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7	SUBCOMMITTE ON LANDMARKS, PUBLIC SITING AND MARITIME USES	
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9		May 01, 2018
10		Start: 12:18 p.m. End: 1:16 p.m.
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12		250 Broadway - Committee Rm, 16 th Floor
13	BEFORE:	COUNCIL MEMBER ADAMS
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15	COUNCIL MEMBERS:	Talania anno 17 Talanno
16		Adrienne E. Adams Inez D. Barron
17		Peter A. Koo I.Daneek Miller
18		Mark Treyger
19	APPEARANCES: Panelist Silberman, General Council of	
20	_	Landmarks Preservation Commission
21	Panel Director for the C	ist Giardia Capehart, Budget Commission
22	Joseph Rosenburg and Collen Heimer for	
23	Landmarks Conserva	ncy
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COUNCIL MEMBER ADAMS: Good afternoon and welcome to this meeting of the Subcommittee on Landmarks, Public Siting and Maritime Uses. I am Council Member Adrienne Adams, the Chair of this Subcommittee. Today, we are joined by Council Members Koo, Salamanca, Treyger and Yeger. Today we will be holding one public hearing and voting on three items. The items we'll be voting on were heard in our April 17th meeting. We will be voting to approve LU63, the application by ACS and DCAS for the acquisition of property located at 4917 4th Avenue in Council Member Menchaca's district in Brooklyn for the continued use of Saint Andrews Community Daycare Center. We will also be voting to approve LU51, the application submitted by Montefiore Cemetery in Council Member Miller's district. Montefiore Cemetery seeks approval to use approximately two acres of land located across the street from the existing cemetery for additional burial space. will also be voting on a bill related to this application purposed INTRO 212A by Council Member Miller. A Local Law to Amend the Administrative Code of the City of New York in relation to approval of

cemetery uses on land acquired in Queens before 1973.

This legislation is required to give effect to

Montefiore Cemeteries application. I will now call

for a vote in accordance with the recommendations of

the local Council Members to approve LU's 51 and 63

and purpose Introduction number 212A. Council Please

CLERK: Adams?

COUNCIL MEMBER ADAMS: I.

CLERK: Koo?

call the role.

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12 COUNCIL MEMBER KOO: May I explain my vote?

COUNCIL MEMBER ADAMS: You may.

COUNCIL MEMBER KOO: I will vote yes to the votes, but I purpose in the future when we approve cemetery use in New York City, you must be nondiscriminatory, meaning that you must be open to all religious people. People of any color, because I don't believe that when we die we have to be separated in the certain areas. We all are equal. We are all ashes after we die in the sole. So, we should be allowed to bury wherever we can afford to buy. So, this is my concerns for the future. This time it is too late to make clear objections to it, but for the future, if we approve cemetery use by New

York City Council, we should consider the point. We should have equal opportunity for everyone who wants to buy that part of land in particular cemetery.

Thank you.

COUNCIL MEMBER ADAMS: Thank you Council Member.

CLERK: Treyger?

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COUNCIL MEMBER TREYGER: I.

CLERK: By a vote of three in the affirmative.

Zero in the negative and zero abstentions, all items are approved and recommended to the full Land Use Committee.

will now move on to our public hearing which is on Introduction number 368 by Council Member Salamanca. A Local Law to amend the administrative code of the city of New York in relation to authorizing the Landmarks Preservation Commission to administer historic preservation grant program. LPC administers a historic preservation grant program funding by the department of housing and urban developments CDBG program. This program provides grants of \$10,000 to \$30,000 to owners of designated landmarks who are qualifying nonprofits and individuals. Until recently, LPC's website indicated that religious

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institutions were prohibited from participating in This bill would authorize LPZ to the program. administer its historic preservation grant programs using local, state, and federal funds provided it does not discriminate against owners on the basis of their religious or nonreligious character. maintain consistency with the Landmarks Law and to ensure that such grants do not violate the first amendments establishment clause. The bill would restrict the use of grant funds to the maintenance and the preservation of exteriors of religious institutions and prohibit the use of such funds to maintain the interiors of spaces used for religious worship. I now recognize the bill Sponsor Chair Salamanca.

COUNCIL MEMBER SALAMANCA: I want to thank you

Chair Adams and good afternoon to everyone. I just

want to talk a little bit about — I just want to give

a briefing on this bill and how it came to light.

When I first got elected in 2016, one of the first

tasks that I had was approving the Landmarks of a

church, Immaculate Conception in my district which

was built in the late 1800's and I met with Landmarks

and I was in favor of landmarking it. It was a

beautiful structure and so I got a visit from the local pastor Father Skelly who is community oriented and is a staple in our community and Father Skelly asked that this application be removed from being landmarked because his parishioners - they don't come from wealth and therefore the contributions that they give to the church was not something to what other more prominent communities are afforded to give and his concern was that the building needed capital improvements and landmarking the building was going to handcuff them to putting capital improvements at a higher cost then they can afford. So, I told Father Skelly that I will support him and the Archdiocese on this request. However, we would have to come to some type of agreement because this was a beautiful building and it deserved to be landmarked. So, it took me two years and after two years, we were able to get to a good place where we have a bill that gives religious institutions the ability to landmark their buildings but gives them that access to funding where they can fix the structure of the building and ultimately, we can do what we are tasked to do which is to preserve that building. So, I am extremely

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SUBCOMMITTEE ON LANDMARKS, PUBLIC SITING AND 1 MARITIME USES excited that we are finally here to hear this piece 2 3 of legislation. Thank you. 4 COUNCIL MEMBER ADAMS: Thank you very much Council Member Salamanca. We will now call on our 5 6 panelist for the morning. Mark Silberman and Ms. 7 Capehart, please step up. Mr. Capehart. CLERK: Please raise your right hand and please 8 state your names. Please state your names. 9 PANELIST SILBERMAN: I'm Mark Silberman. 10 PANELIST CAPEHART: Giardia Capehart. 11 12 CLERK: Please raise your right hands. Do you 13 affirm to tell the truth, the whole true, and nothing 14 but the truth in your testimony before this committee 15 and in response to all Council Member questions? 16 PANELIST SILBERMAN: I do. 17 PANELIST CAPEHART: I do. PANELIST SILBERMAN: Good afternoon Chairs, 18 Salamanca, and Adams and members of the subcommittee. 19 20 I am Mark Silberman, General Council of the New York City Landmarks Preservation Commission and with me 21 2.2 today is Giardia Capehart Budget Director for the Commission. We are here on behalf of Chair 23 Srinivasan[SP?] to provide testimony on INTRO 368. 24

The purposed legislation amends the landmarks law by

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adding a new Section 25323 Titled Historic Preservation Grant program. This new section does two things. First, it authorizes the commission to administer a grant program with local state or federal funds for the purpose of preserving designated and calendared buildings and interiors. Second, the bill prohibits the commission from discriminating against religious entities as applicants for such grants and also prohibits the commission from making grants for the preservation of interior rooms used for religious worship and structure of proselytization. As the Council knows, since 1977 the commission has administered a historic preservation grant program targeting low and moderate-income homeowners along with not for profits to help restore or repair historic properties. During the first term of this administration from FY15 to FY17, we awarded just over \$233,000 to eight applicants with another four awards for a total of \$120,000 pending for FY18. These twelve awards came from an eligible pool of fourteen applicants. welcome applications from all not profits and property owners who need assistance restoring or repairing historic properties. The exiting grant

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program is funded by the federal community development block grant program which is administered by the United States Department of Housing and Urban Development. HUD sets specific guidelines and other restrictions for CDBG eligibility. For instance, a household of four may earn up to \$83,450 to be eligible for a grant and our testimony provides a graph of those kinds of restrictions. Applicants above these income levels may also be eligible for a grant provided they are able to put forward a 10 to 50% matching contribution. For instance, a fourperson household putting forward 50% of the projects cost may collectively earn no more than \$104,300 for their application to be eligible for the grant program. Additionally, if the property is being used for rental housing, tenants must be paying an affordable rent. In New York City this is defined as paying either less than or equal to 30% of the household adjusted gross income or equal to or less than the fair market rent for that type of unit as established by HUD for the New York City area and those kinds of rental guidelines are also included in our testimony. Similarly, for not for profits that own historic properties must either be providing a

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benefit to low and moderate-income persons or an area, or the property must be determined - must be detrimental, excuse me. To the publics health and safetv. The not for profit must also be organized under Section 501C3 of the Internal Revenue Code. However, Federal Regulations are ambiguous as to what types of projects may qualify for the grant program when the property is being used for religious purposes. In February 2018, the commission and the New York City Office of Management and Budget wrote to HUD asking for clarity on when and with what conditions CDBG funds maybe used to rehabilitate properties that are being used for religious purposes. We are happy to share HUD's response once we receive it. In closing, we appreciate the spirit that underlies INTRO 368 and we hope to have your support as we continue to work with HUD to understand what types of projects may qualify for historic preservation grants at properties being used for religious purposes. As an agency that regulates and works frequently with property owners, we are sensitive to the added responsibility that owning a landmark property comes with. For this reason, we work closely with owners to provide free technical

expertise and assistance for when applicants seek to make changes to a property. We are also currently working on a series of rule changes that would promote preservation by making the application process for work more efficient and less costly. Archdiocese of New York and Diocese of Brooklyn testified in favor of the changes on behalf of the Catholic Church which owns over 140 landmark structures throughout the five boroughs. We are also proud that under this administration, the city has been a strong supporter of Federal and State Tax Credits for the rehabilitation of historic properties which were at risk in the recent budget cycles. behalf of the commission, we thank you for allowing us to testify today and are happy to answer any questions you might have.

COUNCIL MEMBER ADAMS: Thank you very much. Mr. Silberman, LPC's website for its CDBG funded historic preservation grant program once stated that buildings used for religious purposes were ineligible for grants. LPC recently changed its website to state that Federal Regulations may restrict the use of CDBG funds for such buildings. Is LPC currently accepting

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grant applications from religious institutions and if so, what is it doing with those applications?

PANELIST SILBERMAN: We are currently accepting grant application from any eligible not for profit.

We are waiting. We have not awarded any grants, we are waiting to get a response from HUD to see what restrictions and how we can properly you know, apply those finds to religious applicants.

COUNCIL MEMBER ADAMS: Thank you. You've referenced in your testimony a wait on HUD. Is there any response as far as follow up or a timeframe from them at this point?

PANELIST SILBERMAN: We have not heard of any.

COUNCIL MEMBER ADAMS: Okay. How many houses of worship have been landmarked to date?

PANELIST SILBERMAN: Well its an interesting question. There are approximately 490 buildings used known by religious entities that have been designated. That includes both individual landmarks and buildings within the districts and that's buildings. Specifically, houses of worship our data base shows that there is 319.

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COUNCIL MEMBER ADAMS: Okay. Now you've mentioned in your testimony that LPC landmarks interior portions of houses of worship only.

PANELIST SILBERMAN: Exteriors.

COUNCIL MEMBER ADAMS: Exterior, I'm sorry.

Exterior. How does or can LPC ensure that grant
funds will not be used to improve interior spaces
used for worship?

PANELIST SILBERMAN: Well, grants are awarded for specific work and we have a grant — our grant program staff is very, very involved in these grant applications. We are working with the contractors, we are working with the specifications. So, you know, we're very — we monitor closely the scope of work that's happening. So, that's the way we would know that its not being used.

COUNCIL MEMBER ADAMS: Okay, and what types of restoration work are typical of religious institutions that are different from nonreligious institutions and how do those differences effect the cost of maintenance?

PANELIST SILBERMAN: Well religious buildings tend and not always but tend to be you know fairly robust mason rebuilding's with ornamental designs on

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the outside. So, in that sense, they tend to be — a lot of the cost has to be masonry repair and restoration to the extent that sculptural detail and other kinds of ornamental detail need to be addressed. They can be more expensive for that reason.

COUNCIL MEMBER ADAMS: And has the city ever authorized the use of expense or capital funds for historic preservation?

PANELIST SILBERMAN: For historic preservation?

COUNCIL MEMBER ADAMS: Historic preservation.

PANELIST SILBERMAN: Of religious -

COUNCIL MEMBER ADAMS: Has the city ever authorized the use of expense or capital funds for historic religious institution?

PANELIST SILBERMAN: Do you want to answer that Giardia?

PANELIST CAPEHART: So, for the grant program there has been one grant awarded to the complication of [inaudible 16:54], that was for a cemetery wall and so that grant was approved because it wasn't for religious purposes. The cemetery obviously it was to prevent [inaudible 17:09] conditions and also to protect the public safety. So, the grant program

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approved that grant. Unfortunately, the congregation withdrew the application because they didn't proceed with the project, but that's the only time where the grant program — where the LPC historic preservation grant program awarded a grant to an entity — a religious institution. As far as the city as a whole, we can speak to that. That's something that we can check with OMB or another — because Landmarks also doesn't have a capital budget. So, that's another thing too. So, if there is any capital funding approved for any party that's something that landmarks has oversight of.

COUNCIL MEMBER ADAMS: Okay thank you. I may have some questions at the end. I will now turn it over to Chair Salamanca for questions.

COUNCIL MEMBER SALAMANCA: Sure. Thank you,

Chair Adams. Thank you for your statement. I'm

really excited and I want to thank you for the help

that your agency has given us in putting together

this purposed bill. How much funding will be

allocated to this grant for these types of

institutions? Will it be separate from the grants

that households are eligible for or this is all the

same pot?

PANELIST CAPEHART: Its all the same pot. Every year we get an allocation of \$115,000 per year for the grant program and that's for both residential properties and for nonprofit — properties from nonprofits.

enough if we pass this grant. Even if we pass this piece of legislation. Alright, my next question was going to be, will it interfere with the community development block grant programs and I guess you answered that. It is — it will because its all in the same pot correct? Its all coming from the same pot.

PANELIST CAPEHART: So, the grant program funding is all in one pot for both the residential and for nonprofits. So, if we were to get an application from a religious entity, that will be from that same pot if the application was approved.

COUNCIL MEMBER SALAMANCA: At the preliminary budget hearings, I remember there was concerns that the yearly \$115,000 that was allocated was not being used on an annual basis and that was being rolled over. Where does that money go? Let's say this year

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you only use \$80,000 or \$100,000, where does that extra \$15,000 go?

PANELIST CAPEHART: So, that money is in a general CDBG funding pool that comes to the city.

That is managed by the Office of Management and Budget OMB. So, for whenever there is underspending in one area, so our historic preservation program being one area of that, if it is underspending in one area, OMB has the ability to transfer funding to another area that will need additional funding, which will be — it could be another city agency or within LPC. If that money is not spent, that's something that is left up to OMB to decide how its spent but that's not money that goes back to the Federal Government.

PANELIST SILBERMAN: Just so it's clear. So, if money is unspent two different things can happen.

One is that we roll it over for use in the next year or there is also the option I guess that OMB can take that money and then use it for other eligible CDBG you know activities by other agencies.

COUNCIL MEMBER SALAMANCA: The first option is the ideal option but that's not whats occurring.

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PANELIST CAPEHART: So, its occurring so the way that option works is that in order for it to roll over funding to the next Fiscal Year, it has to be funding that was allocated for a project that is not finished yet. So, if its something — if its funding that is already allocated to a grant project that was approved, and that work has not been completed before the end of the Fiscal Year, we have the ability to roll the funding over to the next Fiscal Year for that project that has already been allocated for to complete that project. But funding that has not been allocated for a specific project because we don't have a lot of applicants that qualify for the grant program, that got approved for a grant, that funding is something that is in the hands of OMB.

COUNCIL MEMBER SALAMANCA: Whats the dollar amount that has been rolled over to OMB from this pot in the last five years?

PANELIST CAPEHART: So, there are two different things in terms of both OMB — so when it comes to roll over, its not rolled over to OMB. Rolling over means its staying within LPC projects.

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COUNCIL MEMBER SALAMANCA: I understand but OMB

- the OMB agency is responsible for managing that pot

of money?

PANELIST CAPEHART: Yeah, money that's not spent by LPC, yes.

COUNCIL MEMBER SALAMANCA: In the last five years, how much money from this grant has not been spent?

PANELIST CAPEHART: I can provide that information to you later on. I can look at the numbers for you later on.

COUNCIL MEMBER SALAMANCA: My concern is again,

I'm really excited about this piece of legislation

but I feel that the \$115,000 is not enough. Should

now other religious institutions realize hey, I

qualify for this and I want to do now capital

improvements to my building and landmarks will turn

around and say, wait a minute, we've met our cap in

terms of what we're allowed to spend annually when in

the last five years there is a dollar amount which we

don't know and you'll get back to us, which should be

readily available to everyone now that we're opening

up to a more broader audience.

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PANELIST CAPEHART: I just want to point out Council Member that as far as the funding available to LPC, if we are ever in a position where we have a lot of qualified grant applicants coming in and meet the requirements and we need additional funding, that door is open to us to go back to OMB to ask for additional funding. In the last few years, we haven't had that experience. That's why the amount we have that comes in every year is based on what we've spent over the past years. So, if there's an uptake in the number of qualified applications that we receive, and we review this application and they warrant a grant and we need additional funding, we have the ability to go back to OMB to seek additional funding. We haven't been able to do that -

COUNCIL MEMBER SALAMANCA: It hasn't happened because you haven't used it all.

PANELIST SILBERMAN: I just want to point out that we have given grants to almost every eligible applicant. So, we are -

COUNCIL MEMBER SALAMANCA: Yeah, and now you're opening up the door to other applicants which is exciting. I just really want to know whats the dollar amount and I'm surprised you don't have that

available because if someone owes — an agency owed money, they normally know off the top of their head. This agency owes me X-amount of dollars. So, please let's get that information. Is it possible that you can get that information while we're still having this hearing because I know some of my colleagues will have questions? I think its possible. You can call someone or send them a text, right?

PANELIST SILBERMAN: I cannot confirm that but — COUNCIL MEMBER SALAMANCA: There has to be someone that you can text and can go into a data base and say, OMB is holding X-amount of dollars from us. So please, get me that information. Now, are all houses of worship eligible for this grant?

PANELIST SILBERMAN: Again, theoretically every house of worship is eligible. The issue that we've reached out to HUD for clarification about is what type of work and under what circumstances and with what limitations would come with the grant. So, you know there are different, and I know, I think the HUD letter has been shared with the committee and there's lots of different iterations of that and we're waiting for clarification because it really depends

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on how the property is being used and what the purposed work is being applied for.

COUNCIL MEMBER SALAMANCA: When the private homeowner or a not for profit who is eligible for the community development block grant, when they apply they have to meet certain income thresholds. Will there be an income threshold for religious institutions? There certain more prominent communities in my district who have the funds to put in for capital improvements versus religious institutions in my district who Immaculate Conception the example, who ask not to be landmarked because their contributions that they get from the parishioners will not meet the needs to fix what needs to be addressed. So, will you — how would you balance this out?

PANELIST SILBERMAN: So, to clarify regarding the nonprofit organization that apply for a grant, its not based on a nonprofit organization. Its not based on income. It's based on the services they provide. So, when it comes to nonprofit organizations we look at, will it provide benefits to low-moderate income persons on area. So, its not based on income because it's a nonprofit

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organization. It's based on what services they provide. So, the CDBG funding will go toward again, if its something where that community were its in — one example is if it's a Senegal or a church that has a shelter or a soup kitchen for homeless people, the activities that they provide is what qualifies them for CDBG funding. Not an income of the organization because it's a nonprofit organization.

COUNCIL MEMBER SALAMANCA: I would like to have more of a discussion on this because I understand that they maybe providing similar services to a not for profit or a place of worship, but I think the whole purpose of this grant is to allow low income communities to have these buildings that should be landmarked and giving them the means necessary to fix or address what needs to be addressed in terms of capital improvements versus not for profit who is doing similar work but there in a more prominent community and they have bigger contributions from the parishioners compared to low income communities.

With that thank you Madam Chair.

COUNCIL MEMBER ADAMS: Thank you Chair
Salamanca. Just one more question for myself. What
is your anticipated increase in applications?

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PANELIST CAPEHART: You mean in terms of religious institutions?

COUNCIL MEMBER ADAMS: Yes, uhm hmm. Do you expect an increase — a substantial increase?

PANELIST CAPEHART: What we can say for sure in terms of what we can expect from it because based on need of repairs, as far as religious institutions for now like even with the changing our grant the land in which our website, we haven't received any applications for any religious institutions as of yet. So, I really can't say.

COUNCIL MEMBER ADAMS: So, you haven't really seen any movement in the area yet?

PANELIST CAPEHART: No.

COUNCIL MEMBER ADAMS: Okay, thank you. We'll now go to questions from my colleagues. I will as for the sergeant in arms to give us five minutes on the clock. First questions coming from Council Member Koo.

COUNCIL MEMBER KOO: Thank you. First of all, I support this bill. This is a really good bill for Chair Salamanca. The question I have from the administration is the grant money is too small in the \$115,000. I mean it cost more than a million dollars

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to do a paper bathroom you know in any part. More than a million dollars, two million dollars and landmarking fixing landmarking buildings is really expensive. You have to hire an architect. You have to hire special people to do it that you are paying. So, this money is too small. I'm going to change it for you to put more money to support this plan. second portion is you said religious institutions may not get grant money because of Federal Regulations. So, can they use a shovel gait and they say I have a church as another public because I have friends at Saint George Church. Can they apply instead of the church? A shovel gait organization, like a church a big church, they can form friends of say in the church and they are a part of the group. So, you're thinking a grant to the church already. Can this organization apply the grant money instead of the church applying?

PANELIST CAPEHART: So, the owners apply but I also want to point out its based on the use of the property. The application for a Law Grant Program is based on use for the property. So, even if its another organization that is applying, we still look at what property the work is being purposed for and

we look at what that property is being used for. So, it's not like the grant program is discriminating against a church or stealing application from churches. The all depends on that structure for which the application has been submitted. We look at the purpose for which that structure is being used and that's how we determine if that property qualifies for a grant program.

COUNCIL MEMBER KOO: Now you said before, most churches are only religious organizations now. They do a lot of service, soup kitchen for the homeless, after school programs, all these things.

PANELIST CAPEHART: Exactly, and so we accept applications from all those institutions. So, if a church that has one of those activities or more of those activities apply for a grant from our grant program. We accept those applications and review and we look at what work their looking to do on the property for which they are applying for a grant and that is what the qualification is based on. So, the qualification is based on what activities are being done at that property and what the property is being used for, so that's what we look at.

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COUNCIL MEMBER KOO: So, how many pages is on the application for applying this sense of plan? So, a hundred page or?

PANELIST CAPEHART: It's a two-page application.

COUNCIL MEMBER KOO: Two-page application, okay.

PANELIST CAPEHART: Two-page form, exactly.

COUNCIL MEMBER KOO: So, how long does it take you approve usually?

PANELIST CAPEHART: Well so we typically receive application through the course of the year and we have a board the grant program board that needs to review applications in the fall. So, it would depend on what time of the year the application was received. So, for instance, our board usually meets in the fall. So, that's around September to October of the year. So, if we got a grant application that came in say, July or August that application will be reviewed by the full board in September or October and a decision is made on whether they are awarded for a grant but I also want to point out that the first step is we have a grant team, a staff, that reviews the application initially to ensure that they meet the HUD requirements and as long as they meet the requirements we let them know that they have met

the initial requirement and we'll be forwarding the application on to the board for review and approval and if its an application that came in that does not meet the initial minimum requirement, then we'll let them know that they didn't meet that requirement waiting to go to our board. So, we can respond to them within a week or two weeks and if it's something that's going to the board, then we'll just wait for maybe a month or two until the board decides on what grants are being awarded.

COUNCIL MEMBER KOO: So, whats the average amount of your grant?

PANELIST CAPEHART: The average, you mean the dollar amount?

COUNCIL MEMBER KOO: The dollar amount, yeah.

PANELIST CAPEHART: So, our grant expansions are between \$10,000 to \$30,000. In recent years we've been giving grants mostly around \$25,000 to \$30,000 for a project.

COUNICL MEMBER KOO: Okay, thank you. Thank you miss Chair.

COUNCIL MEMBER ADAMS: Thank you Council Member. Are there any - Council Member Yeger.

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COUNCIL MEMBER YEGER: Thank you Madam Chair. First, I wish to associate myself with Council Member Koo's comments. I think the grant program is too low. A number of months ago, on the Council I voted against the landmarking of premises known as the Liberty house I believe in Bushwick because the owner disapproved of what I viewed as an unconstitutional taking in violation of the fifth amendment. A landmarking of a property is a taking because it puts up all kinds of brick walls to what the property owner can then go about and do to his or her property. More so of course with a nonprofit, which has far limited funds. An owner of a property can simply want to do more work, doesn't have enough money, get another job. A church can't really go and do that so, I do agree that the program should be a little more, but I'd like to focus a little bit on the questions about or the statement that you made with regard to the HUD regulations and as I understand it and as I believe you described, HUD regulations don't actually prohibit it they just they don't speak in favor of it. They don't speak against it. They don't care. They don't say. So, my question is because that was a statement.

question is what stops you right now from giving a grant to a church?

PANELIST SILBERMAN: Well I think Council

Member, the issue for us is again not necessarily the eligibility but HUD does have guidance documents that sets forth and you know and certain formulas and things like that and so we want to be sure that when we — if we were to give a grant that it would be in full compliance with the Federal Guidelines. So, that's why we've asked for specific guidance giving them sort of different scenarios just, so we truly understand are good stewards of this federal money and use it in a proper way.

COUNCIL MEMBER YEGER: What if they never answer you?

PANELIST SILBERMAN: I don't think we would have any expectation they would never answer. We submitted — well, I think we would deal with that I suppose after a long delay and continued requests, but we don't expect that. I think the city has good relationships with HUD and we would expect them to give us answers. I mean it's a very reasonable request.

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COUNCIL MEMBER YEGER: Okay, and the regulation that you referenced that is ambiguous and I think you spoke of the ambiguity of it part five of the HUD Regulations say faith-based organizations are eligible on the same basis as any other organization to participate in HUD programs and activities. We're not getting that from you, we're getting that from our Council that work at this [inaudible 36:33]. That seems to be a very broad statement, but it also seems to me that says that you know, if an organization is faith based on its piece property and applies for a grant program that relies on HUD money, no reason that the faith-based organization should not be eligible to receive that grant money. You're relying on ambiguity, but this seems to me to be quite ambiguous.

PANELIST SILBERMAN: Well, Council Member I would just sort of say you know I think we need to perhaps back up a second. The landmarks commission certainly would be you know, pleased to award grants to religious organizations. We work very closely with religious organizations and have throughout our ten years. We work closely with them to make sure that they can meet the needs they have for dealing

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with practical repairs to their buildings. We're very sensitive to the fact that many of these entities have small congregations and have limited funds and so we at a staff level, we have a dedicated staff person that works primarily and solely with religious organizations to the commission. In the rare case where they do come forward. You know the commissioners have expressed and indicate and approve all sorts of very practical solutions to particular problems so, we certainly have no — we want to be able to give money. We want to provide money to eligible applicants. We just want to make sure that we're doing it in a way with full compliance with Federal Regulations.

that my college spoke about The maculate conception in his district, you know one of the things that I found fascinating on the houses of worship question for landmarking is that the houses of worship that are likely in most need of protection and repair of their very aging premises are usually the oldest — not obviously the oldest but usually the smaller ones in neighborhoods where they're not necessarily getting the financial support that they did when they

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were build 100 and change years ago. So, this is usually relatively for neighborhoods that have these tremendous buildings that are historic if not with your stamp of approval but surely throughout - I'm just going to go on for a little second Madam Chair. Throughout the course of history. So, I would urge you to take a broader reading then a narrower reading because as I read, you know and I'm not the wisest The wiser ones are employed by the Council. lawyer. I'm just a small country lawyer and recovering lawyer, I think we call it but the prohibition if you will that your afflicting and I don't want to use that word afflicting, but that your opposing on amount of profits is not really written in HUD regulations at all and in my estimation, I think you can go out tomorrow morning and give out a grant, then I agree with Council Member Koo, you need more money to do so but in my estimation you can give out a grant to a nonprofit that is a religious house in order to preserve its landmark premises in the city of New York and I don't think that anything should stop you. I would urge you not to wait for HUD to get back to you and to start working to implement something like that now. Thank you, Madam Chair.

COUNCIL MEMBER ADAM: Thank you. I'd like to thank our panelist for your testimony today. Thank you very much. You may step down. Okay, we're going to call up.

PANELIST CAPEHART: You got the dollar amount that was unspent over the last three fiscal years, they add up to \$55,000. The three fiscal years. The unspent. Not spent.

COUNCIL MEMBER SALAMANCA: Not spent. So, \$55,000 not spent.

PANELIST CAPEHART: Yeah that was not spent. Over the last three Fiscal years.

COUNCIL MEMBER SALAMANCA: Okay thank you. Make sure you get that money back.

PANELIST CAPEHART: No, no I just want to clarify that's money that was not spent by LPC so that's money that was up to the Office of Management and Budget to spend on all the eligible areas that require funding. Not with LPC.

COUNCIL MEMBER SALAMANCA: So, you, in the last three years there was a total of \$55,000 for three years combined that was sent back to another pot that OMB runs?

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PANELIST CAPEHART: So, that's money that was left in the general yeah, in the general pool that only be determines how that money gets reallocated but that's money that LPC did not spend. If I understand your question well is how much of our grant program money over the last few years we did not spend so it was \$55,000 over the last three years that we did not spend.

COUNCIL MEMBER SALAMANCA: Does OMB in return if they spend that money reach out to your agency and say hey we spent this money.

PANELIST CAPEHART: No that's not something — that's OMB, they manage, the OMB unit manages the CDBG funding for all citywide agencies. They allocate to respective agencies based the CD programs that each agency has and so if an agency in our case doesn't spend all of our CD funding or it gets to determine where it is reallocated but not come back to us and tell us where it was reallocated. That's up to OMB to determine that.

COUNCIL MEMBER SALAMANCA: And I find that a little disheartening because this is not money that the city got from — its tax payers. This is grant money that they got from the Federal Government and

for OMB to just automatically this money goes back to this fund and they have how can I say, within their rules they can just allocate that money where they choose without reaching back out to you and saying this is how we spent money that the Federal Government sent your agency —

PANELIST CAPEHART: Council Member just to clarify. OMB is the city Office of Management and Budget.

COUNCIL MEMBER SALAMANCA: I know who they are.

PANELIST CAPEHART: So, they manage the CDBG funding that the city receives from the Federal Government. So, they have the oversight of that — of that pool of funding. Not the individual agency so, if an individual agency depending on what CDBG program they have, get allocated a certain amount by OMB. Now, if there's underspending in one area in another city agency, OMB has the ability to reallocate funding to another city CDBG program. So, the money is not going back to the Federal Government. It's still being spent —

COUNCIL MEMBER SALAMANCA: No, I know the money, but your agency is not making a decision as to where

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1	SUBCOMMITTEE ON LANDMARKS, PUBLIC SITING AND MARITIME USES
2	that money is being spent. OMB is making that
3	decision.
4	PANELIST CAPEHART: Yes.
5	COUNCIL MEMBER SALAMANCA: And I'm just curious
6	to know, how do they make that decision? What
7	criteria do they use, and this is for another
8	conversation?
9	PANELIST CAPEHART: Yeah that's something that
10	OMB —
11	COUNCIL MEMBER SALAMANCA: You should have
12	access to this money. OMB should not be reallocating
13	this funding elsewhere. Alright, thank you.
14	COUNCIL MEMBER ADAMS: Thank you very much.
15	Okay, we would like to ask Joseph Rosenburg and
16	Coleen Heimer[SP?], please step up. Good afternoon,
17	please state your name for the record.
18	JOSEPH ROSENBURG: Good afternoon. I'm Joseph
19	Rosenburg.
20	COLEEN HEIMER: I'm Coleen Heimer.
21	COUNCIL MEMBER ADAMS: Thank you very much. You
22	may begin.
23	JOSEPH ROSENBURG: Okay, thank you. Good
24	afternoon Chair Adams, Salamanca, Koo, and Council
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Member Yeger. I'm Joseph Rosenburg, Director of the

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Catholic Community Relations Council representing the Archdiocese of New York and the diocese of Brooklyn on local legislative and policy issues. I'm hearing strong support of INTRO 368 which authorizes LPC to create a historic preservation grant program. measure of pass would establish a program to provide much needed resources for owners to preserve their landmarked properties. It would specially be helpful to religious organizations which do not receive public moneys for the restoration and repair of their landmark structures. The Catholic Church owns over 145 landmark structures and buildings located in historic districts throughout the five boroughs. More than any property owner in our city. Although the goals of historic preservation are endorsed by the Catholic Church in New York city. The cost to maintain and renovate churches, schools, and rectories. Many of them over 100 Years old is enormous. Preserving the ecclesiastical architecture which contains intricate car stone work and fragile stained-glass windows especially poses challenges resulting in extraordinary expenditures. Landmarking these structures only increase the cost of such restoration and adds to the daily operational costs

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of maintaining these properties. The use of special materials approved by LPC and the hiring of consultants together with lengthy approvals are required in order to make even routine improvements to these buildings. Landmark designation also detracts from the churches charitable and social mission by diverting funds away from the food pantries, immigration clinics, senior citizens and other social services that are an essential part of parishes work in all of our cities neighborhoods. Such designations are a serious burden which infringe on the ministry of the church. It is important to note that no public funding exists to offset the added expense and burdens associated with landmarking buildings or creating historic districts which contains structures owned by religious organizations. The costly mandates and repairs imposed by landmarking must be born exclusively by the church and its parishes. Many of which have few with any financial resources. That is why we so strongly support the creation of a program that would authorize grants for this important purpose and thank Councilman Salamanca for introducing this measure as well as his strong support in aligning with us and

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the opposition of designating Immaculate Conception as a landmark. We especially appreciate the inclusion of language in the bill stating that any grant program "shall not discriminate against an organization on the basis of such organizations, religious character or affiliation". It is our strong hope that this overdo initiative will be passed by the council and that both the mayoral administration and the City Council will provide this program with a sufficient funding stream to insure its viability and success in helping to preserve New York Cities architectural and historic legacy. Thank you.

COUNCIL MEMBER ADAMS: Thank you.

COLEEN HEIMER: Thank you. Hello Chair Adams and Chair Salamanca. I'm Coleen Heimer speaking on behave of the New York landmarks conservancy. The conservancy supports the goals of this legislation to allow the landmarks commission to provide grant funding to landmark religious properties and we appreciate this interest in the issue from Council Member Salamanca. There is a long history of providing funds to New York Cities religiously owned landmarks. Over 32 years the conservancies Sacred

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Sight Program has provided 480 grants totaling 4.6 million to 225 religious institutions. This has in turn funded \$417 million dollars in restoration projects. The New York State office of parks recreation and historic preservation has an environmental protection fund grant program which provides religious landmarks, matching grants of up to \$500,000. A current grantee is the reformed Protestant Dutch Church of Flatbush. The borough Presidents and City Council have also provided capital funding for restoration projects such as the exterior restoration of the Flushing Quaker Meetinghouse which received funds in 2008 from all three sources. However, we have major concerns with regard to implementation of this law. The landmarks preservation commission has a grant program funded by the US Department of Housing and Urban Development. The purposed law is potentially in conflict with HUD funding guidelines. We understand that the landmarks commission has reached out to HUD for clarification of the guidelines and we hope the Councils amendment is deferred until HUD responds to LPC's inquiry. also have questions. With this law change, the LPC's existing grant program it calls on the commission not

to discriminate but we have not seen evidence of discrimination just following funding guidelines. Are there plans to expand the grant program? This would be welcomed news as the current grant program is small and oversubscribed. If passed, we hope that the Council will allocate additional funding to assist eligible nonprofit and low-income owners of landmark properties. Increased grants would be welcomed for existing landmarks and good incentives when new designations are under consideration. We'd be happy to meet with Council staff and LPC staff to discuss how this program could be expanded in the future. Thank you for the opportunity to express the conservancies abuse.

COUNCIL MEMBER ADAMS: Thank you very much for being here today. I'm sure that and I appreciate your testimony. I'm sure that you're aware that this Council is very progressive, and we are looking to alleviate a lot of burden from our constituency in New York City and I'm just curious to know per your testimony Mr. Heimer, why exactly do you want, or would you want the Council to wait on voting on this Bill?

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COLEEN HEIMER: Well in case it turns out that this would be in conflict with HUDs guidelines.

Would there be the potential then that LPC funded religious properties would then have to repay the money and that would be a huge burden if the money in poor communities has already been spent.

COUNCIL MEMBER ADAMS: Okay but given that and given everything that is a part of this bill, I just find it a little curious or a little unsettling that the Council would wait on approving this particular legislation, but I accept your response. Director Rosenburg, thank you for your testimony today.

JOSEPH ROSENBURG: Thank you.

COUNCIL MEMBER ADAMS: Do you know or have any personal knowledge of any religious institutions that may possibly take advantage of this grant.

JOSEPH ROSENBURG: Well yeah certainly and this goes obviously I represent the Archdiocese of New York and the Diocese of Brooklyn but there are certainly synagogues and mosques and lots of churches that are very old structures that would consider this to be a tremendous advantage if this was passed and sufficiently funded.

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much. I'm going to turn it over to Chair Salamanca.

We're going to put five minutes on the clock and
we're going to come to colleagues for their questions
as well. Council Member Yeger?

COUNCIL MEMBER YEGER: Thank you Madam Chair and I'll be very brief. Ms. Heimer, you support he goal of the legislation.

COLEEN HEMIRE: Yes.

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COUNCIL MEMBER YEGER: And I'm very grateful for the conservancies and great work with the money that it raises to support landmarking and preservation for historic structures in New York. I would echo the Chairs comments regarding waiting for HUD as you heard. You were in the room, you heard earlier I said, well what happens if HUD never gets back to LPC and that's you know who knows I mean right. Somebody gets a letter at HUD and they throw it in the garbage and the decide they're never going to get back.

That's a realistic thing, it's possible. HUD is the government. You know, its in Washington, things go in the garbage in Washington. So, the question that I have is you know as I described earlier, HUDs regulations state "faith-based organizations aren't

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eligible on the same basis as any other organization to participate in HUD programs and activities".

That's from Federal Regulations. There seems to be no bar whatsoever in HUD Regulations other than a self-imposed ambiguity described by the landmarks preservation commission which in my humble estimation I don't believe exits. Its simply an ambiguity. So, given the fact that HUDs Regulations are very clear that faith-based organizations are eligible to participate, why would you believe that its necessary to wait for HUD to say yes, we mean what we say in our regulations?

COLEEN HEIMER: Well, I can't answer to the LPC's interpretation of guidance it has received or guidance it has read but again, we would appreciate that additional guidance, that additional confirmation from HUD and we would anticipate that HUD would respond.

COUNCIL MEMBER YEGER: But we don't as a city,
we're government and we all took an oath and to
uphold that addition to our Charter and our state
Constitution, the United States Constitution. So, I
would hope that you can trust us. I'm not asking you
to lend me any money, but I would hope that you could

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trust us that we're not going to pass a law that is conflict with the Federal Law and as I've described HUD is pretty clear in its own regulations that there is no bar. So, what your asking is a prophylactic measure of an additional assurance by HUD telling us that yes, what you read is right. We haven't changed our minds yet and I would just briefly like to read something that I think is important. I mean I read this probably twenty times in the last year and I always find it fascinating because its such strong language. If on account of my religious faith I am subjected to disqualifications from which others are I cannot consider myself a persecuted man. odious exclusion from any of the benefits common to the rest of my fellow citizens is a persecution. that's from the Supreme Court decision issued last year Trinity Lutheran Church where the court was very clear that a church can't be discriminated against. Now you said there's no indication of discrimination but as you know, LPC will not grant - will not award a grant to a religious house, house of worship. is discrimination. Maybe they're not calling it discrimination but their saying everybody in New York City that's a nonprofit can apply for this grant and

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get it. Wait, churches not you. So, that's discrimination and it may not be the typical discrimination. Its not you know, a separate water fountain discrimination. It's not segregated school's discrimination, but its discriminating against a group of people based on the fact that they are observing religion and that they have a house of religion that they're asking. So, what I ask you to do is - you know I'm not asking you to sign on today and throw a parade with us but I would ask you to go back and look at this again and along the goals that you say you support, which is to preserve houses of worship which your conservancy does do and the ultimate goal of this Council is to make sure that historic houses of worship in districts like Council Member Salamanca's in predominantly minority neighborhoods that are very old churches and in a lot of cases very old synagogues that have been repurposed over time for churches be preserved for the future of our children so that they can see what our city was and how we've built it.

JOSEPH ROSENBURG: Thank you and something I'd like to add to that in terms of at least the HUD funding issue. Although FEMA is certainly not HUD

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and are completely separate different agency. in January, the bipartisan budget agreement included an amendment to the Federal Disaster Act. That was passed by Congress, signed by the President and supported by FEMA which for the first time allowed houses of worship that are damaged due to natural disasters to be eligible for rebuilding for FEMA repair funds and its retroactive to August 2017, so it includes all the mosques all the synagogues, all the churches that were badly damaged due to Hurricanes Maria, Harvey, and Erma. So, there is certainly a president here. I believe the FEMA funds might be CDBG, I'm not positive but this is certainly not a pioneering mission here and if FEMA and Congress has deemed it appropriate for funding to be used to help rebuild houses of worship that were the first responders, natural disasters, certainly this is a similar issue that I suspect HUD would welcome.

COUNCIL MEMBER ADAMS: Thank you very much. Are there any more questions from the panel? Okay, you may step down. Thank you very much for your testimony today. Are there any members of the public that wish to testify in this matter? Seeing none, I would like to thank the Council and Land Use staff

1	SUBCOMMITTEE ON LANDMARKS, PUBLIC SITING AND MARITIME USES
2	for preparing today's hearing and the members of the
3	public and my colleagues for attending. This meeting
4	is adjourned. [GAVEL]
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World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date April 1, 2018