to those trying to circumvent the law. As an additional deterrent, the amendments provide clear directions to the court on remedies for relief including reinstatement/reinstatement, back pay for prolonged dismissal beyond 90 days, and a right to damages for indirect harms.

I applaud the sponsors of these bills for their commitment to the men and women that keep our buildings running and I am eager to work with the Mayor, members of the Council, building owners and worker organizations on these and other strategies to make sure the workplace operates fairly for all involved.

Thank you.

**RANKING MINORITY MEMBER**

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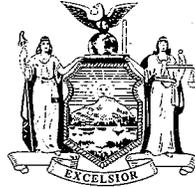
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**Testimony of State Senator Brad Hoylman Before the New York City Council  
Committee on Civil Service and Labor Regarding Proposed Amendments to the  
Displaced Building Service Workers Protection Act**

**November 23, 2015**

Thank you for the opportunity to testify today regarding proposed amendments to the Displaced Building Service Workers Protection Act in this pre-considered bill. I want to thank Council Member I. Daneek Miller, Chair of the Committee on Civil Service and Labor, and Council Member Robert E. Cornegy, Jr., the bill's prime sponsor, for proposing to introduce these amendments, as well as the sixteen other committed sponsors in the City Council.

The Displaced Building Service Workers Protection Act, signed into law by Mayor Bloomberg in November 2002, was enacted in order to protect the short-term job security of building services workers in the wake of commercial property sales. The law established a legally mandatory transition period of 90 days after a building transfers owners, during which time building services workers continue in their roles, are evaluated by the new ownership, and may then be offered the opportunity to stay on depending on their performance.

While the Act has been instrumental in securing stable transitions for building service workers over the last thirteen years, the text requires several updates in order to align its protections with the evolving landscape of building services work in New York City.

Increasingly, commercial office tenants have been directly contracting office cleaning services rather than relying on services provided by building-wide contracts. In fact, some landlords are now even mandating that lessees acquire their own services. In light of this new reality, the Act must be updated to ensure that the same worker displacement protections in place for workers contracted by building owners are also in place for workers contracted by commercial tenants. However, the pre-considered bill exempts commercial lessees with fewer than 10,000 square feet of rented space, which will ensure that small operations do not face undue hardship from the law's new application.

The original Act also could not predict the greater movement toward outsourcing building services work and, in turn, insourcing work that was once contracted out. The amendments proposed in the pre-considered bill would ensure that workers are protected from arbitrary dismissal during nearly every type of employer transition, including from building owner to building owner, contractor to building owner, and building owner to contractor. Moreover, the amendments bolster the remedies available to workers by allowing courts to provide for reinstatement and backpay beyond ninety days. This will ensure that employers do not simply disregard the law and accept any resulting penalties from the occasional court case as the cost of doing business.

Other common-sense changes include the addition of covered job titles such as safety director and security officer, reflecting changes in the lexicon of building services, and the removal of a salary cap of \$25 at which point the law no longer applied, which has not been updated to account for rising income levels and could possibly threaten protections for vulnerable workers.

Finally, the amendments would end exemptions for buildings where the City leases more than half of the space. The public sector should set an example for fair and responsible treatment of workers, rather than finding workarounds that exempt government from laws applicable to our private sector counterparts.

I have witnessed the need for many of these amendments firsthand. This past summer, the shared workspace company WeWork, a large and growing commercial lessee in many New York City buildings with headquarters in my district, terminated its contract with commercial building cleaner CBM in an effort to move its operations in-house. I stood with former WeWork cleaners as they applied for the new in-house jobs, and I was glad to see WeWork and 32BJ SEIU, the union working with the cleaning staff, announce a signed deal this fall that provided a path for many workers to recover their positions or gain compensation for time out of work. However, we cannot rely on good actors like WeWork to come to the table. We must take preemptive legislative action to protect the full range of building services workers during future periods of transition.

In order to help safeguard the economic security of thousands of working families in my district and across New York City, I respectfully ask my colleagues in the City Council to support the proposed amendments to the Displaced Building Service Workers Act contained in this pre-considered bill. I appreciate your time and consideration, and thank you again for the opportunity to comment.



**Testimony of Paul K. Sonn & Claire McKenna**  
National Employment Law Project

# **Proposed Amendments to the Displaced Building Service Worker Protection Act**

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**Hearing before the New York City Council**  
Committee on Civil Service and Labor

November 23, 2015  
New York, New York

**Presented by Paul K. Sonn**  
General Counsel & Program Director

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Good afternoon and thank you for the opportunity to testify today before the Committee on Civil Service and Labor on Intro. T2015-3758 – the proposed amendments to New York City’s Displaced Building Service Workers Protection Act (DBSWPA). My name is Paul Sonn and I am General Counsel and Program Director at the National Employment Law Project.

The National Employment Law Project (NELP) is a non-profit, non-partisan research and advocacy organization specializing in employment policy. We are based in New York with offices across the country, and we partner with federal, state, and local lawmakers on a wide range of workforce issues.

Anywhere in America, but especially in New York City with its high housing costs and persistently high unemployment, losing a job results in serious hardship and dislocation for workers and their families. This is a particular problem for building service workers, since they work in a subcontracted industry where building owners not infrequently change service contractors, with the result that building service workers can lose their jobs for reasons that have nothing to do with them. To address this problem and minimize avoidable displacement of janitors and security guards when contractors change, New York City, along with at least six other localities and one state, have adopted displaced building service worker laws to enable building service workers to keep their jobs under such circumstances. The laws have been operating smoothly in New York and other cities, achieving their intended purpose of promoting continuity of employment and protecting workers and their families against unnecessarily losing their jobs.

However, New York City’s Displaced Building Service Workers Protection Act, N.Y.C. Admin. Code § 22-505, adopted in 2002, has several limitations that undermine its effectiveness. Intro. T2015-3758 addresses these concerns by: (1) removing the outdated \$25 per hour cap on the level of pay that protected workers may earn; (2) expanding coverage; and (3) clarifying and strengthening enforcement. Those proposals reflect sound policy and would improve and make more effective the already successful DBSWPA, and we urge the City Council to adopt them.

### **1. Losing a Job Causes Immediate Hardship and Has Long Term Consequences for Workers, Their Families and Their Communities**

***The Consequences of Unemployment for Workers and Families Are Very Serious, Especially in New York City.*** Losing your job causes serious hardship and dislocation for workers and their families. This is true anywhere in America. Surveys show unemployed workers suffer serious declines in their economic security, and personal and family well-being. Consequences may include eroding savings, bankruptcy, missed debt, rent and mortgage payments, increased reliance on safety net programs, emotional stress, and other consequences.<sup>1</sup> But the situation is even worse in New York City with its high housing costs and persistently high unemployment.<sup>2</sup>

Because New York City has one of the highest costs of housing and living nationally, workers in New York are less housing secure than workers in most other major cities, spending a larger share of their earnings on rent and correspondingly having little savings.<sup>3</sup>

This reality magnifies the harm of losing your job in New York City. Workers who lose their jobs in New York are at great risk of no longer being able to afford their rents or mortgages, resulting in displacement of them and their families, frequent moves, instances of doubling-up with family or friends, homelessness, and increased dependence on social services.

Building service workers in New York are at special risk of displacement and unemployment, since contractors not infrequently change in this subcontracted industry and, when they do, the former contractor's workers can lose their jobs, to be replaced by workers hired by the new contractor. Moreover, since prevailing pay rates today are quite decent for building service workers employed in large buildings in New York, workers displaced from such jobs are likely to find work that pays significantly less, creating a greater risk that they will lose their apartments or homes and other great hardship.

When workers do lose their housing, the costs are very significant, not only for them, but also for the taxpayers. New York City's budgetary costs associated with assisting homeless families are significant and growing.<sup>4</sup> They include costs for sheltering homeless families, subsidizing their rent to get them out of shelters, and providing legal assistance to fight eviction and to provide emergency public assistance to stave off eviction. Policies such as the Displaced Building Service Workers Law which help reduce avoidable unemployment help reduce the risk of homeless, saving the city money.

***Episodes of Unemployment Have Long Term Impacts on Workers' Wages and Job Stability.***

The consequences of job loss on workers' wages and job stability are deep and long-lasting. The short- and long-term earnings losses associated with job loss are well documented.<sup>5</sup> Research of workers displaced during the early-1980s recession documented annual earnings losses of 30 percent in the immediate term and 20 percent 15 to 20 years later. Workers displaced during the recovery suffered smaller, but similarly persistent, wage losses.<sup>6</sup> Other research documents average hourly wage "scarring" due to involuntary job loss of approximately 12 percent every year after the initial separation, for up to 20 years.<sup>7</sup>

Displacement has been shown to lead to subsequent job instability, which may help explain the persistence of wage losses.<sup>8</sup> Unemployed workers can face bleak job prospects, especially following recessions. Since the end of the Great Recession, unemployed workers are more likely to drop out of the labor force than find jobs.<sup>9</sup> Today just 23% of unemployed people find work from one month to the next. This is four percentage points lower than the pre-Great Recession level and *nine* percentage points lower than the pre-2001 recession level. The probability of finding a job declines the longer someone is out of work.<sup>10</sup> Indeed, once workers become long-term unemployed, they quit their job-search and leave the labor force at more than twice the rate that they find jobs (28% versus 13%).<sup>11</sup>

***Episodes of Unemployment Have Adverse Consequences on Workers and Families' Health.*** The income and health coverage losses that result from unemployment also have serious adverse effects on worker and family health. A 2011 national survey found that, of

long-term unemployed and underemployed respondents, 63 percent skipped dental care, 56 percent delayed necessary health care, and 40 percent skipped filling a prescription.<sup>12</sup>

Workers who lose their jobs may also experience significant declines in physical health. One study documents a drop in life expectancy of up to 1.5 years.<sup>13</sup> The large negative impacts on mental health have also been noted.<sup>14</sup> One study documents a rise in alcohol-related disease and suicide attempts among workers who lost their jobs.<sup>15</sup> Another national survey of workers who lost their jobs during the Great Recession provides further evidence of the emotional toll of unemployment – respondents reported strained family relations, lost contact with friends, lower self-respect, and treatment for anxiety or depression.<sup>16</sup>

### ***Episodes of Unemployment Have Adverse Consequences for Children and Communities.***

The consequences of unemployment may also be felt by family members, especially children. One study found that a father's job loss can significantly negatively impact the health of infant children by reducing birth weight.<sup>17</sup> There is evidence that job loss may lower children's performance in school.<sup>18</sup> Another study finds that children may be less likely to graduate high school following a father's job loss.<sup>19</sup> Children from families who experience job-loss have also been shown to earn less income over their lifetimes compared to children from continuously employed families.<sup>20</sup>

At the community level, high rates of job loss and extended unemployment can lead to adverse behaviors that impact other residents, like crime, reduced consumption, and lower investments in housing, and poverty.<sup>21</sup>

## **2. New York City's 2002 Displaced Building Service Worker Protection Act and Similar Laws Across the Country Have Been Operating Successfully for Many Years to Promote Workforce Continuity and Avoid Unnecessary Unemployment**

It was to address the serious consequences of building service workers unnecessarily losing their jobs that in 2002 the New York City Council adopted the Displaced Building Service Worker Protection Act. The purpose of the law was to reduce the episodes of unemployment that building service workers suffer – at no fault of their own – because of the high turn-over of contractors in this subcontracted industry. This changing in contractors has nothing to do with the workers, but frequently results in long-tenured building service workers losing their jobs and their incomes, often with the result that they become unemployed or find new employment at much lower wages.

Under the 2002 law, when a building owner changes its building service contractor, the successor contractor is required to retain the building service workers who previously performed the work for a 90 day transition period and then to continue to employ them permanently unless their work performance is unsatisfactory. This system provides for continuity of employment and avoids unnecessary displacement, while allowing successor contractors the latitude to choose not to employ workers whose performance is inadequate.

During the thirteen years since New York City adopted the Displaced Building Service Workers Protection Act, it has promoted stable employment in the industry. Indeed, lawyers for property owners have noted that implementation has been smoother than anticipated and that this protection has led to relatively little litigation.<sup>22</sup>

New York's experiences are similar to those in other cities. Starting in 1994, at least six cities and counties and one state (California) have adopted similar laws, which have been implemented without reported incident:

<b><u>Jurisdiction</u></b>	<b><u>Year Adopted</u></b>
Washington, DC <sup>23</sup>	1994
San Francisco <sup>24</sup>	1998
Philadelphia <sup>25</sup>	2000
California <sup>26</sup>	2001
New York City <sup>27</sup>	2002
St. Louis <sup>28</sup>	2007
Montgomery County, MD <sup>29</sup>	2012
Westchester County, NY <sup>30</sup>	2013

In addition, President Obama in 2009 issued an executive order adopting similar displaced worker protections for building service workers employed under contracts with federal agencies.<sup>31</sup>

### **3. The Proposed Amendments Would Strengthen the Displaced Building Service Worker Protection Act and Make It More Effective**

While the DBSWPA has been functioning smoothly for a dozen years, it is currently subject to a variety of limitations. The proposed amendments would address those issues by broadening the scope of coverage, and strengthening the law's enforcement provisions.

***Eliminating the Salary Cap.*** As drafted in 2002, the DBSWPA's protections do not apply to service workers who earn more than \$25 per hour. This limitation now threatens to exempt many building service workers from protection, as the prevailing wage for cleaners in large commercial buildings is now about that level. The amendments would eliminate this salary cap, which is unnecessary. The law already contains a separate exemption for managerial and supervisory employees other than building superintendents and resident managers.

***Extending Coverage to Include In-Sourcing, Out-Sourcing and Workers Contracted by Major Commercial Tenants.*** The DBSWPA ensures continuity of employment when building services contractors change in a large residential or commercial building. However, the current law does not apply to several similar circumstances where the employer of building service workers changes. These include: when a building owner

employs building service workers directly and then decides to out-source them to a contractor; when a building owner decides to stop contracting for building services and instead “in-source” the jobs to employ the workers directly; or when building service workers are employed or contracted not by the building owner, but instead by major commercial tenants. The proposed amendments would expand the DBSWPA’s coverage to embrace all of these related circumstances where the contracting or employment structure of providing building services is shifted. The amendments would ensure that, in all of these varying scenarios, current building service workers are allowed to keep their jobs under the new structure.

***Strengthening and Clarifying Remedies.*** Currently under the DBSWPA, when building owners and contractors fail to allow workers to keep their jobs as required by the law, some courts have hesitated to order that the wrongly discharged workers be reinstated. The amendments would address this ambiguity by making clear that wrongly discharged workers should be ordered reinstated.

The amendments would also increase penalties for violations by requiring that employers violating the law pay the wrongly discharged workers not just the wages they lost, but an additional equal amount as liquidated damages. Such an equal amount of unpaid wages as liquidated damages is a standard remedy under wage and hour laws, such as the federal Fair Labor Standards Act. In fact, many cities and states authorize even stronger remedies of double the unpaid wages. The remedies authorized in the proposed amendments are therefore quite moderate.

Enforcement experts recognize such liquidated damages as essential for incentivizing employers to follow the law. When penalties for violations are inadequate, as under the current DBSWPA, employers will treat them simply as a cost of doing business.

\* \* \*

In summary, the DBSWPA is an important protection for avoiding unnecessary displacement and unemployment among building service workers in New York City. The proposed amendments would strengthen the existing law and make it more effective. We therefore respectfully urge that the City Council adopt them.

Thank you very much for the opportunity to testify today. I’d be happy to answer any questions that you may have.

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<sup>1</sup> Debbie Borie-Holtz, Carl Van Horn, and Cliff Zukin. 2010. “No End in Sight: The Agony of Prolonged Unemployment.” John J. Heldrich Center for Workforce Development. [http://www.heldrich.rutgers.edu/sites/default/files/products/uploads/Work\\_Trends\\_May\\_2010\\_0.pdf](http://www.heldrich.rutgers.edu/sites/default/files/products/uploads/Work_Trends_May_2010_0.pdf).

<sup>2</sup> More than six years after the official end of the Great Recession, unemployment in New York City remains more than a full percentage point higher than before the recession (6.1 percent as of the 12 months ending September 30, 2015, compared to 4.9 percent during a comparable period ending in 2007). In this same period, there were 255,250 unemployed people in New York City, compared to 187,920 before the recession. In areas of the state outside of New York City, there were 280,008 unemployed people in 2015, and 232,120 before the recession in 2007. And at 39%, the long term unemployed make up a disproportionately high

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share of New York State's unemployed relative to the national average, and give New York the eighth highest rate of long-term unemployment nationally (as of CY 2014). NYS Department of Labor. 2015. "Labor Force and Unemployment Data." <https://labor.ny.gov/stats/LSLAUS.shtm>. U.S. Department of Labor, Bureau of Labor Statistics. 2015. "States: Percent distribution of unemployed persons by duration of unemployment, 1994-2014 annual averages." Data provided upon request.

<sup>3</sup> Enterprise, 2015. New York City Housing Security Profile and Affordable Housing Gap Analysis.

<http://www.enterprisecommunity.com/servlet/servlet.FileDownload?file=00P1400000ihDrDEAU>

<sup>4</sup> New York City Independent Budget Office. Oct. 2015. Albany Shifts the Burden: As the Cost for Sheltering the Homeless Rises, Federal & City Funds Are Increasingly Tapped.

<http://www.ibo.nyc.ny.us/iboreports/albany-shifts-the-burden-as-the-cost-for-sheltering-the-homeless-rises-federal-city-funds-are-increasingly-tapped-october-2015.pdf>

<sup>5</sup> Louis Jacobson, Robert LaLonde, and Daniel Sullivan. 1993. "Earnings Losses of Displaced Workers."

*American Economic Review* 83(4): 685-709. For a summary of this and other scholarly research, see: Austin Nichols, Josh Mitchell, and Stephan Lindner. 2013. "Consequences of Long-Term Unemployment." Urban Institute. <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/412887-Consequences-of-Long-Term-Unemployment.PDF>.

<sup>6</sup> Til von Wachter, Jae Song, and Joyce Manchester. 2009. "Long-term Earnings Losses Due to Mass Layoffs During the 1982 Recession: An Analysis Using U.S. Administrative Data from 1974 to 2004." Working paper.

[http://www.columbia.edu/~vw2112/papers/mass\\_layoffs\\_1982.pdf](http://www.columbia.edu/~vw2112/papers/mass_layoffs_1982.pdf) Steven Davis and Till von Wachter.

2011. "Recessions and the Costs of Job Loss." Working paper for Brookings Papers on Economic Activity.

[http://www.columbia.edu/~vw2112/papers/Recessions\\_and\\_the\\_Costs\\_of\\_Job\\_Loss\\_23\\_November\\_2011.pdf](http://www.columbia.edu/~vw2112/papers/Recessions_and_the_Costs_of_Job_Loss_23_November_2011.pdf).

<sup>7</sup> Justin Barnette and Amanda Michaud. 2012. "Wage Scars from Job Loss." Working paper, University of Akron. <http://www.uakron.edu/dotAsset/2264615.pdf>.

<sup>8</sup> Nichols, Mitchell, and Lindner. 2013.

<sup>9</sup> U.S. Department of Labor, Bureau of Labor Statistics. 2015. "Unemployment Durations Flows by sex, unpublished research data." Data provided upon request. More information available at

[http://www.bls.gov/cps/cps\\_flows.htm](http://www.bls.gov/cps/cps_flows.htm).

<sup>10</sup> Randy Ilg and Eleni Theodossious. 2012. "Job search of the unemployed by duration of unemployment."

*Monthly Labor Review*. U.S. Department of Labor. <http://www.bls.gov/opub/mlr/2012/03/art3full.pdf>.

<sup>11</sup> U.S. Department of Labor, Bureau of Labor Statistics. "Flows." 2015.

<sup>12</sup> National Public Radio. 2011 (Updated 2015). "The Impacts of Long-term Unemployment."

<http://www.npr.org/2011/12/09/143438731/the-impacts-of-long-term-unemployment>. Story summarizing results of Kaiser Family Foundation/NPR "Long-term Unemployed Survey."

<sup>13</sup> Daniel Sullivan and Til von Wachter, 2009. "Job Displacement and Mortality: An Analysis using Administrative Data." *Quarterly Journal of Economics* 24(3): 1265-1306.

<sup>14</sup> Sarah Burgard, Jennie Brand, and James House, "Toward a Better Estimation of the Effect of Job Loss on Health," *Journal of Health and Social Behavior*, Vol. 48, No. 4 (Dec. 2007), 369-384.

<sup>15</sup> Martin Browning and Eskil Heinesen. 2012. "Effect of job loss due to plant closure on mortality and hospitalization." *Journal of Health Economics* 31(4): 599-616.

<sup>16</sup> Rich Morin and Rakesh Kochhar. 2010. "The Impact of Long-Term Unemployment: Lost Income, Lost Friends—and Loss of Self-Respect." Pew Research Center. <http://pewsocialtrends.org/files/2010/11/760-recession.pdf>.

<sup>17</sup> Jason M. Lindo. 2011. "Parental job loss and infant health." *Journal of Health Economics* 30(5): 869-879. <http://www.ncbi.nlm.nih.gov/pubmed/21798606>.

<sup>18</sup> Ann Huff Stevens and Jessamyn Schaller, "Short-run Effects of Parental Job Loss on Children's Academic Achievement," NBER Working paper No. 15480, 2009

<sup>19</sup> Patrick Wightman. 2012. "Parental Job Loss, Parental Ability and Children's Educational Attainment." University of Michigan Population Studies Center, Research Report 12-761.

<http://www.psc.isr.umich.edu/pubs/pdf/rr12-761.pdf>.

<sup>20</sup> Philip Oreopoulos, Marianne Page, and Ann Huff Stevens, "The Intergenerational Effects of Worker Displacement," *Journal of Labor Economics*, Vol. 26, No. 3 (2008), 455-483.

<sup>21</sup> Nichols, Mitchell, and Lindner. 2013.

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<sup>22</sup> Paul Salvatore & Brian Rauch. Apr. 21, 2006. "Displaced Building Service Workers Protection Act," *New York Law Journal*.

<sup>23</sup> District of Columbia Code § 32-101 et seq., Displaced Workers Protection.  
<http://dccode.org/simple/Title-32/Chapter-1/>

<sup>24</sup> San Francisco Municipal Code § 3300C, Displaced Worker Protection.  
[http://www.amlegal.com/nxt/gateway.dll/California/police/article33cdisplacedworkerprotection?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:sanfrancisco\\_ca](http://www.amlegal.com/nxt/gateway.dll/California/police/article33cdisplacedworkerprotection?f=templates$fn=default.htm$3.0$vid=amlegal:sanfrancisco_ca)

<sup>25</sup> Philadelphia Code ch. 9-2300, Protection of Displaced Contract Workers.  
[http://www.amlegal.com/nxt/gateway.dll/Pennsylvania/philadelphia\\_pa/title9regulationofbusinessstrade sandpro/chapter9-2300protectionofdisplacedcontra?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:philadelphia\\_pa](http://www.amlegal.com/nxt/gateway.dll/Pennsylvania/philadelphia_pa/title9regulationofbusinessstrade sandpro/chapter9-2300protectionofdisplacedcontra?f=templates$fn=default.htm$3.0$vid=amlegal:philadelphia_pa)

<sup>26</sup> California Labor Code §§ 1060-1065, Displaced Janitor Opportunity Act. <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=lab&group=01001-02000&file=1060-1065>

<sup>27</sup> N.Y.C. Admin. Code § 22-505, Displaced Building Service Workers Protection Act.  
<http://codes.lp.findlaw.com/nycode/ADC/22/5/22-505>

<sup>28</sup> St. Louis City Ordinance 67423, Displaced Building Service Workers Protection Ordinance.  
<http://www.slpl.lib.mo.us/cco/ords/data/ord7423.htm>

<sup>29</sup> Montgomery County Code § 27-64 et seq.  
[http://www.amlegal.com/nxt/gateway.dll/Maryland/montgom/partiilocallawsordinancesresolutionsetc/chapter27humanrightsandcivilliberties?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:montgomeryco\\_md\\_mc\\$anc=ID\\_27-64](http://www.amlegal.com/nxt/gateway.dll/Maryland/montgom/partiilocallawsordinancesresolutionsetc/chapter27humanrightsandcivilliberties?f=templates$fn=default.htm$3.0$vid=amlegal:montgomeryco_md_mc$anc=ID_27-64)

<sup>30</sup> Westchester County Code of Ordinances, Ch. 580, Displaced Service Employees Protection Law.  
[https://www.municode.com/library/ny/westchester\\_county/codes/code\\_of\\_ordinances?nodeId=PTIVOTLO\\_LAACRE\\_CH580DISEEMPRLA](https://www.municode.com/library/ny/westchester_county/codes/code_of_ordinances?nodeId=PTIVOTLO_LAACRE_CH580DISEEMPRLA)

<sup>31</sup> Executive Order 13,495 of January 30, 2009, Nondisplacement of Qualified Workers Under Service Contracts. <https://federalregister.gov/a/E9-2484>



## Testimony of Hector Figueroa, President

32BJ SEIU

Before the New York City Council Committee on Civil Service and Labor

November 23, 2015

SERVICE EMPLOYEES  
INTERNATIONAL UNION  
CTW, CLC

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Good morning Chairperson Miller and members of the Committee on Civil Service and Labor. Thank you for the opportunity to testify today. My name is Hector Figueroa, and I am president of SEIU 32BJ. My union represents over 145,000 men and women who provide property services in 11 states and Washington DC along the East Coast. Our union has an over 80-year history in New York City. Over the decades, we have united office cleaners, apartment building workers, security officers, window cleaners, theater and stadium cleaners, public school workers and airport service workers from all over the city, building a strong membership of over 75,000 members in New York. We have successfully organized and raised standards in traditionally low wage service sectors, ensuring that hard working women and men have a chance at a stable middle class life here in New York City.

I am here today to speak in support of adoption of technical amendments to § 22-505 of the New York City Administrative Code: Displaced Building Service Workers that are necessary to close loopholes and ensure that building service workers continue to benefit from the protections of that important law. In particular, the proposed amendments would clarify that security officers and fire safety directors are covered, extend coverage to commercial lessees with more than 10,000 square feet of space, cover in-sourcing and out-sourcing of work, strengthen and clarify remedies, eliminate the carve-out for buildings where the city leases more than 50% of the space, and lift an outdated salary cap that would threaten to exclude many workers from coverage in the near future.

Worker retention of building service workers, including cleaning, freight and elevator operators, concierge, security and fire and safety directors, doorperson, porters and supers, is in the public interest. Workers who are already familiar with emergency and security protocols as well as the physical layout of the commercial office buildings they protect and maintain should have an opportunity to temporarily remain on the job during employer transitions. Their knowledge is

essential to keep tenants, property and the public safe. During these uncertain and challenging times it is wise to provide a measure of job stability to the people we depend on every day.

Since the Displaced Building Service Workers Protection law was adopted in 2002, it has become an important component of the building service contracting landscape. Contractor turnover happens frequently in this competitive industry. Due to slim financial margins, it does not make sense for contractors to maintain a standing workforce between contracts. Rather, the norm in the industry is to hire employees after taking over a service contract. It has been good for tenants and for workers to have protections in place that ensure retention of a stable and experienced workforce. The law has helped protect against an erosion of the industry best-practice to retain incumbent staff by those who seek short term profits by terminating all of the experienced workers and hiring a set of entirely new workers that it hires at lower wages.

Importantly, the law has provided a measure of economic stability for building service workers, many of which are members of 32BJ. Our members live mainly in low-and moderate-income neighborhoods and are largely people of color and/or recent immigrants. While workers covered by a collective bargaining agreement earn fair wages and benefits, they do not make enough to be insulated from the devastating impacts of abrupt job loss. The opportunity to retain a job when there is a change in management protects workers from slipping into the ranks of the unemployed, being forced to accept less-stable or lower-paying work to make ends meet, and from needing to turn to public assistance to support their families.

The technical improvements that are being considered will ensure that the goals of the Displaced Building Service Workers Protection law are fully met:

**Specifying that security officers and fire safety directors are covered by the law.** This would provide helpful clarity and guidance for both workers and employers and prevents unnecessary disputes regarding whether they were intended to be covered.

**Extending application to commercial tenants.** This would address the reality that large commercial office tenants sometimes contract directly for office cleaning and security services. Workers on these contracts are no less vulnerable to displacement than those working on contracts with building owners, and this loophole should be closed. In the interest of avoiding compliance problems for small tenants, the proposal is that this applies only to tenants with more than 10,000 square feet of space.

**Covering in-sourcing and the initial out-sourcing of work.** This would close unnecessary loopholes. In some cases, a choice may be made to move from contracting for services to employing

workers directly; in others, the choice may be made to move from employing workers directly to contracting out. In both cases, the workers previously providing the services are just as vulnerable to displacement as they would be in a situation in which there is a change in contractors or building ownership.

**Eliminating the carve out for city-leased buildings.** This would address the situation in which building service workers are left more vulnerable to displacement when the city chooses to lease space in a commercial office building that would otherwise be covered by the law.

**Strengthening and clarifying remedies.** In order for the protections of the law to be meaningful, the remedies need to be sufficient to address the harm. Experience has shown that the available remedies have been unclear and insufficient. The proposed language would make it clear that courts can order reinstatement or reinstatement of workers and that they can award more than 90 days of backpay if a worker is out of work for more than 90 days. It also provides for a doubling of backpay as liquidated damages to compensate workers for indirect economic harms that result as a loss of a job – such as the consequences of late payment on bills or credit cards.

**Eliminating the salary cap.** The law does not protect workers who make more than \$25 an hour. This is an outdated salary cap that has not been raised since 2002. The law already includes an exemption for supervisory and managerial employees, other than building superintendents and resident managers. Given this exemption, the salary cap, which is already outdated, is unnecessary. Since it threatens to push workers into risk of displacement, it should be eliminated.

Once again, thank you for the opportunity to testify today. Experience over the past 13 years has demonstrated the value of Displaced Building Service Workers Protection to working people in New York City, as well as to building tenants who benefit from uninterrupted and stable services and the familiar faces of the building service workers who perform those services. On behalf of 32BJ, I urge you to adopt the proposed amendments to ensure that the important goals of the law are fully met.



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**Testimony of Ariel DeJesus**

**32BJ SEIU Member Political Organizer**

**Before the New York City Council Committee on Civil Service and Labor**

**November 23, 2015**

Good afternoon. My name is Ariel DeJesus and I am a member political organizer at 32BJ SEIU. I have worked in an office building in Long Island City for 5 years.

I want to start by thanking Chairperson Miller, members of the Committee and 32BJ President Hector Figueroa.

The current displaced building service worker law has certain flaws we need to fix.

All service employees in New York City buildings need the protections this law provides.

I'm proud to be a 32BJ member fighting for better wages. Cost of living is sky rocketing. There should be protections if wages increase - that is why the bill removes the salary cap.

There is a loophole when workers are directly employed by the building owner, and the owner decides to contract out the work.

There is another loophole when an owner decides to bring contracted work in-house.

In both cases, those workers should be protected and retain their positions to which they have dedicated so much time.

In either case where work is contracted out or in-housed - building service workers need protections. This bill will provide them.

Thank you again for the opportunity to testify. I ask the committee and the entire City Council to approve these changes to ensure protections for building service workers.



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**Testimony of Marie Lebon**

**32BJ SEIU Member**

**Before the New York City Council Committee on Civil Service and Labor**

**November 23, 2015**

Good morning Chairperson Miller and members of the Committee. I want to recognize and thank our President Hector Figueroa.

My name is \_\_Marie Lebon\_\_ and I have been a 32BJ Member for over 30 years. I have cleaned at \_\_25 Broadway\_\_ for 10 years.

Expanding the displaced worker bill to cover more building service workers will help the lives of working families and my brothers and sisters cleaning, securing and working in buildings.

In my building, workers hired by a non-union contractor on tenant leased floors, were not covered by the displaced worker law. Many of those workers lost their jobs during this past summer.

This legislation would give 90 day protections to these types of workers. They need these protections and I am proud to testify in support of this proposed bill.

The salary cap provision needs to be changed. When I first started cleaning in 1984 - I earned \_\_\$10 per hour\_\_ and my wages have gone up.

32BJ fights for higher wages and this cap should be lifted to protect working families. The cost of living has increased and we need higher wages. We need to remove this cap.

I want to thank the Committee for its time and to all the Council Members who support working people and our fight to raise America.



Hotel, Restaurant & Club Employees & Bartenders Union Local 6, UNITE HERE • 709 Eighth Avenue, New York, NY 10036 • Telephone: (212) 957-8000 • Fax: (212) 957-3418

A ninety-day worker retention period for food service workers in New York City is a common-sense measure and for that reason, we strongly urge the Council to pass this legislation. This standard has been set by 32BJ for building service workers, and if it's good enough for them, it's certainly the right thing to apply to food service workers as well.

This measure is about basic job stability for New Yorkers working for food service contractors. Reducing this kind of employment uncertainty isn't just good for these workers, it's good for the people and businesses they serve. The Hotel Trades Council is proud to support this bill and to stand with our brothers and sisters at UNITE HERE Local 100.



# NEW YORK CITY CENTRAL LABOR COUNCIL AFL-CIO

President  
**VINCENT ALVAREZ**

Secretary-Treasurer  
**JANELLA T. HINDS**



## Testimony of Anthony Thomas, Political/Legislative Director New York City Central Labor Council, AFL-CIO

### New York City Council Committee on Civil Service and Labor

**November 23, 2015**

Good afternoon, my name is Anthony Thomas, and I am the Political Director of the New York City Central Labor Council, AFL-CIO. Representing 1.3 million members across 300 affiliated unions, the Central Labor Council advocates ‘lifting the floor’ for all workers. I am here to strongly support the proposed amendments to the New York City Displaced Building Service Workers Act. The amendments will protect more workers with careers in the service industry, specifically covering a more extensive list of titles under the law’s purview; updating the extent of the law over tenants and owners; and clarifies ambiguous questions surrounding oversight and enforcement of the law.

Proposed amendments to the current legislation take steps to better protect workers on-site. Expanding covered job titles clarifies coverage under the law, and including titles like “Fire Safety Director” and “Security Officer,” are seamless, common sense additions to already existing titles like “Doorman,” “Building Cleaner,” and “Stationary Fireman.” The legislation will also eliminate the salary cap, as these laws do not apply to managerial or supervisory positions, and the \$25 per hour cap has not been raised since 2002. The legislation also creates additional workplace protections.

The legislation protects workers from the business decisions of an owner/employer and building tenants. The amendments seek to cover the in-sourcing of work when replacing a contractor, offering the work first and foremost to those already working. Further, the legislation protects workers from losing their jobs when a building is sold.

The amendments to this legislation also protect building workers from the arbitrary decisions of an individual tenant. Tenants of large buildings—those with 10,000 square feet or more—will no longer be able to subcontract directly for office cleaning services. Under this law, tenants will be required to work directly with a landlord for cleaning; this will maintain a standard for well-paying jobs.

Additionally, there is need for legal clarity. In the initial version of the Displaced Building Service Workers Act, many employers have still refused to retain incumbent workers, and treated resulting damage as the cost of doing business. The amendments make clear courts can order reinstatement/reinstatement, and can award more than 90 days of backpay if an individual remains out of work for more than 90 days. The amendments follow the federal Fair Labor Standards Act, and provide for a doubling of backpay as liquidated damages to compensate workers for these indirect harms.

The underlying principle of this amendment is owner/management disputes should not cause a worker to lose their livelihood. This is an important piece of legislation that will protect workers on the job. We urge the City Council to help protect well-paying jobs, and pass the amended version of the Displaced Building Servicer Workers Act. Thank you for your time and consideration.

## NEW YORK CITY HOSPITALITY ALLIANCE COMMENT ON:

- **Preconsidered Intro No. \_\_\_ “regarding successor employers of buildings to retain eligible employees for a transition employment period” and**
- **Preconsidered Intro No. \_\_\_ “regarding expanding the protections given to displaced building service workers to include displaced food service workers.”**

*The New York City Hospitality Alliance, an association of thousands of entrepreneurs who operate our City’s bars, restaurants, and hotels, has no position on what we understand the intent of the subject bill to be, namely, that it should apply to large-scale institutional food service operations. However, the Alliance does have a strenuous objection to the language of certain provisions of the bill as drafted. Those provisions, outlined below, will cause the unintended consequence of affecting countless hospitality establishments, to an extent far beyond our understanding of the bill’s intent.*

**Vague definition of “contract.”** The bill adds the definition of “food service” to mean “work performed pursuant to a *contract*” for food preparation, delivery, etc. The bill also modifies the definition of “building service” to include “food service provided pursuant to a *contract* in an existing building.” Nowhere is “contract” defined.

Keeping the term “contract” undefined is problematic for the hospitality industry, where most at-will employment arrangements (such as for waiters, bussers, and hosts) are memorialized in documents known as Employment Agreements. These Agreements, which are often signed by the employer and employee, set forth the parameters of the at-will employment. Such agreements could potentially be construed as “contracts,” thereby subjecting any restaurant or other hospitality business leasing more than 10,000 square feet of commercial space to the requirements of § 22-505.

It is the Alliance’s understanding that the intent of the subject bill is not so far-reaching. If the Council intends to extend § 22-505 to capture institutional-scale food service operations (such as at airports, schools, food courts, and the like) while properly excluding the countless hospitality establishments leasing 10,000 square feet or more of commercial space (such as large upscale dining establishments, tourist-focused chain restaurants, and hotel lounges) the term “contract” must be defined.

**Thwarting new operations.** Often when a restaurant space is re-leased, the successor restaurant operates under an entirely different concept. Requiring the successor restaurant to continue with the prior establishment’s employees for *any* period of time will thwart the new operation. For example, if a former Applebee’s space is leased to an entrepreneur who intends to open an upscale French restaurant, it presents

an unnecessary burden to require the new operation to continue with the Applebee's staff, who may be unaccustomed to the new operation's expectations or may not have the resume credentials to be a part of the new operation.

**Guaranteed litigation.** Finally, if the Council leaves "contract" undefined, it is guaranteed that the Courts will define it instead. Because of § 22-505's private right of action, it requires no leap of the imagination to anticipate the slew of private litigation that will emerge over whether, on a case-by-case basis, a hospitality employee works pursuant to a "contract." Is certain language in a particular at-will Employment Agreement sufficient to constitute a contract? Are other agreements distinguishable? Is an oral agreement a contract? These are questions that will be answered by judges during costly and time-consuming litigation. It is the Council, as the voice of the people, that should be providing the answer.

# Local 100 UNITEHERE!

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Bill Granfield, President • José Maldonado, Secretary-Treasurer

November 23, 2015

Chairman Miller, members of the Committee on Civil Service and Labor;

Thank you for the opportunity to discuss this bill.

My name is Bill Granfield, President of UNITEHERE Local 100, the food service workers Union. Our Local 100 represents 12,000 members employed in food and beverage service in New York and Northern New Jersey.

Most of those workers are employed in cafeterias and dining rooms in office buildings, higher education campuses and stadiums and arenas. Most of those facilities hire separate food service contractors, and our members are employed by those contractors.

When those contracts go out to bid and change hands, the workers' jobs are at risk. Our position is that any new contractor chosen by the client facility is welcome, and they can change the menu, the pricing, the décor and the managers; but the workers should retain their jobs and be allowed to prove themselves in the new operation.

This is the standard we have applied with food service companies in this area, and we have fought to protect the workers' jobs when necessary. After 20 years of effort, most companies respect this standard, but there remain a few 'bad actors' who fire the existing workforce and bring in all new staff. Some Local 100 members who have lost their jobs during transitions are here to testify today.

The protection existing in the 2003 bill for other building service workers will provide job security for approximately 10,000 workers in this industry, and establish a level playing field for the employers who are already willing to play fair when these transitions take place. Adding this protection to food and beverage workers will represent another step by New York City to end income inequality and preserve decent jobs for the workers of this city.

One detail; the most recent draft should be amended to read "food and beverage" in section 6, page 3, lines 44 and 46; the definitions of food service, and food service worker.

Thank you



Good afternoon Council-members. My name is Carlos Herrera. Thank you for giving me the opportunity to tell my story. I'm a member of UNITEHERE Local 100. We are the Union for workers in cafeterias, executive dining rooms, restaurants, bars, delis, sports and exhibition halls and performing arts centers throughout New York City, Westchester, Long Island and New Jersey. I came to this country in 1985. I'm 44 years old. After 18 years as a Food Service and Beverage worker, in 2012, I was out of work and without a pay check. This caused lots of stress and hardship to my family and me. The Union fought to get our jobs back, but I have a family to support who can't wait. I spent days looking for a new job because I didn't want to depend on Public Assistance. As a father and husband, I was highly concerned regarding medical insurance coverage, bills and food on the table.

I'm here today to ask each one of you to support and vote in favor of this bill because it will help to improve standards for workers like me. Thank you.



Good afternoon Council-members,

My name is Marcia Gordon. A member of UNITEHERE Local 100. We are the Union for workers in cafeterias, executive dining rooms, restaurants, bars, delis, sports and exhibition halls and performing arts centers throughout New York City, Westchester, Long Island and New Jersey. Thank you for giving me the opportunity to testify in favor of the Food Service and Beverage Retention bill. I used to work at 4 NY Plaza as a cashier for approximately 26 years. In October 2012, the company shut down, and the new owner replaced the workers. The hardship of being suddenly unemployed was very difficult for my family and me. No one should suffer the way we suffered through no fault of our own. I have spent over 26 years working hard to support my family. The money from unemployment isn't enough to pay my bills. Only sometimes was I able to afford my high blood pressure medication. I'm glad I have the opportunity to apply for Obamacare.



Good Afternoon Council-members,

My name is Christine Edwards. I'm from Grenada WI. I'm a member of UNITEHERE Local 100. We are the Union for workers in cafeterias, executive dining rooms, restaurants, bars, delis, sports and exhibition halls and performing arts centers throughout New York City, Westchester, Long Island and New Jersey. I have been here for 39 years, and I have spent 35 of those years working for Food Services and Beverage. I worked at 55 Water for 12 years. The company closed down and the new owner replaced the workers. It was extremely difficult for me to wake up without a job after spending almost my entire life working to support my family. Under the protections of the displaced worker law, Food and Beverage workers like me are sometimes fired and replaced immediately when a new company comes in, creating instability and hardship for us and our families. That is why I ask you to vote in favor of this bill. Thank you.



Buenas tardes Concejales,

Mi nombre es Maria Martinez. Gracias por permitirme testificar. Aunque no estoy trabajando , me siento orgullosa de ser parte la Union UNITEHERE Local 100. Hoy yo tengo la esperanza que ustedes van apoyar y votar en favor de la ampliación de las protecciones dadas a los trabajadores de servicios de edificios desplazados para incluir los trabajadores de servicios de alimentos y bebidas desplazados.

Tengo 60 años de edad de los cuales llevo un total de 29 trabajando en la industria de la comida. El 12 de agosto, 2015 fue el último día que trabaje para Citi Center porque perdieron el contrato. La nueva compañía, Sweet Concession decidió no contratarnos como trabajadores. Como resultado, mis compañeros y yo estamos desesperado tratando de buscar trabajo en otro lugares. Yo estoy colectando desempleo y como ustedes sabrán con el alto costo de vida lo que recibo no es suficiente para cubrir los gastos más esenciales. El seguro médico que tengo termina el 30 de Noviembre, lo que significa que tendré que aplicar para medicaid o para Obamacare. Es por esta razón que le pido su apoyo y su voto a favor de este bill. Muchas gracias



Good afternoon Councilmembers. My name is Claudette Perry. Thank you for giving me the opportunity to tell my story. I'm a member of UNITE HERE Local 100. We are the Union for workers in cafeterias throughout New York City. I have worked 21 years as a food service and beverage worker in New York City working for at 55th Water Street in Manhattan. In October 2012, I was officially given notice through a letter that I was laid off. However, the company said I would be given notice of the next job opportunity within my field. I have been waiting 3 years. I have also interviewed for three separate positions that I qualify for. Still, I get no response. Still I remain unemployed.

I have been struggling to budget for essential needs and without an incoming salary I am fighting a foreclosure on my house. I do not want to lose my home.

I am here today to ask each one of you to support and vote in favor of this bill because it will help to improve standards for workers like me. Thank you.



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*Director*  
Employment Law Unit

**November 23, 2015**

**Testimony of The Legal Aid Society, Employment Law Unit  
In Support of Proposed Amendments to Section 22-505 of Title 22  
of the Administrative Code of the City of New York**

**Presented Before the New York City Council Committee on Civil Rights**

**Presented by Karen Cacace, Director, Employment Law Unit**

Thank you for the opportunity to present this testimony.

The Legal Aid Society is the oldest and largest legal services provider for low-income families and individuals in the United States. Annually, the Society handles more than 300,000 cases and legal matters for low income New Yorkers with civil, criminal and juvenile rights problems, including some 46,000 individual civil matters in the past year benefiting nearly 115,000 New Yorkers as well as law reform cases which benefit all two million low-income families and individuals in New York City.

Through a network of 16 neighborhood and courthouse-based offices in all five boroughs and 24 city-wide and special projects, the Society's Civil Practice provides direct legal assistance to low-income individuals. In addition to individual assistance, The Legal Aid Society represents clients in law reform litigation, advocacy and neighborhood initiatives, and provides extensive back up support and technical assistance for community organizations.

Through our Employment Law Unit, we provide legal services to over 2,000 low-wage workers each year to ensure these workers receive fair wages, fair treatment, decent working conditions, and the benefits to which they are entitled if they lose their jobs. Most of these cases involve wage and hour violations, family and medical leave issues, workplace discrimination, including discrimination based on past involvement with the criminal justice system, labor trafficking and unemployment insurance. Each year the Employment Law Unit advises and represents many building service employees.

**Preconsidered Int. No. 1004**

We support the proposed amendment to the Displaced Building Services Workers Protection Act. The amendment would add the titles of security officers and fire safety directors to the types of employees covered during a transition period after a building is sold. The existing law provides that if a new employer is downsizing the workforce, layoffs of covered employees must be done according to seniority. It also provides that covered employees who are retained may not be fired, unless there is cause, during the first 90 days of new ownership. After 90 days, the new employer is required to evaluate the retained employees and continue to employ all employees with satisfactory performance under the same terms and conditions provided by the previous employer. The amendment would expand the definition of building service workers to include security officers and fire safety directors. We support this amendment because all building service workers should be entitled to the same protections.

This amendment would also increase the type of damages available to add liquidated damages. Because the potential for an award of liquidated damages would act as a deterrent to violating the law, we support this provision.

**Preconsidered Int. No. 1011**

We support the proposed amendment to the Displaced Building Services Workers Protection Act to include food service workers. The amendment proposes expanding the definition of building service to include food service provided pursuant to a contract in an existing building. This amendment will protect food service workers who work in covered buildings. We support this amendment because all building service workers should be entitled to the same protections in the event of a transfer of ownership.

In conclusion, The Legal Aid Society commends the City Council's efforts to enact laws that protect New York City's workers. We look forward to continuing to work together to ensure that all workers, especially low-income and vulnerable workers, have a fair chance to succeed at their jobs and provide for their families.

Respectfully Submitted:

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**Testimony by**

**Apurva Mehrotra, Policy Analyst  
Community Service Society of New York**

**Before the New York City Council, Civil Service and Labor Committee**

**November 23, 2015 Hearing on  
Amendments to the 2002 Displaced Building Service Worker Protection Act**

Thank you for the opportunity to testify today on amendments to the 2002 Displaced Building Service Worker Protection Act. My name is Apurva Mehrotra and I am a Policy Analyst at the Community Service Society of New York (CSS). CSS is a 172 year-old organization that fights poverty with the belief that working for a decent wage is the best path to economic security.

It has been over six years since the official end of the Great Recession, and several years since New York City began to bounce back from the economic downturn. Conventional indicators such as private sector job growth and unemployment rate suggest a strong recovery and a return to pre-recession norms. However, many New Yorkers – even working New Yorkers – are still struggling amidst stagnant wages and the increasing cost of housing and other necessities.

According to data from the Bureau of Labor Statistics Quarterly Census of Employment and Wages, the average wage for a building service worker in New York City would put a family of three in a moderate income household between 200 and 400 percent of the federal poverty level. The exception is in the Bronx, where the average wage for a building service workers would put a family of three in a near poor household, between 100 and 200 percent of poverty. According to data from our annual Unheard Third survey<sup>1</sup>, we found that many near poor and moderate-income working New Yorkers do not have much money in savings to insulate themselves from the effects of job loss. Among near poor, working New Yorkers, more than one-third have less than \$500 dollars in savings and nearly half have less than \$1,000 in savings. Among moderate-income, working New Yorkers, one in five have less than \$500 in savings and one-third have less than \$1,000.

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<sup>1</sup> The Unheard Third 2015 is based on a scientific survey of 1,705 New York City adults conducted for CSS by Lake Research. Respondents were reached by telephone using land lines and cell phones. The survey was fielded July 19 through August 17, 2015.

The low level of savings for many working New Yorkers means that the ability to retain one's job is critical. Our survey revealed that individuals in households where someone lost a job in the previous year experienced extremely high rates of hardship. Overall, 27 percent of respondents in households between 200 and 400 percent of the federal poverty level reported experiencing three more hardships, including 15 percent who experienced five or more. However, in households within that income level in which someone lost a job in the previous year, 57 percent reported experiencing three or more hardships (in addition to reduced wages), and 38 percent experienced five or more. One in three New Yorkers in this situation often skipped meals because there wasn't enough money to buy food; nearly a third fell behind in the rent or mortgage; and nearly three in ten couldn't afford subway or bus fares, a critical tool in searching for a new job. The situation is even direr for those in near poor households who experienced job loss.

Adding protections that will allow more workers to keep their jobs makes sense, not only for the affected workers but for New York City taxpayers. Our survey found that workers in near poor households in which someone lost a job were much more reliant on public benefits than near poor households overall. One-third of respondents in near poor households reporting job loss said they used food stamps, compared to just over a quarter of near poor respondents overall. And half reported being on Medicaid, compared to 40 percent of near poor respondents overall.

Despite the recovery from the Great Recession, many New Yorkers – even those working full-time – are in a precarious position. Even in moderate-income households, many New Yorkers have little in savings, meaning job loss can lead to substantial hardships and an increased reliance on public benefits. And while the average length of unemployment has come down from recession era highs, long term unemployment of six months or longer is still a serious issue impacting a significant share of the unemployed. For these reasons, CSS supports the amendments to the Displaced Building Service Workers Protection Act that will allow more workers in this industry to have protection from job loss and its harsh economic consequences.



THE SENATE  
STATE OF NEW YORK

**TESTIMONY OF STATE SENATOR DANIEL SQUADRON REGARDING  
INTRODUCTION 3758 TO EXPAND DISPLACED WORKER PROTECTION**

**November 23, 2015**

My name is Daniel Squadron, and I represent the 26th District in the New York State Senate. My district includes the Manhattan neighborhoods of Tribeca, Battery Park City, the Lower East Side, Chinatown, the Financial District, Greenwich Village, Little Italy, SoHo, the South Village, and the East Village and the Brooklyn neighborhoods of Greenpoint, Williamsburg, Vinegar Hill, DUMBO, Fulton Ferry, Brooklyn Heights, Cobble Hill, and Carroll Gardens.

I would like to thank Committee on Civil Service and Labor Chair Councilmember Miller for convening this hearing, as well as Councilmember Cornegy, Jr. for sponsoring Intro. 3758. I would also like to thank 32BJ SEIU for their long leadership on good jobs, and ensuring workplace protections, particularly in building service worker professions.

Since 2002, the Displaced Building Service Workers Protection Act has had a positive impact in preserving existing jobs, establish rights to recourse for employees, and create better work-force transition parameters when ownership or management of buildings changes hands. As recent instances have highlighted, there is room to improve the Act, especially as the commercial office market and building worker contracting has changed.

We have seen examples, including in my district, where former building service employees were not used to fill positions. Situations such as companies employing workers within the company rather than contracting (in-sourcing) or contract provisions that prevent an owner from hiring a contractor's former employees have shown that many workers are inadequately covered by existing law. In addition, actions covered by existing law often prove to have insufficient enforcement provisions, mitigating their impacts as deterrents -- large companies may often view these penalties as simply a cost of doing business.

These examples have highlighted the ways in which the Displaced Building Service Workers Protection Act could be improved, which Intro. 3758 does.

Intro. 3758 would cover the increasing practice of commercial tenants directly contracting for building service workers. The bill ensures coverage is extended to commercial leases over 10,000 square feet, in order to ensure employee protections grow and adapt to a changing commercial market.

Additionally, Intro. 3758 would extend the Displaced Building Service Workers Protection Act to businesses that choose to switch from external contracting to employing workers within the company (in-sourcing).

This bill would also work to address concerns around enforcement of existing remedy provisions. This bill would clarify that courts can order reinstatement, and can award more than 90 days of backpay, and allows doubling of backpay to compensate workers for indirect harms pursuant to the federal Fair Labor Standards Act. These changes would ensure Building Service Workers Protection Act penalties better act as an accountability measure and deterrent.

In addition to those specific provisions, Intro. 3758 proposes a number of other important improvements to the Act that deserve consideration. We have seen real changes, growth, and evolution in the way commercial businesses operate, particularly around building service worker contracting. It is important that the worker protections evolve contemporaneously.

Again, thank you to Chair Miller for the opportunity to testify today, and thank you Councilmember Councilmember Cornegy, Jr . for sponsoring Intro. 3758.

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 11/23/15

(PLEASE PRINT)

Name: Ali Najmi  
Address: 255-04 75th Ave Glenside NY  
I represent: Alliance of South Asian American Labor  
Address: \_\_\_\_\_

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in favor  in opposition

Date: 11/23/15

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Name: MARIA MARTINEZ  
Address: 1710 MONTGOMERY AVE 4-B BROOKLYN N.Y.  
I represent: UNITED LOCAL 100 104/53  
Address: 275 SWIN AVE N.Y.

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in favor  in opposition

Date: 11-23-15

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Name: MARCIA GORDON  
Address: 980 East 106th Street Bklyn 11236  
I represent: HEREUNITE Local 100  
Address: 275 Seventh Ave. N.Y. N.Y.

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in favor  in opposition

Date: 11/23/2015

(PLEASE PRINT)

Name: Christine EDWARDS

Address: 215 JEFFERSON AVE

I represent: HERE UNIT LOCAL 100

Address: 275 7<sup>th</sup> AVE NEW YORK N.Y.

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Appearance Card

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in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Ahmed Tigan, Community Development officer

Address: \_\_\_\_\_

I represent: Manhattan Borough President Gale Brewer

Address: \_\_\_\_\_

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in favor  in opposition

Date: 11/23/15

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Name: CARLOS HERRERA

Address: 110 West Central Blvd #B-2 NJ

I represent: Unite Here Local 100

Address: 275 7<sup>th</sup> Ave

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I intend to appear and speak on Int. No. Bldg Svce Workers Amends Res. No. \_\_\_\_\_

in favor  in opposition

Date: 11/23/2015

(PLEASE PRINT)

Name: PAUL SONN

Address: 75 MAIDEN LN, ST. 601, NY NY

I represent: NATIONAL EMPLOY. LAW. PRAT.

Address: SAME

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THE CITY OF NEW YORK**

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I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 11/23/15

(PLEASE PRINT)

Name: Bill Grawfield

Address: 275 7th AVE 10001

I represent: UNITED HERE LOCAL 100

Address: 275 7th AVE 10001

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THE CITY OF NEW YORK**

Appearance Card

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in favor  in opposition

Date: 11/23/15

(PLEASE PRINT)

Name: Anthony Thomas, NYC Central Labor Council

Address: 275 7th AVE 18th Fl

I represent: NYC Central Labor Council

Address: 275 7th AVE, 18th floor

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in favor  in opposition

Date: 11/24/15

(PLEASE PRINT)

Name: Hector Figueroa

Address: \_\_\_\_\_

I represent: 32BJ

Address: 25 W 19th St NY NY 10011

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in favor  in opposition

Date: 11/23/15

(PLEASE PRINT)

Name: Ariel DeJesus

Address: 839 e. 19 Street Bklyn N.Y. 11230

I represent: 32 bj SEIU

Address: W25 18 st N.Y. N.Y.

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in favor     in opposition

Date: 11/23/15

(PLEASE PRINT)

Name: Jared Odessky

Address: 322 8<sup>th</sup> Ave., Suite 1700, New York, NY 10001

I represent: State Senator Brad Hoylman

Address: 322 8<sup>th</sup> Ave., Suite 1700, New York, NY 10001

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THE CITY OF NEW YORK**

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in favor     in opposition

Date: 11/23/15

(PLEASE PRINT)

Name: MARIE LEBOW

Address: 103 Arroyo Ave, Uniondale Ny

I represent: 32BJ

Address: 25 W 18<sup>th</sup> St N.Y. N.Y.

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