

New York City Council
Committee on Governmental Operations, State and Federal Legislation
Written Testimony by Mayor Eric Adams
Wednesday, May 29, 2024, 10:00 AM Council Chambers – City Hall

Speaker Adams, Chair Restler, and Members of the Committee on Governmental Operations, State and Federal Legislation. I am submitting this testimony as mayor of the City of New York to express my concerns regarding Intro. 908, which would require the advice and consent of the City Council for 21 city commissioners.

As you know, the mayor of New York City has had sole authority to appoint Commissioners and agency heads since 1884 – for 140 years – and for good reason. In March 1884, then Governor Grover Cleveland signed a bill into law placing the responsibility to appoint agency heads solely with the mayor. Governor Cleveland issued a signing statement emphasizing that the principles of good government required this change because New Yorkers are best served by vesting the power of appointment only in the mayor who is “elected by all of the people in the municipality,” not by dividing or sharing that power with legislators who are “responsible only to their constituents in their respective districts.” Cleveland further wrote: “If the chief executive of the city is to be held responsible for its order and good government, he should not be hampered by any interference with his selection of subordinate administrative officers...” and “[t]he plea should never be heard that a bad nomination had been made because it was the only one that could secure confirmation.”

The real world impacts this legislation, if enacted, would have on every New Yorker across the five boroughs would be vast, and once you think about the proposal you are quick to conclude that it would be undoubtedly bad for New Yorkers.

Any uncertainty or delay in appointing agency leadership creates the real possibility for harm from delayed service delivery. From emergency management to senior services, to health care continuity, to garbage collection and construction safety – this bill risks diminishing the City’s ability to manage and respond to the service needs that we all hear from the public everyday. Right now, we regularly experience significant delays in scheduling confirmation hearings for the relatively small number of nominees to even be considered by the City Council. As we have seen many times, major events have challenged the City such that administrative and political delays could have major, negative impact on the delivery of service and

confidence of New Yorkers in their government. You only need to look back to the prior administration when the Health commissioner resigned in the midst of the fight against COVID. Imagine taking several weeks or months for a new commissioner to take their place, and the impacts of that vacuum of leadership would have for the staff of the agency, and New Yorkers at-large.

On top of those risks, the politicization of the appointment process can have many harmful implications for New York City's professional governance. While the City is able to attract some of the best talent to lead our agencies, there are significant sacrifices those individuals make in order to serve New Yorkers, whether that is in the form of salary or work-life balance. Adding the uncertainty and potential for public spectacle of an "advice and consent" process to the list of sacrifices would seriously hamper the city's ability to attract and retain good talent. We have a clear example of how this process can be corrupted by politics when we look to our nation's capital and see a process that is weaponized and politicized to score cheap political points and is a disservice to the American people. This legislation would have the same effect on New Yorkers.

Prior to 1884, the City experimented with a system where the city's legislators – known as the Board of Aldermen – confirmed the mayor's appointments. To put it plainly, the system proved to be bad government, primarily because it induced a lack of accountability. When there is no one clearly in charge, and therefore no one who can clearly shoulder blame, New Yorkers lose faith in government. This is precisely why the Aldermen system of confirming mayoral appointments was abandoned. In short, it was tried and failed and the City moved decisively away from it in order to bring more accountability to city government and services.

The mayor's power to appoint agency heads has remained intact since 1884. In fact, multiple charter review commissions have reinforced that this mayoral authority is critical both to the mayor's ability to govern and to the people's ability to hold the mayor accountable at the polls. In 1975, for example, the Commission found: "It is the mayor whom the public holds accountable for City programs and services. With this responsibility must come authority to select those individuals who are to carry out executive policy. The role of the City's legislative bodies should be to evaluate and report on the performance of the mayor's appointees."

There are only two exceptions in all of New York City government for which the City Council has advice and consent for non board or commission agency head appointments – for Commissioner of the Department of Investigations and the Corporation Counsel. The charter commissions said that those exceptions were made

because of the very unique nature of those positions. The DOI Commissioner is responsible for conducting investigations citywide, including “as directed by the mayor or the council.” Additionally, the Council’s recent charter commission distinguished the position of the Corporation Counsel, because that position represents not just the city agencies, but also the City Council and Comptroller. As such, for those two positions, exceptions were made in recognition of the uniqueness of the posts.

Lastly, the Council already has significant checks on the mayor’s power, including budget, land use, and oversight. The Council regularly holds oversight hearings, approves of the budgets, and legislates reporting requirements from City agencies. If there ever are shortcomings from any agency, the Council then holds those who have been appointed to do these jobs accountable. If for whatever reason the Council feels that information they are seeking is not being produced, they also have the authority to subpoena the administration to compel us to comply or face legal sanctions by a court. In other words, oversight from the Council already exists. Expanding that oversight to having final say on the mayor’s choice of who they want to lead agencies to carry out the policies that city voters elected them to carry out would be a disservice to New Yorkers for the reasons outlined throughout this testimony.

I would ask that the Council reflect on the experience and judgment of past Governors, Mayors, Charter Revision Commissions and others who have all come to the same conclusion: this proposal is misguided. I urge you to reject this proposal, if brought to a vote. I thank you for the opportunity to share my concerns with Intro. 908. I know that both the Administration and the Council have a shared commitment to good governance that is both reflective and responsive to the needs of all New Yorkers – one that is rooted in accountability and transparency to ensure public trust and to advance the public good.



JUMAANE D. WILLIAMS

**TESTIMONY OF PUBLIC ADVOCATE JUMAANE D. WILLIAMS
TO THE NEW YORK CITY COUNCIL COMMITTEES ON GOVERNMENT
OPERATIONS, STATE AND FEDERAL LEGISLATION**

Good morning,

My name is Jumaane D. Williams, and I am the Public Advocate for the City of New York. I thank Chair Restler and the members of the Committee on Government Operations, State and Federal Legislation for holding this important hearing today.

Our city finds itself at the center of multiple crises: housing affordability, immigration, rising childcare costs, failing infrastructure amidst heightened natural hazards. New York has one the strongest mayoralties in the country but we have seen the problems that system presents across many administrations. The proposal set forth by Speaker Adams would make the appointments of specific city Commissioners subject to the advice and consent of the New York City Council, making the process more transparent overall and eliminating the possibility of political patronage. This is not about any one administration but rather ensuring that the Commissioners in charge of our most critical agencies are uniquely qualified for their appointments and ready to serve New Yorkers in their respective capacities.

Our city is the outlier here – not only on federal and state levels, but in many municipalities, legislative approval of executive appointees is already the standard. It is also important to note that Council approval is already required for dozens of board positions as well as certain Commissioner positions including but not limited to the Department of Investigation and the Taxi and Limousine Commission. Since the beginning of the Adams administration, the City Council has approved a total of 35 appointees. I would argue the Council’s proposal for oversight on just 21 of 80 overall Commissioner appointees isn’t enough. I would propose adding additional leadership positions to this list, including police commissioner and education chancellor, positions that are charged with the protection of our most vulnerable New Yorkers.

A genuine balance of power between the legislative and executive branches would improve government for all New Yorkers. I support the Council in their efforts to increase oversight, transparency, and accountability by strengthening their role in providing advice and consent. Thank you.

C. Virginia Fields
New York, NY 10030
cvirginiafields@gmail.com

May 30, 2024

Honorable Adrienne Adams
Speaker
New York City Council
City Hall
New York, NY 10007

Dear Speaker Adams,

I am writing, as a concerned New Yorker and former member of the New York City Council from 1989-1998 and Manhattan Borough President from 1998-2005, to express opposition to Int. No. 908 that seeks to “amend the New York City Charter in relations to requiring council advice and consent for certain commissioners.”

Approval of this legislation would increase advice and consent to cover twenty-one Agencies, in addition to the eleven appointments, which are already subject to council advice and consent; specifically, *commissioner of investigation, corporation counsel, members of the board of the art commission, board of health, board of standards and appeal, city planning commission, civil service commission, landmarks preservation, tax commission, taxi and limousine commission, and public members of the environmental control board*. If enacted, the bill would give the council advice and consent for thirty-one of the New York City government appointments which represents a momentous change in the process.

Serving in elected office as a City Council Member and Borough President, I experienced (and still today) appreciate the extraordinarily complex nature of leading and managing this city. To do so, a mayor needs to be given the latitude to select and appoint a wide range of the agencies’ leadership especially related to the day-to-day operations. Making such appointments in a timely manner are required for the continuous delivery of efficient and

effective services to New Yorkers.

The Charter Revision of 1989, year that I was elected as a member of the City Council dramatically changed the balance of power that elevated the council and Speaker to a powerful legislative body with many opportunities to make land use decisions, develop policies, negotiate and approve budgets, investigate and monitor agencies, leading and speaking on behalf of New York City residents, and making a difference.

Throughout the country, at every level of government, we are seeing continuous tensions between the legislative and executive branches of government.

As opposed to having an expanded advice and consent fight, it is important to do the frequently dreary work of listening to each other and sorting opinions to find compromise that works for the benefit of all New Yorkers.

Respectfully Submitted,

A handwritten signature in black ink, appearing to be "William J. Miller", with a horizontal line drawn underneath it.

Dr. Annette M. Robinson

Brooklyn NY 11233

5/31/2024

Hon. Adrienne Adams
Speaker of the New York City Council
City Hall
New York, NY 10007

Dear Speaker Adams,

I am writing to express my strong opposition to Introduction (Intro) 908 which is currently under consideration. As a concerned citizen, resident of New York City, and a former member of the City Council, I believe this legislation will have detrimental effects on how New York City conducts its governmental operations.

The proposed bill, as it currently stands, would require the Mayor to get advice and consent for 21 agency commissioner appointments. This will lead to city agencies operating without a commissioner for weeks and, perhaps, even months at a time. Under the previous administration, the Health commissioner left in the middle of the pandemic. Imagine saying to the citizens of New York City that we wouldn't have someone in charge of the Health Department in the midst of dealing with the COVID-19 pandemic. The impacts of that delay would severely impact every single New Yorker.

I understand the intent behind this legislation is to provide greater oversight and control over city governance and operations, but all one has to do is look to our nation's capital to see the bureaucracy and gridlock this proposed legislation will bring, including prolonged, time-consuming hearings for what should be routine appointments and the politicization of positions meant to primarily oversee vital services for working-class New Yorkers. Legislative, partisan overreach has led to the extreme dysfunction we see at the federal level. New York City should never look to replicate a broken system in Washington by removing a system that has served our city well for more than a century.

I urge you to consider the potential harm this legislation could cause with gaps in agency administration and service delivery. Agencies don't have the luxury of protracted leadership vacuums. Garbage must be picked up, streets must be plowed, health experts must have the ability act quickly and provide guidance to the public. The list of basic government services that would be impacted goes on and on. I am urging you to not put this up for a vote.

Thank you for your attention to this matter. I trust that you will represent the best interests of our community as you consider your decision.

Sincerely,

Annette M. Robinson
Annette M. Robinson

Hon. Helen D. Foster

[REDACTED]
Bronx, New York 10452
[REDACTED]

May 29, 2024

Adrienne Adams
Speaker of the New York City Council
City Hall
New York, NY 10007

Dear Speaker Adams,

I am writing in my capacity as a New Yorker and a former City Councilmember to express my strong opposition to Introduction 908 of 2024, that would require the advice and consent of the New York City Council for 21 city agency commissioners, introduced on May 23, 2024 and scheduled for a hearing in the Committee on Governmental Operations, State & Federal Legislation on May 29, 2024. It is my understanding that the goal of this bill is for greater transparency and oversight; however, this is not the way to achieve this. This bill would result in devastating impacts on government operations and cross the clearly established lines for the role of the executive and the legislature.

In reviewing the legislation, I believe it is of the utmost importance to remember that the **mayor has had the sole power to appoint agency heads for 140 years.**

The city's charter places the enormous responsibility of selecting agency heads to the mayor because, quite simply, the mayor is voted on by the entire city. The voters decide who they wish to lead and shape the goals of agencies that serve the entire city. The mayor is held accountable to all New Yorkers because the buck stops there. Councilmembers, on the other hand, are elected by a tiny fraction of New Yorkers, and often based on very local issues, and only represent small pockets of the city. Councilmembers often have competing goals, and that mindset will lead to persistent obstacles in the selections of agency heads, lack of clear priorities and direction for agency workers, and ultimately poor services for the city they serve. This is not an effective way for our city to function.

I urge you to consider the potential harm this legislation could cause with gaps in agency administration and service delivery. Agencies don't have the luxury of protracted leadership vacuums. Garbage must be picked up, streets must be plowed, health experts must have the ability to act quickly and provide guidance to the public. The list of basic government services that would be impacted goes on and on. I am urging you to not to put this up for a vote.

Thank you for your attention to this matter. I trust that you will represent the best interests of our community as you consider your decision.

Sincerely,

Helen D. Foster

Helen D. Foster

Testimony of I. Daneek Miller, former Council Member

- Great to be back home at the Council. Having served and worked with many of the 51 members in this body, I know the priority you place on the practical application of legislation and the rendering of services to New Yorkers. I will speak on Introduction 908 today with that in mind.

Applying Advice and Consent -- impacts on mayoral agencies and their leaders:

- The Council has rightly focused in recent years on improving efficiency in City government, including supporting the recruitment and retention of the best and brightest to serve residents across the five boroughs. It is not clear that Int 908, as written, will support these efforts.
- Expanding advice and consent to include over two dozen commissioner appointments, up from two today, will pose a major bandwidth challenge for both the Council and Administration.
- Agency heads and top administrators already submit to professional investigative reviews that identify conflicts and critical issues of competency. Adding an additional level of legislative review will not enhance professional investigations, but risks a crippling effect at the start of every new administration or when crucial openings arise during an existing administration. No public benefits from partisan and political gamesmanship that such a process will invite – weeks and weeks, if not months, of hearings which will prevent successive City Halls from delivering for New Yorkers. In turn, a lengthy, tedious and uncertain approval process will lead to the politicization of department leadership position, contribute to agency attrition and demoralization, and may discourage talented people from seeking these positions of service.
 - In the last administration, Health Commissioner Dr. Oxiris Barbot left in the thick of the COVID-19. Imagine if Dr. Dave Chokski had to undergo hearings in the middle of the pandemic and the harm it could have caused to public health to have no one running the Health Department in the meantime. Other critical departments such as DSNY and DOT also experienced agency head vacancies during 2020.
- Whether talking about the Health Department, Sanitation, Social Services, Emergency Management, or any other agency, slowdowns would be extremely detrimental to city residents and to everything from picking up garbage to providing vital health information. As Mayor LaGuardia remarked, “There is no Democratic or Republican way to pick up garbage.” Expanding advice and consent only risks the development of an ideological litmus test, such as the type we have seen paralyze our nation’s capital and the federal nomination process.
 - And look where we are now: in Washington D.C. sits a stacked Supreme Court stripping away reproductive rights for women, suffocating the Voting Rights Act, and eliminating affirmative action.
- Back at home, we must also question the risk Int 908 poses for local groups that depend on agency support. Whether it is DYCD, SBS, DFTA or otherwise, without steady

leadership at the helm, we put at risk discretionary funding for non-profits, grants for small businesses and MWBEs, and funding for senior programming.

- Successive City Charters maintained the enormous responsibility of selecting agency heads with an elected chief executive – a mayor voted into office by the entire city to shape the goals of agencies that serve the entire city.
 - The agency heads are responsible to the mayor and deputy mayors, but not to the City Council. If there is a problem within an agency, the buck stops with the mayor and not with the Council. It is, therefore, only right that the mayor should have the ability to select a team, guided by the requirements of each position.
 - It is important to note that many of those requirements are laws and regulations set by either the Council or DOI, the latter to which the Council currently does have advice and consent over.
- Changes in agency leadership are important moments. When a new mayor takes office, that person needs to have clear, go-to people for that agency. The agencies need to know who is in charge so they can continue their important work on day one. Similarly, when a new Council is sworn-in, what position is it in to begin vetting over 20 appointments? With new members, no rules committee, this process will take months.
- A long, onerous process AFTER a new mayor takes office will hold city workers hostage, risks attrition and the ability to recruit staff for agencies, and will grind the business of New York City to a halt for the incoming Administration.

Alternatively:

- The City Council has the ability to advise and give consent for the appointment of the corporation counsel and the DOI commissioner — two very unique positions.
 - The DOI commissioner is responsible for conducting investigations citywide, including “as directed by the mayor or the council.” Notable for our conversation today, this agency may also conduct investigations into other agencies.
 - And the corporation counsel represents not just the mayoral and other city agencies, but also the City Council and the comptroller.
- Through the budget process, including hearings with agency heads, budget modifications, and agency oversight including review of charter mandated mayor’s management reports, the City Charter empowers the Council ample opportunities to review and influence agency operations and effectiveness.
- When we legislate, it is important to think beyond the current occupants of City Hall and the Council, and the reality these laws will face in the future. Previous Charter Commissioners, from 1884 to those throughout the last century have reinforced that mayoral authority is critical both to the mayor’s power and ability to govern, and to the people’s ability to hold the mayor accountable at the polls.
- With this in mind, Int 908, while envisioned to promote transparency and accountability, will push us further away from a more efficient, effective government and workforce to deliver services for New Yorkers. There are consequences to bad legislation and overreach by governing bodies. I urge the Council to reconsider this iteration of the bill, and also review its utilization of existing advice and consent positions, as well as budget

hearings, and budget terms and conditions to hold administrations and agency heads accountable.

FOR THE RECORD

Testimony by former City Council Member I. Daneek Miler on Int. No. 908-2024 to Committee on Governmental Operations, State & Federal Legislation

May 29, 2024

Applying Advice and Consent makes no sense for mayoral agency leaders:

- 1) Expanding advice and consent to nearly two dozen commissioner appointments will lead to politicization of agency/department leadership positions and will discourage talented people from seeking these positions of service.
- 2) This process will bring city government to a standstill as advice and consent can take months.
- 3) Agency heads and top administrators already submit to investigative reviews that identify conflicts and critical issues of competency.
- 4) Adding an additional level of review will impose a crippling effect at the start of every new administration or when crucial openings arise during an existing administration.
- 5) Whether talking about the Health Department, Sanitation, Social Services, Emergency Management, or any other agency, slowdowns would be extremely detrimental to city services and to — everything from picking up garbage to providing vital health information — which ultimately hurts working-class New Yorkers.
- 6) Successive City Charter maintained the enormous responsibility of selecting agency heads with an elected chief executive – a mayor voted into office by the entire city to shape the goals of agencies that serve the entire city and to be held accountable to all New Yorkers.
- 7) Through the budget process, including any interim budget modification over the course of a fiscal year, and agency oversight including review of charter mandated mayor’s management reports, the City Charter empowers the Council ample opportunities to review and influence agency operations and effectiveness.
- 8) Changes in agency leadership are important moments. When a new mayor takes office, that new duly- elected official needs to have clear, go-to people for that agency.
- 9) The public gets no benefits from partisan and political gamesmanship that such a process will invite — weeks and weeks, if not months, of hearings which will prevent successive City Halls in partnership with this and future City Councils from delivering for New Yorkers.

History:

- Currently, the City Council has the ability to advise and give consent for the appointment of the corporation counsel and the DOI commissioner — two very unique positions.
 - The DOI commissioner is responsible for conducting investigations citywide, including “as directed by the mayor or the council.”
 - And the corporation counsel represents not just the mayoral and other city agencies, but also the City Council and the comptroller.
- Expanding this power is not has no merit to apply to this mayoral administration, nor future mayors and administrations.
- Past Charter Commissions saw this as well:
 - Prior to 1884, the city tried a system where city legislators confirmed mayoral appointments; it failed.

**Testimony before the City Council
City of New York
Intro 908**

May 29, 2024

My name is Mitchell Silver. I was NYC Parks Commissioner from 2014 to 2021. I am testifying in opposition to Intro 908.

Expanding advice and consent to dozens of commissioner appointments will politicize positions and discourage talented people from seeking them.

The interviewing process for commissioners is extensive and evaluates leadership qualities, knowledge, and expertise.

The DOI vetting process for commissioners is deep and thorough. The mayor and the public should rest assured that a candidate being considered for commissioner must undergo rigorous scrutiny by experienced investigators, ensuring the highest standards of integrity and competence.

This advice and consent process can take months. It would be troubling to have a prolonged process at the start of every administration or when crucial openings affect the public. The process could potentially involve weeks, if not months, of hearings preventing administrations from having agency heads deliver for New Yorkers.

The charter gives the mayor enormous responsibility for selecting agency heads. The mayor, who is voted on by the citywide, shapes the goals of agencies that serve the entire city, and he or she should be held accountable to all New Yorkers.

New York City urgently needs a streamlined process when making appointments to key positions of NYC's administration. The city's last need is another level of bureaucracy, which could delay crucial decisions and hinder the smooth functioning of the city.

When a new mayor takes office, that person must have a clear, go-to leader for that agency. The agencies need to know who is in charge so they can continue their important work on day one.

In closing, expanding advice and consent to dozens of commissioner appointments will politicize positions and discourage talented people from seeking them.

If City Council advice and consent had been a practice in 2014 when the transition team approached me, I would have declined the offer of my name for consideration as the next NYC Parks Commissioner.

Thank you.



CITIZENS UNION OF THE CITY OF NEW YORK
Testimony before the City Council Committee on Governmental Operations,
State & Federal Legislation
City Hall – May 29, 2024

Introduction 908-2024 (Adams)
A Local Law to amend the New York city charter, in relation to requiring council advice and consent for certain commissioners

Summary of provisions

Intro 908-2024 (Adams) would amend the City Charter to require the advice and consent of the City Council for 21 commissioner appointments.¹ The mayor would have 60 days to present a nomination before the Council, and if the Council rejects such nomination, the mayor will have 60 more days to present another nomination. A deputy commissioner would be acting commissioner until a new commissioner is confirmed to head the relevant agency. The bill requires the mayor to “make all reasonable efforts” to get a commissioner confirmed within 120 days. The bill does not mandate the Council to take action within a certain timeframe or limit the number of times nominations and rejections can occur. Because this bill “abolishes, transfers or curtails”² the power of an elective officer, state law mandates that it be presented as a ballot question in a voter referendum.

Summary of Citizens Union’s position

- Substantial changes to the City’s system of checks and balances, like the ones proposed by Intro 908-2024, should be given substantial time for deliberation, research, consideration, and public input.
- The City Council should not rush through this Charter amendment process, and it should allow for more time, committee meetings, and public hearings to fully consider the implications of this proposal.
- Neither should Mayor Adams rush through his own efforts to amend the City Charter through a recently formed Charter Revision Commission.

¹ The bill would expand advice and consent to the commissioners of buildings, children’s services, citywide administrative services, consumer and worker protection, cultural affairs, design and construction, emergency management, environmental protection, finance, health and mental hygiene, homeless services, housing preservation and development, information technology and telecommunications, parks and recreation, sanitation, small business services, social services, transportation, veterans’ services, and youth and community development, and the commissioner for the aging.

² Municipal Home Rule Law §23(2)(f)

- Given the short time allotted to review this proposed bill, Citizens Union could not fully consider the merits of this proposal and take a position on it.
- However, we believe the list of commissioners in the bill deserves more scrutiny and a case-by-case review, as it includes disparate agencies of different sizes and functions, and it is unclear why some were included and others excluded.
- The Corporation Counsel is subject to advice and consent because that officer represents both the Mayor and Council, and the Commissioner of Investigation is subject to advice and consent because they must be sufficiently independent to conduct oversight of City Government. The commissioners proposed in the bill do not necessarily fall into one of these categories.
- Citizens Union does support making the Police Commissioner subject to the advice and consent of the Council because of the unique role it serves and the status of the NYPD in City Government, but that officer is omitted from the bill. Most of the commissioners proposed in the bill do not fall into that category.

Details of position

Citizens Union is a nonpartisan good government group dedicated to political reform and accountability in New York City and State governments. For over a century, Citizens Union has been involved in various efforts to restructure City Government and amend the City Charter, and we have traditionally supported expanding the City Council's oversight powers, increasing its investigative capabilities, and strengthening the review of appointments before the Council.³ We therefore have a keen interest in any proposed changes that could impact the balance of powers between the legislative and executive branches of New York City Government.

COMMENTS ON THE LEGISLATIVE PROCESS

Citizens Union believes substantial changes to the structure of City Government and its system of checks and balances, like the ones proposed by Intro 908-2024, should be given substantial time for deliberation, research, consideration, and public input.

Previous expansions of the Council's advice and consent powers were achieved through charter revision commissions (CRC). In 1989, a mayoral-appointed CRC proposed giving the Council the power to approve the Commissioner of Investigations. In 2019, a council-appointed CRC proposed giving the Council the power to approve the Corporation Counsel. A charter revision commission is not the only way to achieve substantial revisions of the City Charter, but it does provide the time and resources for extended study of issues, including comparative research, discussion, and public input.

Intro 908-2024 was introduced on Thursday last week, less than a week before this public hearing. **We urge the Council not to rush through this Charter amendment process, and to allow for more time, committee meetings, and public hearings to fully consider the implications of this proposal.**

³ See for example, Letter from good government groups to Council Speaker Adrienne Adams: Conduct a Meaningful Public Hearing Before Appointing the Next Board of Elections Commissioner, December 19, 2022 <https://citizensunion.org/wp-content/uploads/2022/12/Group-Letter-to-City-Council-on-BOE-commissioner-Appointment-Dec-2022.pdf>

By the same token, **we also urge Mayor Adams not to speed up his own efforts to amend the City Charter through a recently formed Charter Revision Commission**⁴. The advantage of a blue-ribbon charter revision commission is its ability to conduct a comprehensive review of the Charter through a lengthy and thorough process, and previous commissions were given plenty of time to complete their work.⁵ As currently set up, the mayor's Charter Revision Commission would only have three months during the summer to recruit professional staff, thoroughly review the Charter, seek meaningful public input, and draft proposals before a September 2024 deadline.

The competing efforts to amend the Charter are reminiscent of political battles over ballot questions between then-mayor Rudy Giuliani and then-Speaker Peter Vallone,⁶ and during the Bloomberg administration.⁷ **As Citizens Union stated in those instances, revising the City Charter (whether through a commission or legislative action) should be conducted deliberately and judiciously by engaging a broad spectrum of experts and ordinary New Yorkers.** It would be in the City's interest if both co-equal branches of City Government avoid misusing the City's foundational document to score tactical political wins.

COMMENTS ON THE CONTENT OF THE PROPOSAL

Given the short time allotted to review this proposed bill, Citizens Union could not fully consider the merits of this proposal and the impact it would have on City Government. However, **we believe the list of commissioners included in the bill deserves more scrutiny.**

Advice and consent by legislative bodies can serve as a useful tool to bring talented leaders to top positions in a transparent process that provides consensus and accountability. City councils and mayoral administrations have often worked well together to ensure qualified and agreeable candidates are confirmed in the roles where advice and consent were required.

However, advice and consent can also be politicized to further the immediate interests of one branch of government over the other, regardless of the identity of a candidate or the needs of the public office. We have seen this play out in Washington, D.C. in recent years.

The right approach depends on the circumstances of the position. The Commissioner of Investigation is subject to advice and consent because they must be sufficiently independent to conduct oversight of City Government. Citizens Union supported making the Corporation Counsel subject to Council advice and consent because that officer represents both the Mayor and Council. Citizens Union has also supported Council advice and consent be extended to cover the Police Commissioner because of the unique role it serves and the status of the NYPD in City Government. The officials proposed for confirmation in the bill do not fall into either category.

⁴ May 21, 2024 Press Release, Mayor Adams Announces New Charter Revision Commission <https://www.nyc.gov/office-of-the-mayor/news/401-24/mayor-adams-new-charter-revision-commission>

⁵ The 2021 Racial Justice Commission was appointed in March 2021 and put a question on the ballot in November of 2022. The 2019 Council CRC held its first meeting in July 2018 and worked for more than a year. The 2018 mayoral CRC was appointed in April of that year. The 2010 mayoral CRC was appointed in March of that year.

⁶ Andy Newman, The New York Times, Sept. 3, 1998, Giuliani and Vallone Battle Over Charter Lawsuit <https://www.nytimes.com/1998/09/03/nyregion/giuliani-and-vallone-battle-over-charter-lawsuit.html>

⁷ Michael Cooper, The New York Times, Oct. 21 2003, Appeals Court Blocks Vote On Lowering City Class Sizes <https://www.nytimes.com/2003/10/21/nyregion/appeals-court-blocks-vote-on-lowering-city-class-sizes.html>

Intro 908-2024 proposes to expand advice and consent to 21 commissioners heading disparate agencies. They include some of the largest and some of the smallest agencies in City Government, as well as agencies that mainly provide services to citizens and those that mainly support other parts of government. **It is unclear why some agencies are included in the list and others are excluded.**

Citizens Union believes a case-by-case review and scrutiny of the list of commissioners should be conducted.

One clear omission from the list is the Police Commissioner. Because of the importance of the Police Commissioner and the impact of the NYPD on the daily lives of the City's residents, **CU had previously recommended that the appointment of the Police Commissioner be made subject to the advice and consent of the Council,⁸ and we repeat this recommendation here.** A 2021 bill by Speaker Adrienne Adams (then chair of the Committee on Public Safety) proposed making such a change.⁹ We recommend this on the assumption that the Council, in evaluating the qualifications of nominees for Police Commissioner, will do so in a responsible manner and without the introduction of extraneous political considerations.

Thank you for giving us the opportunity to address you today. For information and questions, please contact Ben Weinberg, Director of Public Policy, at bweinberg@citizensunion.org.

⁸ Citizens Union Agenda for Police Reform – 2021 Issue Brief and Position <https://citizensunion.org/wp-content/uploads/2021/03/citizens-union-agenda-for-police-reform-part-1-governance-and-accountability-mar-2021.pdf>

⁹ A Local Law to amend the New York city charter, in relation to requiring advice and consent of the council for the police commissioner, Pub. L. No. Int 2209-2021. <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=4771042&GUID=510F929A-DDB6-4C8C-9F28-93069BD24873&Options=&Search=>

**WRITTEN TESTIMONY ON BEHALF OF COMMON CAUSE NEW YORK
before the New York City Council Committee on Governmental Operations,
State & Federal Legislation**

Oversight Hearing re Int 0908-2024
May 29, 2024

Finding the right balance of power between separate branches of government is an iterative process in a democracy. The last major redistribution of power in local government was in 1989 when the Council expanded from 35 to 51 members and the Board of Estimate was abolished which fundamentally transformed city governance.¹

New York City's current governance structure has long been considered a "strong" mayor-council arrangement. The Mayor has broad authority to run the city, appoint commissioners, prepare the budget and has veto power over legislation.² With the establishment of centralized management for the public school system, the largest public school system in the country, power was further consolidated in the mayoralty in 2002.

The appointment-confirmation oversight structure creates another check and balance between branches of government. In New York City, currently, the Council has the power of 'advice and consent'³ for the approval of a limited number of city commission members or city agency heads. Advice and consent powers invest the Council with the authority to approve these mayoral appointments by majority vote after a public hearing. **In our view, Int 908 seeks to reasonably expand the number of positions subject to advice and consent to include most major city agencies with a few exceptions.**

This is not without precedent. New York City has previously expanded the positions subject to advice and consent of the Council. As recently as the 2019 NYC Charter Revision Commission, when nearly 80% of voters⁴ ratified the expansion by including

¹ [Final Report of the New York City Charter Revision Commission, March 1990.](#)

² A veto can be overridden by the City Council.

³ This is the New York City specific charter language to describe the appointment-confirmation process.

⁴ NYC Election Results, [Ballot Proposal #3 Citywide Ethics & Governance](#), November 2019.

New York City's Corporation Counsel, the City's chief lawyer, to the list of advice and consent appointments.

One need not look far to find a similar balancing act of power through an appointment-confirmation process in government. The New York State Senate has similar oversight power over state agency department heads.⁵ The U.S. Constitution has similar provisions endowing the U.S. Senate with similar authority over nominations for heads of federal agencies.⁶ Other large cities like Los Angeles⁷ and San Francisco⁸ have similar provisions, albeit with different approval procedures,⁹ in their city charters.

Any chance to give the public an opportunity to observe government functioning, a public confirmation hearing on mayoral appointments in this instance, is a step in the right direction. Too often, decisions are made behind closed doors and if the Council is going to expand its oversight function any additional public hearings are welcome. Many of the proposed city agency heads impact the day-to-day lives of millions of New Yorkers including the Commissioners for the Administration of Children's Services (ACS), the Department of Health and Mental Hygiene (DOHMH), the Department of Homeless Services (DHS), and the Department of Youth and Community Development (DYCD).

While we are broadly supportive of this bill, we believe the bill should be modified to shorten time frames for nomination hearings in the case of a vacancy. The Council should either amend the bill to 30 days to hold a hearing with a maximum of 60 days to approve or 45 days to hold a hearing and with a maximum of 90 days to approve.

⁵ [New York State Constitution](#)

⁶ [U.S. Senate, Nominations](#)

⁷ [Los Angeles City Charter](#)

⁸ [San Francisco City Charter](#)

⁹ Both cities rely on a two-thirds majority vote to reject a nomination as opposed to an affirmative vote.

Testimony of James Caras in Support of Int. No. 908
Committee on Governmental Operations, State and Federal Legislation
May 29, 2024

Good morning Speaker Adams, Chair Restler and Members of the Committee on Governmental Operations, State and Federal Legislation. My name is Jim Caras. Thank you for inviting me to testify today on Int. No. 908, a proposed local law which would provide for City Council advice and consent over a number of City agency heads. As you well know, there are some peculiar topics in government that are near and dear to my heart: Budgetary Units of Appropriation being one. But another is Advice and Consent.

As General Counsel and Special Counsel at the City Council, as General Counsel to the Borough President and most significantly as the Borough President's appointee to the 2019 Charter Revision Commission, I became very familiar with the subject of legislative advice and consent for Mayoral appointees. In 2019 I was a strong proponent of subjecting the appointment of the City's Corporation Counsel to City Council advice and consent – a Charter change that I think has greatly improved the process of selecting the City's top lawyer. I wanted to share with you three reasons why I think the process of appointing City commissioners can be improved by subjecting them to Council advice and consent and why arguments to the contrary really carry little weight.

First, advice and consent is a salutary check on the appointment power and has been a pillar of government in this country since its founding. Second, New York City is an outlier among the largest cities in this country in its failure to provide any role to the local legislative body in the appointment of agency heads (and therefore any check on the executive). And, third, the City Council has demonstrated that it has handled the limited advice and consent it currently has in a responsible manner that has improved the appointment process for those officeholders (generally members of boards and commissions with two exceptions).

In relation to my first point on how advice and consent is a pillar of good government, a New York lawyer who was much smarter than I am observed that “it is not easy to conceive a plan better calculated than [advice and consent of the Senate] to promote a judicious choice of men for filling the offices of the union...” That is what Alexander Hamilton wrote in Federalist Papers 76 in 1788 concerning presidential appointments https://avalon.law.yale.edu/18th_century/fed76.asp. He pointed out in this essay that advice and consent retains all the advantages of allowing the chief executive his or her choice in appointments while putting in place a critical guardrail against potential abuse of unchecked executive power that could result in an unfit or compromised appointee. What stops the legislative branch from using advice and consent in an inappropriate manner is the fact that at no point can the legislature substitute its judgment for the executive's (*Id.*).

Second, in regard to the use by the largest cities throughout the country of legislative advice and consent of their mayors' appointees, New York City has for too long been an outlier. Of the four most populous cities in the U.S. -- New York, Los Angeles, Chicago and Houston -- it appears that all but New York subject most if not all department heads to city council advice and consent.

The fifth largest city, Phoenix has a completely different form of government in which all appointees are made by a city manager. However, in Phoenix it is the city council (which includes the mayor) which hires and fires the city manager (See Exhibit I attached for references to relevant provisions of other cities' charters and laws). So, New York City appears to be an outlier amongst the very largest city governments by virtue of the fact that it gives no role to its legislative branch —direct or indirect -- in the appointment process of most city department heads. Our Charter is missing an important check on the executive.

Finally, the New York City Council has demonstrated how responsibly it has exercised the advice and consent powers that it does have. Since 2020 when the Council was overwhelmingly granted the power of advice and consent over the appointment of the Corporation Counsel, the Council has approved two out of two submitted candidates for the City's top lawyer job: A respected career-veteran of the Law Department selected by Mayor DeBlasio; and a long-serving, esteemed jurist selected by Mayor Adams. And as a city government lawyer of three decades now retired who reads the New York newspapers, it appears from my vantage point that the public discussion over Judge Hinds-Radix's replacement is an important discussion to have. Indeed, in the vast majority of instances where the Council currently has the power of advice and consent, the Council approves a mayoral nominee. I know that the Rules Committee's process is an extremely thorough one. Nominees are carefully vetted both in terms of qualifications and potential problems and conflicts. This is exactly as it should be and in instances where issues might be found this gives both sides of City Hall the chance to address them, and, where appropriate and serious enough, provides the public with an opportunity to weigh in on them. And I do not see how it could be viewed as anything but a positive for a potential commissioner to get a taste of what the representatives of the 51 Council districts think the priorities in their prospective agency should be.

I am certain Int. No. 908 would improve the selection process for city agency heads by making it more robust. I urge the Council to consider applying this to all agency heads.

EXHIBIT 1:

Agency/Department Head Appointments in the US's 5 Most Populous Cities¹

City	Appointment of Agency/Department Heads
New York	Almost no agency commissioners subject to City Council advice and consent except: Commissioner of Department of Investigation (NYC Charter Section 31) Corporation Counsel (NYC Charter Section 31)
Los Angeles	Some agencies are governed by commissions all of whose members are subject to city council approval. (Section 502) Some agencies are governed by managers who are subject to city council confirmation. (Section 508) Los Angeles City Charter, (Sections 502 and 508) https://codelibrary.amlegal.com/codes/los_angeles/latest/laac/0-0-0-2130#JD_Ch500
Chicago*	Department heads appointed by mayor are subject to advice and consent by city council. Chicago Code 2-4-010 https://codelibrary.amlegal.com/codes/chicago/latest/chicago_il/0-0-0-2596042
Houston*	Heads of departments are appointed by mayor subject to city council confirmation. Houston City Charter, Article VI, section 7a https://library.municode.com/tx/houston/codes/code_of_ordinances?nodeId=CH_ARTVITHMA_S7AADPODUMA
Phoenix*	City council has direct appointment and removal of city manager City manager appoints all department heads Phoenix City Charter (Chapter III, section 2) https://phoenix.municipal.codes/Charter/III_Sec2 .

¹ Population ranked by <https://www.census.gov/popclock/embed.php?component=populous>.

*Cities appear to have Mayors who serve on City Council in some capacity see, e.g. Chicago City Council includes Mayor who does not generally vote (<https://www.ilga.gov/legislation/ilcs/fulltext.asp?DocName=006500050K3.1-40-30>); Houston City Council includes Mayor and Controller <https://www.houstontx.gov/council/>; Phoenix City Council includes Mayor https://phoenix.municipal.codes/Charter/III_Sec1.

**TESTIMONY OF LOUIS CHOLDEN-BROWN
BEFORE THE
COMMITTEE ON GOVERNMENTAL OPERATIONS, STATE AND FEDERAL LEGISLATION
ON INTRODUCTION 908-2024
MAY 29, 2024**

Good morning, Chair Restler and the members of the Committee and Council. Thank you for the invitation to testify. For the sake of the record, I am Louis Cholden-Brown and I am appearing in my personal capacity. As you know, I had the privilege to previously serve as Deputy Counsel to the Council Speaker, author the 2021 introduction pertaining to the appointment of the Police Commissioner, and work on the 2019 Charter Revision Commission, which proposed the question requiring Advice and Consent for the Corporation Counsel. While I am a proponent of advice and consent, my written remarks focus on earlier history and the murky history of the Council's pursuit of confirmatory powers.

Advice and Consent Through the Years

Under the First New York Constitution of 1777, a Council of Appointments of Executive Branch officials and Senators exercised advice and consent over gubernatorial appointments. At the time of adoption, New York was only the second state to implement advice and consent, after Massachusetts. In the other states, the legislature itself appointed department heads. This was the model embraced by the Articles of Confederation, adopted in 1777 and effective from 1781 to 1789, when the U.S. Constitution and the Appointments Clause we all know emerged from contentious debate at the Convention. Despite New York's pioneering pedigree, it abolished advice and consent with the adoption of the Second Constitution of 1821, and the mechanism was not restored in part until the Fourth Constitution of 1894, though it did not take its present form until 1925.

Turning from Albany to what would become the five boroughs, back when the City of New York was just Manhattan and the Bronx, Chapter 446 of 1857 was adopted by the State Legislature amending the City Charter to grant the Board of Aldermen advice and consent over department heads. This power was short-lived. Just a quarter century later, Chapter 43 of 1884 was enacted solely to withdraw this power. The Report of the New York City Charter Commission of 1896, establishing the consolidated Greater New York, reaffirmed that "[t]he Mayor is given the power to appoint all the administrative and executive officers of the city except the comptroller, who is rendered elective by the people every four years, so that the treasury and finances will constantly be in the hands of an independent department."

Though as early as 1966, Council Members introduced legislation to accrete themselves advice and consent authority, Corporation Counsel took the position that the proposals were "contra to the well-pondered decisions reached by two separate Charter revision commissions" in 1936 and 1961. The Council exercised no confirmatory powers until 1971, following the passage of two local laws introduced at the request of the Mayor, but not passed by referenda. Local Law 12 of

1971 created the Taxi Commission, now the TLC, to assume the rate-setting authority previously exercised directly by the Council. Local Law 49 of 1971 made several appointments to the Environmental Control Board (ECB), created by Local Law 3 of 1968 subject to advice and consent of the Council. Neither imposed a timeline for Council action or penalties for inaction. Then, in the 1975 State Charter Revision Commission, the Council was given the power of advice and consent on fixed-term mayoral appointments to some boards and commissions, but not to any major single-headed executive departments. Under these amendments, failure of the Council to act within 30 days on these newly added entities or the ECB or TLC now constituted confirmation. The Commission wrote that:

the appointment of City officials who serve at the pleasure of the Mayor and who are responsible for carrying out executive policies and programs should be left to the Mayor's discretion. Advice and consent for administrative officers would interfere with the Mayor's ability to run his own departments. However, a number of boards and commissions provided for by Charter or local law have members appointed for a fixed term of office. In some cases, specified terms extend beyond that of the Mayor...The Commission believes that for those boards or commissions that have important decision-making duties and whose members are expected to exercise independent judgment, qualifications of nominees should be thoroughly screened in advance of appointment, to safeguard the public interest. Holders of such positions are not formally accountable to any elected official and cannot be removed except for official misconduct. Advice and consent would insure public disclosure and review of the qualifications and experience of appointees to these important posts.

Though City Council Vice Chair Peter Vallone Sr., Borough Presidents, and state legislators from both parties encouraged the 1989 Charter Revision Commission to broadly expand advice and consent, the Commission elected to only extend it to a single position, the Commissioner of Investigations, based on the recommendation of the Chair of the Board of Ethics (the predecessor to the Conflicts of Interest Board). In 2010, Speaker Christine Quinn called upon the Goldstein Commission to add confirmatory authority over the Corporation Counsel, though some individual Council Members went further to seek approval of all commissioners; as with prior proposals over the prior fifty years, Citizens Union expressed public opposition to this prospect. The issue was not considered again until the 2019 Charter Revision Commission, the first independent commission since 1975 with appointments from multiple elected officials and the first to consider the entire Charter since 1989. During those proceedings, the Council called for fixed terms subject to the Council's advice and consent for the commissioner or directors of the NYPD, CPC, OATH, CFB, and COIB. Then-Borough President Brewer echoed the call to require advice and consent from the CPC Chair, and Council Member Benjamin Kallos reiterated the consideration of all agency heads, specifically identifying DOB, DSNY, DPR, DHS, ACS, HPD, and DCAS. Instead, the Commission eschewed both recommendations and proposed adding a single position, the Corporation Counsel. The Commission, in its final report, argued that the Corporation Counsel held a unique role, due to its legal obligations to both the City and the Council and elected this reform over others suggested to counter recent refusals by the Law

Department to allow Council Members to participate in litigation. Following the proposal's adoption in the 2019 election, the Council now holds the power of advice and consent over two commissioner-level roles, as well as the aforementioned fixed-term board and commission appointments. It should also be noted that in addition to the positions listed in Charter § 31, the Council exercises advice and consent over the members of the Local Conditional Release Commission, established by local law in 2020 pursuant to Article 12 of the Correction Law.

Speaker Adams is not the first holder of her position to seek to broaden the Council's power in this area - Council Vice Chair and subsequently Speaker Vallone sponsored legislation in 1986, 1990, and 1992 to include "all [] commissioners appointed by the mayor to agencies, departments or offices." An alternative version also introduced in 1992 would have covered "police, fire, sanitation, correction[,] and health [commissioners], the corporation counsel, the director of the department of city planning, [and] the chair of the housing authority" and extended the Council's time for review to 60 days. Prior to becoming Vice Chair, Vallone sponsored legislation in 1977, which was rejected by the Committee on Charter and Governmental Operations. Vallone tried again in 1982, but the bill garnered significant opposition. The City Club wrote that the bill was "detrimental to the interest of the City and caus[ing] undue interference with the executive branch." Under the title "Bad Advice," the Daily News editorial board wrote that "it would serve no good purpose....[and] tarnish the process with small-time politics."

The negative public reaction to advice and consent legislation did little to deter later sponsors. In 2002 and 2004 Council Member David Weprin introduced bills that would similarly have captured "all commissioners." Council Members Tony Avella and Annabel Palma each subsequently introduced bills applicable to "the heads of administrations, departments, and all commissioners." Council Member Stanley Michels introduced legislation, subsequently taken up by future Speaker Quinn, applicable to the members of the rent guidelines board, Council Member Jimmy Van Bramer in multiple sessions introduced legislation for the members of the Board of Standards and Appeals, and, of course, in 2021 Speaker Adams and then-Speaker Corey Johnson introduced legislation regarding the advice and consent of the Police Commissioner, the first bill on the subject heard since 1984. During that hearing, the Administration testified that "[t]he Council already has oversight over the Department, and we do not think that creating an additional political process for installing a new Commissioner will enhance that oversight. The Police Commissioner should report to the Mayor, as the chief executive of the City." In response to questioning, they distinguished between DOI's status as "an independent agency" and the Corporation Counsel's "represent[ing] the city including the City Council" as worthy of an "additional layer of approval." Only one organization offered full-throated support of the measure, with another expressing "qualified support" noting "these minor changes will ultimately do little to hold the [] Commissioner or the Mayor accountable for the actions of the [agency] leadership."

Advice and Consent Outside New York City

Despite the repeatedly encountered aversion, New York City is unique in its legislative body's limited advice and consent role for mayoral appointments. Several major cities in the United States, including Los Angeles, Chicago, and Houston, require their respective legislative bodies to provide advice and consent for the majority of mayoral appointments. Within New York, the other largest municipalities each have instituted advice and consent in recent decades. Since 2006, the Albany Common Council has had 45 days to either confirm or reject any appointment of a non-elected city department head. The Yonkers, Rochester, and Buffalo Councils similarly exercise confirmatory powers, as do the Albany, Broome, Chemung, Dutchess, Erie, Oneida, Onondaga, Orange, Putnam, Rensselaer, Rockland, Suffolk, and Westchester County Legislatures.

Committee on Appointments

While I am generally supportive of the expansion of the Council's advice and consent powers, the Council must proceed with caution when enumerating offices that exercise delegated State authority. In many of these instances, provisions of State law dictate the appointment of the officers serving such functions and preempt the addition of advice and consent, even pursuant to referenda. These include DSS/HRA, DHS, and ACS, each of which functions as part of the social service district and is governed by Social Services Law § 116; OEM, whose Commissioner serves as the local director of civil defense under the Defense Emergency Act; DCAS, where the Commissioner is the personnel director under Civil Service Law § 15; and Department of Veteran Services, which serves as the city veterans' service agency under section § 14 of the Veterans Services Law. Instead, for these offices, the Council could focus on legislatively bolstering the Committee on Appointments, initially created by Executive Order in 1986 and subsequently modified by each of the three following Mayors.

In 1986, Mayor Ed Koch created a Committee on Appointments by Executive Order to screen nominees for the boards subject to Council advice and consent. Chaired by a prominent, and indeed independent, First Amendment litigator, the Committee was required to report three names to the Mayor for each vacancy, from which he would select the ultimate appointee. The Committee was continued by Mayors David Dinkins, Rudolph Giuliani, and Michael Bloomberg, though they did not restrict themselves to selecting from among its nominees. A version of this model for the Mayor's appointments to the bench has been in active use since 1978. These committees are not without shortcomings: in 1977, Koch dissolved a more informal entity he had created when it recommended six people, but not the Highways Commissioner, who it deemed unqualified, to be Transportation Commissioner. Koch ignored their decision and appointed the Highways Commissioner anyway. Giuliani declined to reappoint sitting Criminal Court and Family Court judges recommended by both the Mayor's Advisory Committee on the Judiciary and the New York City Bar and appointed at least one judge who did not receive the

recommendation of both. Despite these dust-ups, these bodies did strike a careful balance between ensuring the professional administration of City agencies and claims of politicization of the process. The Council should consider establishing such a system for positions whose appointment is otherwise restricted under State law. In addition to the aforementioned benefits, such a proposal would also be unlikely to attract litigation.

Logistical Concerns

The proposed introduction also presents substantial logistical challenges, based on the sheer volume of positions covered. Before delving into specifics, it may be instructive to review the most recent timelines involving Council advice and consent. By letters dated January 28, 2022, and filed by the Council on February 10, the Mayor nominated Commissioner Jocelyn Strauber to head DOI and Justice Sylvia Hinds-Radix as Corporation Counsel. The Committee on Rules, Privileges, and Elections held a hearing on both nominations on February 17 and reported them favorably to the full Council on February 24, who subsequently ratified the Council's consent that afternoon. Commissioner Strauber's pending appointment had been announced on December 17, 2021, and Justice Hinds-Radix's on January 7, 2022. Justice Hinds-Radix was the first Corporation Counsel subject to the advice and consent requirement appointed by a new Mayor and only the second to be reviewed by the Council following Georgia Pestana's July 8, 2021 nomination, which was heard as a pre-considered item on July 27 and introduced and approved by the Council on July 29.

Commissioner Strauber is the 4th DOI Commissioner since the turn of the century and the 3rd to be appointed by a new Mayor. While her immediate predecessor, now-Judge Margaret Garnett, was nominated on November 16, 2018, received a pre-considered hearing on November 26, and was introduced and approved by the Council on November 28. Commissioner Mark Peters was nominated on January 16, 2014, had his nomination filed on January 22, a hearing held on January 30, and was approved by the Committee and Council on February 4. In 2002, the nomination of Commissioner Rose Gill Hearn was formally filed by the Council at the January 9 Charter meeting and approved 28 days later along with 4 other appointees to COIB and CPC.

Presuming that each commissioner role included in the Council's proposed legislation for whom Mayor Adams announced his pick prior to January 27 was submitted on January 28, along with Commissioner Strauber and Justice Hinds-Radix, the Council would have had to simultaneously also consider four additional commissioners: DOT (12/20/21), DOITT/OTI (12/21/21), ACS (12/30/21), DDC (1/21/22). If the other commissioners appointed prior to the Council's February 10 Stated were then submitted on the dates of their nominations, the list would grow to include six more: HPD (1/30/2022), DEP (1/31/2022), DSS/HRA and DHS (2/2/2022), Parks (2/4/2022), and DCWP (2/7/2022). In this scenario, the Council would be obligated to consider 12 agency heads, in addition to the 2 additional nominees to COIB being simultaneously reviewed, in a 30-day period. Thus, I would recommend the Council publicize its plan for diffusing

responsibility for the review of nominees beyond the Rules Committee to those committees posing subject-matter jurisdiction and ensuring that the Appointments Unit is appropriately resourced for this undertaking, even if such a confluence may not occur until the early months of 2030, as part of the non-partisan voter education conducted before placing this matter before the electorate.

Acting Commissioners

An element of the bill being considered that is unlikely to engender much discussion today, but is worthy of comment, is the addition of provisions governing the selection of an acting Commissioner during a vacancy. For instance, the acting Commissioner at OEM from January to February 2022 did not actually possess the title of First Deputy Commissioner, but rather had been acting in that capacity since October 2021. While for many agencies, the Charter provisions governing the appointment of Deputy Commissioners do not expressly require the designation of one as the First Deputy, in practice that is the universal norm and it seems inconsistent to restrict three of the five agencies with such language to such individual, while allowing the Mayor or the Commissioner to select among those serving in senior management at 18 other agencies. It should be noted that the language establishing the First Assistant Corporation Counsel as acting Corporation Counsel during a vacancy dates back to 1961, long before the 2019 Charter Revision Commission added the requirement of advice and consent. Furthermore, it is important to keep in mind that in certain cases, esteemed public servants not technically serving as a Deputy Commissioner have ably served as acting Commissioner, including then-DOT Chief Operations Officer Margaret Forgione. No limits are placed upon the selection of an acting DOI commissioner.

I hope this history is illuminating in the Council's continued consideration of the varied elements of this transformational legislation. Turning from the particulars of the policy to the ballot itself, it is debatable whether the Council is empowered by Municipal Home Rule Law § 36(5)(f) to adopt legislation before this year's general election that would conceivably place a plebiscite on a date other than the 2024 or 2025 general election. Regardless of when the Council elects to act, it should follow the model of the Racial Justice Commission, which despite concluding its work in Winter 2021 placed its questions before the electorate in November 2022, by not accelerating the timeline and engaging in non-partisan voter education, as required by the State Constitution, over the coming year.

I am happy to answer any questions about the past 25 or 250 years.

Gregg Bishop

██████████
Brooklyn, NY 11201

May 29, 2024

Adrienne Adams
Speaker of the New York City Council
City Hall
New York, NY 10007

Dear Speaker Adams,

I am writing to express my strong opposition to Introduction (Intro) 908, currently under consideration by the New York City Council. As a concerned citizen, former commissioner of New York City Small Business Services from 2015-2020, and adjunct professor at the Marxe School of Public and International Affairs at Baruch College, I believe this legislation poses significant risks and drawbacks that will adversely impact our community by impacting governmental operations.

I spent my entire 13-year career at Small Business Services – first as an Assistant Commissioner and then promoted to Deputy Commissioner and ultimately Commissioner. I have witnessed the impact transition has on agencies. Agencies must have a commissioner named quickly in any administration transition, as it directly impacts the agency's productivity. Having experienced the transition of two commissioners at SBS, I can speak firsthand that not having a commissioner in place quickly directly impacts service delivery, responding to council requests, execution of the strategy of an agency, and, most importantly, agency culture and morale. To put it bluntly – the work stops until leadership is in place.

Intro 908 will undoubtedly delay the naming of a commissioner by months at best; at worst, New York City government could reflect the chaos we have seen in Washington, including Sen. Tommy Tuberville's recent refusal to advance the promotion of military officers. Intro 908 allows the council to hold up appointments for possible political reasons, including issues unrelated to the agency's operation. This is dangerous and would hurt the very communities they represent.

Secondly, the council can already extend oversight to an agency head. I have testified and was held accountable by numerous council members to ensure the delivery of services and the creation of policy.

I'm happy to have a private conversation with you and your team to discuss my opposition to Intro 908 in more detail. I urge you to consider alternative approaches that address the issues at hand without harming our community.

In conclusion, I strongly encourage you to oppose Intro 908. The potential negative consequences far outweigh any purported benefits. New York deserves a good, functional government, not the chaos we see in Washington, D.C. I appreciate your attention to this matter.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Gregg Bishop", with a stylized flourish at the end.

Gregg Bishop

**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: _____

(PLEASE PRINT)

Name: Tiffany Raspberry

Address: _____

I represent: Director Intergovernmental Affairs

Address: NYC Mayor Eric Adams

**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: 5/29/2024

(PLEASE PRINT)

Name: Sharon Brown

Address: _____

I represent: _____

Address: Jamaica NY 11436

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 908 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Jim Caras

Address: _____

I represent: Self

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**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: _____

(PLEASE PRINT)
Name: ADAM CLAYTON POWELL

Address: _____ NYC 10019

I represent: SELF

Address: - SAMET

Please complete this card and return to the Sergeant-at-Arms

**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: _____

(PLEASE PRINT)
Name: Syola Ince Lewis

Address: 211 Central Park W

I represent: Citizens Union

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 908 Res. No. _____

in favor in opposition

Date: 5/29/24

(PLEASE PRINT)

Name: Louis Chelton-Brown

Address: _____

I represent: Self

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. 0908

in favor in opposition

Date: 5/29/24

(PLEASE PRINT)

Name: SUSAN LERNER

Address: 80 Broad St., NY NY

I represent: Common Cause NY

Address: 80 Broad St., NY, NY

Please complete this card and return to the Sergeant-at-Arms