

THE COUNCIL

Minutes of the Proceedings for the

STATED MEETING

of

Thursday, November 16, 2017, 2:01 p.m.

The Public Advocate (Ms. James)

Acting President Pro Tempore and Presiding Officer

Council Members

Melissa Mark-Viverito, *Speaker*

Joseph C. Borelli	Corey D. Johnson	Antonio Reynoso
Fernando Cabrera	Ben Kallos	Donovan J. Richards
Margaret S. Chin	Andy L. King	Ydanis A. Rodriguez
Andrew Cohen	Peter A. Koo	Deborah L. Rose
Costa G. Constantinides	Karen Koslowitz	Helen K. Rosenthal
Robert E. Cornegy, Jr	Rory I. Lancman	Ritchie J. Torres
Elizabeth S. Crowley	Bradford S. Lander	Mark Treyger
Chaim M. Deutsch	Stephen T. Levin	Eric A. Ulrich
Daniel Dromm	Mark Levine	James Vacca
Rafael L. Espinal, Jr	Alan N. Maisel	Paul A. Vallone
Mathieu Eugene	Steven Matteo	James G. Van Bramer
Julissa Ferreras-Copeland	Darlene Mealy	Jumaane D. Williams
Daniel R. Garodnick	Carlos Menchaca	
Vincent J. Gentile	Rosie Mendez	
Vanessa L. Gibson	I. Daneek Miller	
David G. Greenfield	Annabel Palma	
Barry S. Grodenchik	Bill Perkins	

Absent: Council Members Barron and Salamanca.

Maternity Leave: Council Member Cumbo

There is a vacant seat in the Council (28th CD, Queens) pending the swearing-in of the certified winner of the General Election held on November 7, 2017.

The Public Advocate (Ms. James) assumed the chair as the Acting President Pro Tempore and Presiding Officer for these proceedings.

After consulting with the City Clerk and Clerk of the Council (Mr. McSweeney), the presence of a quorum was announced by the Public Advocate (Ms. James).

There were 47 Council Members marked present at this Stated Meeting held in the Council Chambers of City Hall, New York, N.Y.

INVOCATION

The Invocation was delivered by: Pastor Janet Hodge Sr. Pastor at Crawford Memorial United Methodist, 3757 White Plains Rd., Bronx N.Y. 10467.

Spirits of love, we gather in this place
 set aside for the work of those elected to serve.
 May this serve in the strength of mutual care,
 in the power of unity that comes from wisdom, understanding and patience.
 May every bitter thought and nagging worry
 be erased by love and desires and gentle inspiration
 consumed by the sense of privilege to serve.
 We pray for our city that the needs for all for food and shelter and work
 so justice and dignity might be met.
 For the diverse people living here
 may we all join the efforts to seek the good of all.
 May vision and hope for the future be clear
 and all-inclusive filled with compassion,
 as we move with purpose towards goals and objectives.
 May their leadership be strong,
 one that witnesses to bring in unity, peace and equality.
 Let them be role models for the young
 and be lights to those whose vision with age is now dimming.
 May each have the strength to do right, to do good and to seek justice.
 Help us all to serve each other with integrity in word and deed.
 We are thankful for their willingness to give of themselves
 for their commitment to preparing the way to a better future
 for the city, thus the nation and the world.
 Help us to be supportive that we may show gratitude
 just as quickly as we are to show contempt.
 Spirit of love, be with each member of this this Council and this journey,
 for their work is not easy and sometimes the journey will be lonely,
 and sometimes it will seem thankless.
 Yet, we know that this work is a special privilege.
 In those difficult times renew in them
 the desire and passion for the people that move them to serve.
 Surround them in their homes, their offices, their coming in and going out
 with the support that they need to keep try to the task that is set before them.
 For in indeed, they are servants of the people.
 Amen.

Council Member King moved to spread the Invocation in full upon the record.

During the Communication from the Speaker segment of this Meeting, the Speaker (Council Member Mark-Viverito) asked for a Moment of Silence in honor of the following individuals:

Eight individuals lost their lives in a terrorist truck attack on West Street on October 31, 2017. Those killed included Belgian citizen Ann-Laure Decadt Argentinian friends Hernan Diego Mendoza, Diego Enrique Angelini, Alejandro Damian Pagrucco, Ariel Erlij, and Hernan Ferruchi; New Yorker Nicholas Cleves; and New Jersey resident Darren Drake. The Speaker (Council Member Mark-Viverito) offered her thoughts and prayers to the families and friends of the victims. She also thanked the first responders who were on the scene within minutes and whose quick actions saved countless additional lives.

Twenty-six people lost their lives in a mass shooting in Sutherland Springs, Texas on November 5, 2017. The Speaker (Council Member Mark-Viverito) condemned the lack of action from Congress in response to these repeated mass shootings as deplorable and unacceptable.

ADOPTION OF MINUTES

Council Member Chin moved that the Minutes of the Stated Meeting of September 27, 2017 be adopted as printed.

REPORTS OF THE STANDING COMMITTEES

Report of the Committee on Environmental Protection

Report for Int. 1637-A

Report of the Committee on Environmental Protection in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to creating a long-term energy plan for the city and establishing a New York city energy policy advisory subcommittee

The Committee on Environmental Protection, to which the annexed proposed amended local law was referred on June 6, 2017 (Minutes, page 1874), respectfully

REPORTS:

I. INTRODUCTION

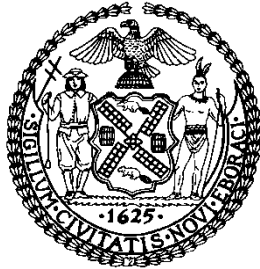
On November 15, 2017, the Committee on Environmental Protection, chaired by Council Member Costa Constantinides, will hold a hearing for the purposes of conducting a vote on Proposed Int. No. 1637-A, which creates a long-term energy plan for the city and establishes a city energy policy advisory subcommittee. The Committee previously held a hearing on this bill on June 27, 2017, and received testimony from the Mayor's Office of Sustainability, advocacy organizations and interested members of the public. More information about this bill is available with the materials for that hearing, which can be accessed online at <http://legistar.council.nyc.gov/>.

II. PROPOSED INT. NO. 1637-A

This bill would establish a city energy policy advisory subcommittee that would advise the administering agency in the creation of a long-term energy plan in 2019 and updated every four years thereafter. The plan would include a review of the current energy supply, a summary of the current citywide energy demand and a

projection of the future citywide energy demand over the next four years. The plan would also include an estimate of renewable energy sources integrated into the energy supply, an accounting of energy efficiency measures that have been deployed in the city, and specific recommendations of renewable energy sources and energy efficiency measures that could feasibly be developed and integrated by the city.

(The following is the text of the Fiscal Impact Statement for Int. No. 1637-A:)



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

PROPOSED INTRO. NO. 1637-A

COMMITTEE: ENVIRONMENTAL PROTECTION

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to creating a long-term energy plan for the city and establishing a New York city energy policy advisory subcommittee

SPONSORS: By Council Members Johnson, Richards, Cohen, Constantinides, Rosenthal, Gentile, Menchaca, and Kallos

SUMMARY OF LEGISLATION: Proposed Intro. No. 1637-A would establish an energy policy advisory subcommittee appointed to advise the City’s sustainability advisory board regarding the City’s long-term energy goals. The head of the advisory subcommittee would be designated by the Mayor and the remaining members would be appointed by the Mayor in consultation with the Speaker. All appointees would serve without compensation. The advisory subcommittee would be responsible for advising the agency designated by the Mayor to carry out the provisions of this local law on the creation of a long-term energy plan. Such plan would be due by December 31, 2019 and updated every four years thereafter.

EFFECTIVE DATE: This local law would take effect immediately; provided, however, that the long-term energy plan required by this local law would be completed by December 31, 2019 and updated every four year thereafter.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2020

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	Full Fiscal Impact FY20
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: It is anticipated that there would be no impact on revenues resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: It is anticipated that there would be no impact on expenditures resulting from the enactment of this legislation because the Administration would use existing resources to implement the provisions of the bill.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A**SOURCES OF INFORMATION:** New York City Council Finance Division**ESTIMATE PREPARED BY:** Jonathan K. Seltzer, Legislative Financial Analyst**ESTIMATE REVIEWED BY:** Rebecca Chasan, Counsel, Finance Division
Crilhien Francisco, Unit Head, Finance Division
Nathan Toth, Director, Finance division

LEGISLATIVE HISTORY: This legislation was introduced to the Council as Intro. No. 1637 on June 6, 2017 and was referred to the Committee on Environmental Protection (Committee). The Committee considered the legislation at a hearing on June 27, 2017, and the legislation was laid over. The legislation was subsequently amended and the amended legislation, Proposed Intro. No. 1637-A will be considered by the Committee on November 15, 2017. Upon a successful vote by the Committee, Proposed Intro. No. 1637-A will be submitted to the full Council for a vote on November 16, 2017.

DATE PREPARED: November 14, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1637-A:)

Int. No. 1637-A

By Council Members Johnson, Richards, Cohen, Constantinides, Rosenthal, Gentile, Menchaca, Kallos and Levin.

A Local Law to amend the administrative code of the city of New York, in relation to creating a long-term energy plan for the city and establishing a New York city energy policy advisory subcommittee

Be it enacted by the Council as follows:

Section 1. Subchapter 2 of chapter 1 of title 3 of the administrative code of the city of New York is amended by adding a new section 3-126 to read as follows:

§ 3-126 *New York city energy policy. a. Definitions. As used in this section:*

Advisory subcommittee. The term “advisory subcommittee” means the New York city energy policy advisory subcommittee appointed to advise the city’s sustainability advisory board, as established by subdivision g of section 20 of the New York city charter, regarding the long-term energy goals of the city of New York.

Administering agency. The term “administering agency” means the office or agency designated by the mayor, pursuant to subdivision f of this section, to administer the provisions of this section.

Energy supply. The term “energy supply” means (i) power plants and any other facilities that generate energy that is used in the city; (ii) infrastructure that transmits or distributes energy that is used in the city; (iii) any fuels that are used in buildings or facilities in the city; and (iv) distributed generation sources of electricity, including cogeneration and energy storage facilities that are used in the city.

Renewable energy. The term “renewable energy” means energy generated from (i) hydropower, municipal solid waste, marine and hydrokinetic, wind, solar, biomass, geothermal, and biogas; (ii) any source that the administering agency determines is renewable; or (iii) any source that is determined by the administering agency to have a positive environmental impact or a substantially lower negative environmental impact than other sources of energy.

b. New York city energy policy advisory subcommittee. 1. The administering agency shall convene a New York city energy policy advisory subcommittee.

2. *The head of the administering agency or a designee of the mayor shall be the chair of the advisory subcommittee.*

3. *The mayor or his or her designee shall, in consultation with the speaker of the council, appoint the members of the advisory subcommittee. To the extent practicable, the appointed members shall include representatives of (i) governmental entities that regulate or have a significant interest in the development of the energy supply; (ii) energy utilities; (iii) the renewable energy industry; (iv) the energy industry; (v) consumer organizations advocating on energy issues; (vi) environmental advocacy organizations; (vii) licensed professional engineers; and (viii) other persons with experience or expertise deemed relevant by the mayor or his or her designee. Members of the advisory subcommittee shall serve without compensation and may be removed at any time by the mayor or his or her designee, in consultation with the speaker of the council.*

c. *Meetings. The advisory subcommittee shall convene at least once every six months for the purpose of evaluating materials related to the adequacy and potential risks to the energy supply, and to provide advice and recommendations concerning the implementation of objectives regarding the development of the energy supply, as established by the long-term energy plan required by this section.*

d. *The administering agency shall submit to the mayor and the speaker of the council, and make publicly available online, a long-term energy plan, in conjunction with the plan developed in accordance with subdivision e of section 20 of the New York city charter. The advisory subcommittee established by this section shall provide, as needed, advice and recommendations with respect to the development of such plan, which shall include, but not be limited to:*

1. *A review of the current energy supply and capacity;*
2. *A summary of the current citywide energy demand and a projection of the future citywide energy demand over the next four years, or such longer period as the advisory subcommittee may deem appropriate, including (i) an identification of factors that may affect demand; (ii) specific recommendations regarding the capacity that could be added to the current energy supply to meet such projected demand after consideration of such factors; and (iii) actions the city could take in connection with such recommendations;*
3. *A list of each governmental entity that regulates or exercises any authority over the energy supply, in whole or in part, and, for each such entity, a description of its role with respect to the energy supply;*
4. *An estimate of the renewable energy sources within or directly connected to Zone J plus an accounting of energy efficiency measures and distributed generation that have been deployed in the city;*
5. *Specific recommendations for developing and integrating additional renewable energy sources and energy efficiency measures to the maximum extent possible, including actions the city could take in connection with such recommendations, and actions the city could advocate be taken by the state and federal government in connection with such recommendations.*

e. *Where the administering agency has established a long-term energy plan in accordance with this section and in conjunction with the long-term sustainability plan required by subdivision e of section 20 of the New York city charter, the advisory subcommittee shall provide advice and recommendations with respect to:*

1. *Plans for providing information to city residents and other members of the public regarding energy efficiency initiatives and the purchase of renewable energy;*
2. *Plans for the dissemination of information to city residents and other members of the public about the benefits of and progress attained through such long-term energy plan; and*
3. *For any subsequent long-term energy plan, a review of the city's objectives and recommendations established in the previous long-term energy plan.*

f. *The mayor shall, in writing, designate one or more offices or agencies to administer the provisions of this section and may, from time to time, change such designation. Within 10 days after such designation or change thereof, a copy of such designation or change thereof shall be published on the city's website and on the website of each such office or agency, and shall be electronically submitted to the speaker of the council.*

§ 2. *This local law takes effect immediately; provided, however, that the plan required by subdivision d of section 3-126 of the administrative code of the city of New York, as added by this local law, shall be completed by December 31, 2019 and shall be updated every four years thereafter.*

COSTA G. CONSTANTINIDES, *Chairperson*; STEPHEN T. LEVIN, DONOVAN J. RICHARDS, RORY I. LANCMAN, ERIC A. ULRICH; Committee on Environmental Protection, November 15, 2017.

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

Report of the Committee on Finance

Report for Int. No. 1673-A

Report of the Committee on Finance in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to notice of the recording of certain real estate instruments.

The Committee on Finance, to which the annexed proposed amended local law was referred on July 20, 2017 (Minutes, page 2452) respectfully

REPORTS:

I. Introduction

On November 16, 2017, the Committee on Finance (Committee), chaired by Council Member Julissa Ferreras-Copeland, will hold a second hearing on Introduction (Int.) No. 1673, sponsored by Council Members Helen Rosenthal and Ferreras-Copeland, *A Local Law to amend the administrative code of the city of New York, in relation to notice of the recording of certain real estate instruments*, as well as Resolution (Res.) No. 1421, sponsored by Council Member Paul Vallone, a *Resolution calling upon the New York State Legislature to pass and the Governor to sign legislation to require all real property conveyances to be memorialized by a deed recorded in the office of the clerk of the county where such real property is situated*.

This is the second hearing on this bill and resolution, which are both concerned with the prevention of deed fraud. The Committee first held a hearing on these items on October 18, 2017, at which time it heard testimony from the New York City Sheriff and the City Register, as well as other interested parties. Int. No. 1673 was subsequently amended after the hearing, and a description of the amended legislation can be found below in section III of this report.

II. Background

a. Deed Fraud in New York City

In recent years, the occurrence of real property scams, such as real property deed fraud, are on the rise.¹ Factors that have led to this increase include the 2008 foreclosure crisis and resulting recession, as well as the significant rise in property values that New York City has seen as part of the ensuing recovery. These factors make schemes to obtain real property even more lucrative for fraudsters and criminals. While deed fraud scams occur through differing methods, all involve the fraudulent transfer of the ownership of a home to a third party.² The results of these frauds can be both financially and emotionally devastating to homeowners, who may already be struggling under the weight of an impending foreclosure or a death in the family, as they realize that the home they thought they owned may now belong to someone else.

Many cases of deed theft fall into the broader category of foreclosure rescue scams – schemes by which scammers take advantage of desperate homeowners who have fallen behind in their mortgage payments by

¹ “Who Can You Trust? The Foreclosure Rescue Scam Crisis in New York,” available at <http://cnycn.org/wp-content/uploads/2014/12/Who-Can-You-Trust.pdf> (last visited September 18, 2017)

² “Deed Theft Scams,” available at <http://cnycn.org/2015/06/deed-theft-scams/> (last visited September 18, 2017).

offering various types of assistance, such as a loan modification or mortgage assistance in exchange for a fee.³ While foreclosure rescue scams occur with greater frequency in all of New York State's metropolitan areas, the vast majority of incidents statewide occur in the New York City metropolitan area.⁴ According to data from the Loan Modification Scam Database maintained by the Lawyers' Committee for Civil Rights Under Law ("Lawyers' Committee") from March 2010 to September 2014, the communities with highest numbers of reported scams within the City are Southeast Brooklyn, Southeast Queens, and the Northeast Bronx.⁵

According to the Lawyers' Committee's data, across New York State, minority homeowners, particularly African-Americans and Latinos, are far more likely to have been the victims of foreclosure scams, and to have suffered greater financial losses per scam, than their white homeowner counterparts.⁶ This significant disparity reflects the highly damaging impact of the foreclosure crisis on minority homeowners. Despite owning 80 percent of the homes in New York State, white owners comprised only 39 percent of reported scam victims.⁷ By contrast, African-American homeowners comprised 30 percent of mortgage rescue scam victims in New York State (while only representing eight percent of total homeowners), and Latino homeowners comprised 20 percent of scam victims (constituting six percent of total homeowners).⁸ Furthermore, African-American homeowners suffered an average loss of \$5,467 and Latino homeowners a loss of \$4,654, while white homeowners lost an average of \$3,100.⁹

Older New Yorkers are also disproportionately affected by scams, suffering higher losses than younger homeowners, while being more likely to live on limited or fixed incomes. According to the data collected by the Lawyers' Committee, the older the homeowner in New York State, the greater the average loss.¹⁰ While homeowners aged 36-50 reported an average loss of \$4,248, those aged 51 and over reported losses nearly \$300 higher, at \$4,531.¹¹

There have been several cases of deed fraud prosecuted in the past few years. In March of this year, a grand jury in Queens indicted eleven individuals and two corporations in a fraud scheme conducted between August 2012 and January 2017.¹² According to prosecutors, several homeowners had received cold calls from individuals employed a Queens-based company, who told the homeowners that they would assist with any financial problems associated with their homes.¹³ The company would then trick the homeowners into signing over their property deeds, which were transferred over to a corporate entity, even as the homeowners remained responsible for the mortgage.¹⁴ As soon as the new deeds were recorded, the defendants allegedly began to collect rents from the homeowners under the premise of being the new property owners, as well as collecting subsidies from the Department of Social Services and the New York City Housing Authority.¹⁵

b. Common Deed Fraud Scams

Deed fraud can typically be divided into two categories: 1) forged deeds, and 2) fraudulently transferred deeds.¹⁶ In the case of forged deeds, the scammer will create a fake deed, sign as the buyer, and forge the signature of the homeowner/seller. Cases of forged deeds often occur where property has been vacant for long periods, there is an absentee property owner, or when property has recently been inherited after the death of the prior homeowner and the new owner has not yet taken possession.¹⁷ Often, the forgers will take actual

³ "Who Can You Trust?," *supra* fn. 1.

⁴ *See id.*

⁵ *See id.*

⁶ *See id.*

⁷ *See id.*

⁸ *See id.*

⁹ *See id.*

¹⁰ *See id.*

¹¹ *See id.*

¹² "11 People, 2 Companies Accused Of Tricking Homeowners Into Signing Over Deeds In Queens," CBSNewYork (March 1, 2017), <http://newyork.cbslocal.com/2017/03/01/queens-deed-fraud/>

¹³ *Id.*

¹⁴ *Id.*

¹⁵

¹⁶ *See* "Deed Theft Hits Close to Home," available at <http://rozariolaw.com/2015/12/deed-fraud-hits-close-to-home/> (last visited September 18, 2017); *see also* "Real Estate Companies Scheme to Defraud Owners Out of Their Homes," available at http://www.nytimes.com/2015/11/08/nyregion/real-estate-shell-companies-scheme-to-defraud-owners-out-of-their-homes.html?_r=0 (last visited September 18, 2017)

¹⁷ "Deed Theft Hits Close to Home," *supra* fn. 12.

possession of the property without the legitimate owner's knowledge.¹⁸ Cases of fraudulently transferred deeds occur when a property owner signs over a deed to a third party, either knowingly or unknowingly, under false pretenses.

In cases of foreclosure rescue scams, common scenarios of fraudulently transferred deeds include the "lease/buyback" and the "bait and switch."¹⁹ The "lease/buyback" involves a promise by the scammer to a homeowner that the scammer will save their home from foreclosure (and in some cases repair the homeowner's credit and/or pay off their debts).²⁰ In exchange, the homeowner is required to "temporarily" sign his or her deed over to a third party. While the homeowner can continue to remain in the home, they must pay "lease" payments to the scammer, who assures the homeowner that he or she can buy back the home in the future.²¹ However, despite these assertions, the homeowner finds that they are in fact unable to buy back their home, and may be evicted by the new owner of the deed.

In the "bait and switch," the homeowner will be presented with various alleged foreclosure rescue documents, to sign with the assumption that they will not be read or understood before signing, and the homeowner will unwittingly sign a document transferring ownership of the home.²² Once the deed transfer documents are executed, and the homeowner believes that he or she has been rescued from foreclosure, the scammer will try to evict the homeowner.²³

In both types of cases, the property frequently changes ownership numerous times after a deed is signed away, making it extremely difficult to find the proper owner.²⁴ Making these cases more complicated to investigate and prosecute, is the rise of the use of sham limited liability corporations ("LLCs") to effectuate these scams.²⁵ LLCs are a hybrid type of legal structure that provides its owners with the protection from liability afforded to corporations with the tax efficiencies and operational flexibility of partnerships.²⁶ LLCs also have the ability to shield the names of their owners, and when used to purchase property can make it difficult to ascertain who the actual owner of the property is.²⁷

c. The City's Efforts to Fight Deed Fraud

There are two offices within the City's Department of Finance ("DOF") that have authority over deeds and combatting deed fraud. The City Register²⁸ records and maintains deeds, while the City Sheriff²⁹ investigates cases of alleged deed fraud and, when appropriate, makes arrests.

In Manhattan, Brooklyn, Queens, and the Bronx, the City Register is responsible for recording and maintaining all official documents related to transfers of real property and certain interests in personal property related to co-operatives.³⁰ The documents that are recorded and maintained by the City Register include deeds, mortgages, satisfactions or assignments of mortgages, powers of attorney, and Uniform Commercial Code financing documents for co-operatives.³¹ To facilitate this responsibility, DOF maintains a database of all property records called the Automated City Register Information System ("ACRIS") and the City Register

¹⁸ See *id.*; See also "The Extraordinary 'Theft' of a Woman's NYC Home," available at <http://nypost.com/2014/10/12/woman-fights-to-take-back-house-stolen-in-deed-fraud-scam/> (last visited September 18, 2017)

¹⁹ See "Beware of Foreclosure Rescue Scams," available at <http://www.legalservicesnyc.org/storage/PDFs/kyr%20foreclosure-%20loan%20mod%20scams.pdf> (last visited September 18, 2017).

²⁰ See *id.*; see also "Who Can You Trust?," *supra* fn. 1.

²¹ See "Beware of Foreclosure Rescue Scams," *supra* fn. 15.

²² See *id.*

²³ See *id.*

²⁴ See *id.*

²⁵ See "Real Estate Companies Scheme to Defraud Owners Out of Their Homes," *supra* fn. 12.

²⁶ See <https://www.sba.gov/content/limited-liability-company-llc> (last visited on September 18, 2017).

²⁷ See "Real Estate Companies Scheme to Defraud Owners Out of Their Homes," *supra* fn. 12.

²⁸ N.Y.C. Charter §1525

²⁹ N.Y.C. Charter §1526

³⁰ In Staten Island, those functions are carried out by the County Clerk. See "Office of the Richmond County Clerk" <http://www.richmondcountyclerk.com/> (last accessed September 18, 2017)

³¹ See http://www1.nyc.gov/assets/finance/downloads/pdf/land_records/doc_recording_checklist.pdf (last visited September 18, 2017); see also, <http://www1.nyc.gov/site/finance/taxes/property-uniform-commercial-code-ucc-financing-statement.page> (last visited September 18, 2017).

accepts all recorded documents electronically through that system.³² In addition, the publicly searchable database allows users to search for and view documents from 1966 to the present.³³

The City Register also collects the Real Property Transfer Tax (“RPTT”) and Mortgage Recording Tax (“MRT”) when documents are submitted for recording.³⁴ The forms and other documents for paying these taxes are prepared through ACRIS.

The City Register’s discretion with respect to recording deeds is limited. The requirements for recording deeds, mortgages, and other written instruments relating to the conveyance of real property within New York State are set forth in the State Real Property law. Pursuant to State statute, every conveyance presented to the City Register must be recorded, so long as the written instrument being recorded has the appropriate signatures and is notarized or otherwise appropriately witnessed and that all fees have been paid.³⁵ The New York State Court of Appeals has found that, so long as these requirements are satisfied, the City Register has no discretion in whether to record a written instrument – doing so is merely a “ministerial duty.”³⁶ This is true even where the City Register may identify that the deed may be fraudulent. In May 2016, for example, the State Supreme Court found that an elderly woman who had been the victim of deed fraud had no cause of action against the City for the recording of a fraudulent deed. The court stated that the City Register “owed no duty...and indeed had no authority, to investigate the authenticity of the underlying transaction reflected in the instrument being recorded and thus whether or not the deed was fraudulent as a condition to accepting the instrument for recording.”³⁷ Furthermore, the court held that the implementation of proper procedural safeguards to ensure the authenticity of registered deeds is “beyond the authority and job function” of the City Register.³⁸

The Office of the City Sheriff is headed by the Sheriff who may appoint an Undersheriff for each county, as well as Deputy Sheriffs.³⁹ The Sheriff is an officer of the court whose main job is to serve and execute legal processes/mandates issued by the State courts, legal community and the general public.⁴⁰ The Office of the City Sheriff enforces court mandates and processes and the majority of its duties include: 1) discovery and seizure of property; 2) cigarette tax and license enforcement; 3) arrests; and 4) serving a variety of mandates, orders, and decrees issued by various courts.⁴¹

The Sheriff, Undersheriffs, and Deputy Sheriffs are designated as peace officers with the authority to make arrests, including warrantless arrests.⁴² As part of its investigatory and arrest powers, the Office of the City Sheriff has a Bureau of Criminal Investigation (“BCI”) which serves as the agency’s criminal tax and financial crimes investigation unit. BCI conducts a wide variety of criminal investigations such as investigations into alleged real property deed fraud.⁴³ In doing so, the Sheriff works collaboratively with other governmental officials like the New York Police Department, the District Attorneys’ Offices, and the State Department of Taxation and Finance.⁴⁴

With respect to cases of suspected deed fraud that are referred to the Sheriff’s office, they conduct investigations to determine if there is a criminal intent. If, after discussions with the individuals who recorded suspicious documents, the Sheriff determines that the errors were unintentional then the case would be referred back to the City Register to assist the individual to correctly file the documents.⁴⁵ However, if the Sheriff

³² See <http://www1.nyc.gov/site/finance/taxes/acris.page> (last visited September 18, 2017).

³³ See *id.*

³⁴ See <http://www1.nyc.gov/site/finance/about/divisions.page> (last visited September 18, 2017). The RPTT is paid on all sales, grants, assignments, transfers or surrenders of real property in New York City and for the sale or transfer of at least 50 percent of ownership in a corporation, partnership, trust, or other entity that owns/leases property and transfers of cooperative housing stock shares. It applies whenever the sale or grant is more than \$25,000. The MRT is charged whenever a mortgage for property in New York City is recorded. See <http://www1.nyc.gov/site/finance/taxes/property.page> (last visited September 18, 2017).

³⁵ See N.Y. State Real Property Law §291.

³⁶ *Merscorp, Inc. v. Romaine*, 8 N.Y.3d 90, 98 (2006)

³⁷ *Merin v. The City of New York*, 2016 WL 3454185 (N.Y.Sup.), 2016 N.Y. Slip Op. 31161(U), 1. This case is now on appeal to the Supreme Court, Appellate Division.

³⁸ *Id.*

³⁹ See generally N.Y. County Law, Chapter 11, Article 17.

⁴⁰ See <http://www1.nyc.gov/site/finance/sheriff-courts/sheriff.page> (last visited September 18, 2017).

⁴¹ See *id.*

⁴² See N.Y. Criminal Procedure Law §§2.10 and 2.20.

⁴³ See <http://www1.nyc.gov/site/finance/sheriff-courts/sheriff.page> (last visited September 18, 2017).

⁴⁴ See *id.*

⁴⁵ Transcript of February 1, 2016 hearing of the Committee on Finance, pg. 25.

determines that there is probable cause to make an arrest, the matter is referred to the appropriate District Attorney's office for prosecution.⁴⁶

Within DOF, other efforts have been undertaken to combat deed fraud. One of the most significant of these is the Notice of Recorded Documents program, which DOF began in July 2010 with the goal of detecting real property registration fraud in the City. Under this program, property owners and their agents (including their child, spouse, or domestic partner-if they are a designee), as well as the property's managing agent, the property owner's attorney, the lienor, or executors/administrators of the estate of the owner/lienor of the property may register with DOF to receive notification when certain documents affecting an ownership interest in real property have been recorded against a single property within the five boroughs.⁴⁷ Individuals must register separately for each property to which they have an interest. Documents whose registration would trigger notification include deeds, deed-related documents, mortgages, and mortgage-related documents.⁴⁸ Each time a document is recorded against the registered property, qualified individuals who registered using the borough, block, and lot number of the property address will receive an email, text message, or letter.⁴⁹ The notification includes a recommendation that registrants check ACRIS to view the actual document for potential issues.⁵⁰ DOF currently includes a recommendation to register for the system in its public deed fraud prevention materials⁵¹; however, it is unclear how many individuals are currently registered.

According to DOF, approximately 45% of the total registrations are by city government offices.⁵² There are 49,308 total registrations by individuals not affiliated with city government, including 48,726 active registrations.⁵³

The breakdown of registrants by borough is as follows⁵⁴:

Borough	Total Registrations	Active Registrations
Manhattan	8,560	8,360
Bronx	5,313	5,275
Brooklyn	19,163	18,940
Queens	13,083	12,989
Staten Island	3,189	3,172
TOTAL	49,308	48,736

Within ACRIS itself, DOF implemented several flags to notify the examiner that a document might be suspect and in need of further review. According to the City Register, these flags include: the lack of a valid EIN or Social Security number; zero consideration for the transfer of the property without explanation; if the total consideration of the transfer is less than the assessed value of the property; if the same person presenting the document is the buyer or the person indicated to have the documents returned to them; and if there is no prior ownership information in the system or the customer has been flagged previously for submitting fraudulent documents.

DOF has also implemented enhanced training for staff to better review documents that might be suspected of fraud.⁵⁵ Aside from more proactive notification to property owners and enhanced flags within the ACRIS system, the Department has testified that they have trained staff on a more comprehensive review of

⁴⁶ Id.

⁴⁷ <https://a836-acrissds.nyc.gov/NRD/> (last visited September 18, 2017)

⁴⁸ A comprehensive list of such documents can be found at http://www1.nyc.gov/assets/finance/downloads/pdf/recorded_documents/notice_of_rec_descrip.pdf (last visited September 18, 2017)

⁴⁹ Id.

⁵⁰ Id.

⁵¹ http://www1.nyc.gov/assets/finance/downloads/pdf/translations/deed_fraud_booklet/deedfraud_booklet.pdf (last visited September 18, 2017)

⁵² Council of the City of New York, Testimony of Joseph Fucito before the Committee on Finance (Oct. 18, 2017), available at <http://legistar.council.nyc.gov/View.ashx?M=F&ID=5532236&GUID=B4E99F3C-CE77-435E-B2C4-7E3750B2E57D>

⁵³ Id.

⁵⁴ Id.

⁵⁵ Testimony of the Commissioner of Finance at February 1, 2016 hearing.

documents that might be fraudulent.⁵⁶ Finance Commissioner Jacques Jiha testified before the Committee in 2016 that as a result of an internal review of the agency's recording process, City Register's office staff determined that closer attention was warranted to quitclaim deeds, which are most often used when committing deed fraud as they do not guarantee that the grantor owns title to the property.⁵⁷ Commissioner Jiha testified that additional review would also be triggered in cases where the property's sale price was far below market value, when there were multiple transfers between LLCs during a short period of time, or where there were transfers by people or entities previously known to have committed or were suspected of, deed fraud.⁵⁸ The Department has also requested that LLCs disclose the names of their members when recording deeds, as LLCs have been used in some cases by scammers to shield their identities.⁵⁹

According to the Department of Finance, between July 2014 and September 2017, more than 1,973 cases of suspected deed fraud were referred to the Sheriff's office.⁶⁰ Of those cases, the Sheriff has closed out 1,119 cases, completed 96 criminal investigations with the District Attorneys' offices, and have 236 ongoing investigations.⁶¹ Additionally, the Sheriff's Office has made 37 arrests with respect to 54 properties with a collective market value of approximately \$40 million.⁶²

III. Analysis of Proposed Int. No. 1673-A

Section 1 of Proposed Int. No. 1673-A would amend the Administrative Code to add a new section 7-628, titled "Notification of recording of real estate instruments."

Subdivision a of Section 7-628 would establish, for purposes of the section, definitions for the terms "Deed-related document," "Department," "Interested party," and "Mortgage-related document."

"Deed related document" would be defined as including (but not being limited to) a deed, air rights, condemnation proceeding agreement, condominium declaration, confirmatory deed, contract of sale, correction deed, court order, in rem deed, judgment, life estate deed, memorandum of contract, power of attorney, real estate investment trust deed, revocation of power of attorney, sundry agreement, unit assignment and any other document that may be designated as deed-related by the commissioner of finance.

"Department" would be defined as the Department of Finance (DOF).

"Interested party" would be defined as the property owner, the property owner's agent or attorney or designee, the property lienor, the property lienor's agent or attorney, the executor or administrator of the estate of the owner or lienor of the property, the agent or attorney of the executor or administrator of the estate of the owner or lienor of the property and any other individual that may be designated by the commissioner of finance.

"Mortgage-related document" would be defined as including (but not be limited to) a mortgage, collateral mortgage, mortgage and consolidation, mortgage spreader agreement, satisfaction of mortgage, subordination of mortgage, sundry mortgage, UCC-1 (financing statement), and any other document that may be designated as mortgage-related by the commissioner of finance.

Subdivision b of Section 7-628 would require DOF to establish and maintain a system that provides any interested party a notification by email, text message, or postal mail, that a deed-related or mortgage-related document affecting such party's interest in real property is recorded with the City Register or the Office of the Richmond County Clerk (provided that DOF has received notice of such recording from the Richmond County Clerk). DOF would be prohibited from charging individuals a fee for use of this notification system.

Subdivision c of Section 7-628 would require DOF, for all Class 1 and Class 2 properties in the city, to register in the notification system (to the extent practicable and consistent with applicable law) the property owner named on the most recent deed-related or mortgage-related document recorded and indexed by the City

⁵⁶ Council of the City of New York, *Testimony of Jacques Jiha before the Committee on Finance 2* (Feb. 1, 2016), available at

⁵⁷ Id.

⁵⁸ Id.

⁵⁹ Id.

⁶⁰ Council of the City of New York, *Testimony of Joseph Fucito before the Committee on Finance*, *supra* note 52.

⁶¹ Id.

⁶² Id.

Register or the Office of the Richmond County Clerk prior to the effective date of this local law. DOF would be required to permit any individual registered for the notification system to opt-out of receiving notifications.

Subdivision d of Section 7-628 would require DOF to automatically register (to the extent practicable) the named property owner when a deed-related or mortgage-related document is recorded with the City Register or the Richmond County Clerk. DOF would be required to permit any individual registered for the notification system to opt-out of receiving notifications.

Subdivision e of Section 7-628 would require DOF to report on the utilization of the notification system on a quarterly basis. Data would be included for Richmond County to the extent that DOF has received data from the Office of the Richmond County Clerk. The report must include, but not be limited to, the following information for the prior quarter (disaggregated by borough): (1) the total number of individuals registered to receive notifications, disaggregated by type of interested party; (2) the total number of individuals receiving notifications for multiple properties; (3) the total number of properties for which an individual is registered to receive notifications; (4) the total number of individuals who opted out of receiving notifications; (5) the total number of individuals who contacted DOF regarding an incorrect or suspected fraudulent document recording, disaggregated by the source of information that led to such contact; and (6) the total number of referrals made by the City Register or Office of the Richmond County Clerk to the City Sheriff related to suspected fraudulent document recording, the outcomes of these referrals, and whether an investigation was commenced by the City Sheriff. This report must be submitted to the Council and published on DOF's website no later than February 1, May 1, August 1, and November 1 of each year, with the first report due on November 1, 2018.

Subdivision f of Section 7-628 would require DOF to conduct outreach to property owners about the provisions of the section.

Subdivision g of Section 7-628 would establish that the City is not liable for any damages because of the failure to provide the requested notifications, nor will individuals have any cause of action for such a failure.

Section 2 of Proposed Int. No. 1673-A establishes that the local law takes effect July 1, 2018.

IV. Analysis of Res. No. 1421

Res. No. 1421 first notes that the New York State Real Property Law provides that a conveyance of an interest in real property is effective against the whole world when a grantor executes and delivers a deed to the grantee, that any written instrument conveying an interest in real property may be recorded in the office of the clerk of the county where such real property is situated, and that every such conveyance that is not recorded is void against any person who subsequently purchases such property in good faith for valuable consideration and whose conveyance is duly recorded.

The resolution then states that in New York City, the Department of Finance oversees the Office of the City Register. The resolution cites DOF Commissioner Jacques Jiha as commenting that it is easy for people to fraudulently record deeds to property they do not own, and that people who inherit property and do not record the deeds to their property are often the targets of fraud. It further states that the New York State Real Property Law requires the City Register to record any properly filed instrument conveying an interest in real property without inquiring into its authenticity.

Res. No. 1421 next cites the *New York Daily News* for the proposition that in order to recover property that has been fraudulently taken by the filing of a false deed, a property owner may expend significant resources on litigation in actions to cancel and discharge fraudulent deeds and liens on the property, as well as in squatter holder proceedings to evict and remove the false filer.

The resolution then notes that DOF has established a "Notice of Recorded Document System" to alert registered property owners when documents are recorded without their knowledge and to allow property owners to take steps to limit the harm caused by the recording of fraudulent documents against their property, and that property owners must first record the deed conveying their interest in the property before they can receive these notices.

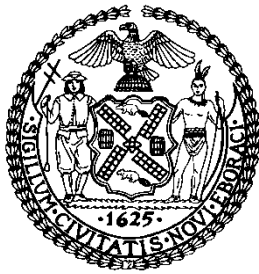
Next, the resolution notes that the New York City Housing Maintenance Code requires all owners of multiple dwellings and all owners of one-and-two family dwellings where neither the owner nor any family member occupies the dwelling to register with the Department of Housing Preservation and Development

(HPD) so that such owners may be contacted in the event of an emergency, and also requires all such owners to provide notice to HPD whenever an owner transfers title to another person.

The resolution comments that the Housing Maintenance Code registration requirements do not register an owner of real property with the Notice of Recorded Document System, and that owners of buildings not subject to the Housing Maintenance Code are not required to register with the City at all.

The resolution concludes by calling upon the New York State Legislature to pass, and the Governor to sign, legislation to require all real property conveyances to be memorialized by a deed recorded in the office of the clerk of the county where the real property is situated.

(The following is the text of the Fiscal Impact Statement for Int. No. 1673-A:)



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

PROPOSED INTRO. NO. 1673-A

COMMITTEE: FINANCE

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to notice of the recording of certain real estate instruments

SPONSORS: By Council Members Rosenthal, Ferreras-Copeland, Gentile, Kallos and Cornegy

SUMMARY OF LEGISLATION: Proposed Intro. No. 1673-A would codify the Department of Finance (DOF)'s Automated City Register Information System (ACRIS) Notice of Recorded Document Program, by requiring DOF to establish and maintain a system that would allow individuals to register to receive notifications by email, text message or postal mail whenever certain deed-related or mortgage-related documents affecting an ownership interest in real property are recorded with the City Register or the Office of the Richmond County Clerk (where DOF has received notice from the Clerk). To the extent practicable, DOF would be required to automatically enroll the named property owner into the system upon recording of such documents (with the ability to opt-out), as well as to register the property owner named on deed-related or mortgage-related documents recorded prior to the effective date of this legislation. DOF would also be required to report on utilization of the system and referrals to the Sheriff regarding suspected deed fraud, as well as to engage in outreach to property owners about the system.

EFFECTIVE DATE: This local law would take effect July 1, 2018.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	Full Fiscal Impact FY19
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: It is anticipated that there would be no impact on revenues resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: It is anticipated that there would be no impact on expenditures resulting from the enactment of this legislation because the Department of Finance would use existing resources to implement the provisions of the legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCES OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Jonathan K. Seltzer, Legislative Financial Analyst

ESTIMATE REVIEWED BY: Eric Bernstein, Counsel, Finance Division
 Crilhien Francisco, Unit Head, Finance Division
 Nathan Toth, Deputy Director, Finance Division

LEGISLATIVE HISTORY: This legislation was introduced to the Council as Intro. No. 1673 on July 20, 2017 and was referred to the Committee on Finance (Committee). The Committee considered the legislation at a hearing on October 18, 2017, and the legislation was laid over. The legislation was subsequently amended and the amended legislation, Proposed Intro. No. 1673-A, will be considered by the Committee on November 16, 2017. Upon a successful vote by the Committee, Proposed Intro. No. 1673-A will be submitted to the full Council for a vote on November 16, 2017.

DATE PREPARED: November 15, 2017.

(For text of Res Nos. 1421, please see the Report of the Committee on Finance for Res. Nos. 1421 printed in these Minutes; for text of Int. No. 1673-A, please see below)

Accordingly, this Committee recommends the adoption of Int. No. 1673-A and Res. No. 1421.

(The following is the text of Int. No. 1673-A:)

Int. No. 1673-A

By Council Members Rosenthal, Ferreras-Copeland, Gentile, Kallos, Cornegy and Vallone.

A Local Law to amend the administrative code of the city of New York, in relation to notice of the recording of certain real estate instruments

Be it enacted by the Council as follows:

Section 1. Chapter 6 of title 7 of the administrative code of the city of New York is amended to add a new section 7-628 to read as follows:

§ 7-628. Notification of recording of real estate instruments. a. Definitions. For purposes of this section:

“Deed-related document.” The term “deed-related document” includes, but is not limited to, a deed, air rights, condemnation proceeding agreement, condominium declaration, confirmatory deed, contract of sale, correction deed, court order, in rem deed, judgment, life estate deed, memorandum of contract, power of attorney, real estate investment trust deed, revocation of power of attorney, sundry agreement, unit assignment and any other document that may be designated as deed-related by the commissioner of finance.

“Department” The term “department” means the department of finance.

“Interested party.” The term “interested party” means the property owner, the property owner’s agent or attorney or designee, the property lienor, the property lienor’s agent or attorney, the executor or administrator of the estate of the owner or lienor of the property, the agent or attorney of the executor or administrator of the estate of the owner or lienor of the property and any other individual that may be designated by the commissioner of finance.

“Mortgage-related document.” The term “mortgage-related document” includes, but is not limited to, a mortgage, collateral mortgage, mortgage and consolidation, mortgage spreader agreement, satisfaction of mortgage, subordination of mortgage, sundry mortgage, UCC-1 (financing statement), and any other document that may be designated as mortgage-related by the commissioner of finance.

b. The department shall establish and maintain a system that provides any interested party a notification by e-mail, text message, or postal mail, that a deed-related or mortgage-related document affecting such party’s interest in real property located in the city has been recorded against such property with the city register or the office of the Richmond county clerk, provided that the department has received notice of such recording from the office of the Richmond county clerk. The department shall not charge a fee for use of such notification system.

c. For all class one and class two properties within the city, as defined in subdivision 1 of section 1802 of the real property tax law, the department shall, to the extent practicable and consistent with applicable law, register the property owner named on the most recent deed-related or mortgage-related document recorded and indexed by the city register or the office of the Richmond county clerk prior to the effective date of this local law in the notification system described by subdivision b, provided that the department shall permit any individual registered for the notification system to opt-out of such receipt.

d. To the extent practicable, when a deed-related or mortgage-related document is recorded with the city register or the Richmond county clerk, the department shall automatically register the named property owner on such document to receive notifications, provided that the department shall permit any individual registered for the notification system to opt-out of such receipt.

e. The department shall report on a quarterly basis on the notification system established pursuant to subdivision b of this section, and shall include data for Richmond county to the extent that the department has received data from the office of the Richmond county clerk. Such report shall be submitted to the council and published on the department’s website no later than the first day of February, May, August, and November of each year, with the first report due November 1, 2018. Such report shall include, but not be limited to, the following information for the prior quarter, disaggregated by borough:

(1) total number of individuals registered to receive notifications through the system required by subdivision b of this section, disaggregated by the type of interested party;

(2) total number of individuals registered to receive notifications for multiple properties;

(3) total number of properties for which an individual is registered to receive notifications;

(4) total number of individuals who opted out of receiving notifications;

(5) total number of individuals who contacted the department regarding an incorrect or suspected fraudulent document recording, disaggregated by the source of information that led to such contact; and

(6) total number of referrals made by the city register or office of the Richmond county clerk to the city sheriff related to suspected fraudulent document recording, the outcomes of such referrals, and whether an investigation was commenced by the sheriff.

f. The department shall conduct outreach to property owners about the provisions of this section.

g. The city shall not be liable for any damages as a result of failure to provide the requested notifications, nor shall any cause of action arise from such failure.

§ 2. This local law takes effect July 1, 2018.

JULISSA FERRERAS-COPELAND, *Chairperson*; YDANIS A. RODRIGUEZ, JAMES G. VAN BRAMER, ROBERT E. CORNEGY, Jr., MARK LEVINE, HELEN K. ROSENTHAL, STEVEN MATTEO; Committee on Finance, November 16, 2017.

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

Report for Int. No. 1722-A

Report of the Committee on Finance in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to providing notice to class two property owners about registration of rent-stabilized units and housing affordability programs.

The Committee on Finance, to which the annexed amended proposed local law was referred on October 17, 2017, (Minutes, page 3554) respectfully

REPORTS:**I. Introduction**

On November 16, 2017, the Committee on Finance (Committee), chaired by Council Member Julissa Ferreras-Copeland, will hold a second hearing on Proposed Introduction (Int.) Number (No.) 1722-A, introduced by the Council Speaker, Melissa Mark-Viverito, titled *A Local Law to amend the administrative code of the city of New York, in relation to providing notice to class two property owners about registration of rent-stabilized units and housing affordability programs*. This is the second hearing on this bill, which was amended after introduction. At the first hearing on this bill, the Committee heard testimony from representatives from the New York City Department of Finance (DOF) and other interested parties.

II. Background**a. Rent Stabilization**

New York City's Rent Stabilization Law (RSL) generally applies to buildings with six or more units built before January 1, 1974.¹ Rent stabilization helps to restrict rent increases and limit evictions.² The system was enacted in 1969, at a time when rents were rising sharply in many post-war buildings.³ Additionally, buildings completed or substantially rehabilitated after January 1974 have become subject to rent stabilization through entry into the 421-a and J-51 tax abatements, or similar abatements.⁴ According to the Rent Guidelines Board, approximately one million units citywide are subject to rent stabilization.⁵

The administration and oversight of rent stabilization in the City is under the jurisdiction of the New York State Division of Housing and Community Renewal (DHCR).⁶ Owners of housing accommodations that become subject to rent stabilization are required by law to register with DHCR within ninety days, and then annually thereafter.⁷ Annual registration information must reflect the status of the buildings and apartment units as of April 1.⁸ The owners must also provide tenants in occupancy with a copy of the registration pertaining to their unit on April 1.⁹

Despite these requirements, many building owners who receive benefits that obligate them to rent stabilization do not register their buildings with DHCR. An October 2016 *ProPublica* analysis found that of the more than 4,000 properties that began receiving tax benefits under the 421-a program prior to 2014 (and

¹ See: Emergency Tenant Protection Act of 1974 §5.

² See generally: Emergency Tenant Protection Act of 1974; Emergency Housing Rent Control Law; Local Emergency Housing Rent Control Law; New York City Administrative Code Chapter 3; New York City Administrative Code Chapter 4.

³ New York City Rent Guidelines Board, "Rent Stabilization FAQ," <http://www.nycrgb.org/html/resources/faq/rentstab.html> (last accessed November 13, 2017)

⁴ *Id.*

⁵ *Id.*

⁶ New York State Division of Housing and Community Renewal, "Office of Rent Administration," <http://www.nyshcr.org/Rent/> (last accessed November 13, 2017)

⁷ N.Y.C. Administrative Code § 26-517. Annual registrations must be submitted on the DHCR's Owner Rent Regulation Application system by July 31. <http://www.nyshcr.org/Apps/RentReg/>

⁸ New York State Division of Housing and Community Renewal, "Rent Registration Information," <http://www.nyshcr.org/Apps/RentReg/> (last accessed November 13, 2017)

⁹ *Id.*

therefore should have been registered for rent stabilization as of that year), two-thirds had failed to register.¹⁰ This allowed these owners to claim the ability to raise rents without the limitations of the RSL.

Proposed Int. No. 1722-A would require DOF to provide notice of these requirements in mailings to Class 2 property owners¹¹, which would include the owners of all buildings subject to rent stabilization. According to DOF, approximately 276,376 Class 2 properties in the city receive property tax bills.¹²

b. HPD Financing Programs for Affordability

The New York City Department of Housing Preservation and Development (HPD) administers multiple financing programs to assist with the physical and financial sustainability, as well as the affordability, of private multi-family (three or more units) apartment buildings. Proposed Int. No. 1722-A would provide information regarding these programs to owners of buildings that may benefit from their use. The programs include¹³:

- HUD Multi-Family Program: program for buildings currently receiving assistance from the U.S. Department of Housing and Urban Development (HUD) that need assistance with moderate to substantial rehabilitation and the reduction of operating expenses;
- LIHTC Preservation (Year 15) Program: program for buildings receiving the Low-Income Housing Tax Credit (LIHTC) at or beyond the initial fifteen-year compliance period that need assistance with moderate rehabilitation and the reduction of operating expenses;
- Multifamily Housing Rehabilitation Program (HRP) and the Participation Loan Program (PLP): programs for buildings that need assistance with moderate rehabilitation (for PLP, moderate to substantial rehabilitation) and the reduction of operating expenses; and
- Green Housing Preservation Program: for buildings with a minimum of 5 units that need assistance with moderate rehabilitation, energy efficiency or water conservation, and management of utility costs.

Property owners entered into one of these programs will receive a loan (of varying amounts per unit depending on the program) from HPD with a low-interest rate (0%-3% depending on the program) and a full or partial tax exemption.¹⁴ As a condition of participation, HPD will often require property owners to agree to rent to tenants meeting specified income requirements, and to limit rent increase for such tenants.¹⁵

III. Analysis of Proposed Int. No. 1722-A

Section one of Proposed Int. No. 1722-A would amend the Administrative Code to add a new section 11-140, titled “Notice to class two properties.” Section 11-140 would require DOF to provide notice to owners of Class Two properties, prior to January 1 of each year, of their annual obligation to register any dwelling units within their building that are subject to rent stabilization with the New York State Division of Housing and Community Renewal. This notice would also be required to include information regarding HPD-administered financing programs designed to facilitate affordability. Finally, DOF would be required to include this notice (when practicable) on the property tax bill sent for the property tax payment due January 1.¹⁶

¹⁰ Cezary Podkul, “Thousands of NYC Landlords Who Ignored Rent Caps Got Tax Breaks They Didn’t Qualify For,” *ProPublica* (October 20, 2016), <https://www.propublica.org/article/thousands-nyc-landlords-ignored-rent-caps-got-tax-breaks-didnt-qualify-for>

¹¹ Property in New York City is divided into four classes for taxation purposes. Class 2 properties include primarily residential properties (rentals, cooperatives, condominiums) of more than three units.

¹² Council of the City of New York, *Testimony of Michael Hyman before the Committee on Finance* (Nov. 15, 2017).

¹³ N.Y.C. Department of Housing Preservation and Development, *Financing for Multifamily Buildings*, available at <https://www1.nyc.gov/assets/hpd/downloads/pdf/developers/Preservation-One-Pager.pdf>

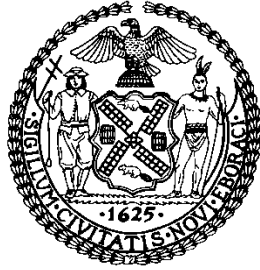
¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Class 2 properties with an assessed value of \$250,000 or less make their tax payments quarterly, with payments due July 1, October 1, January 1, and April 1. Class 2 properties with an assessed value over \$250,000 make their tax payments semiannually, with payments due on July 1 and January 1. N.Y.C. Department of Finance, *NYC Property Tax Guide for Class 2 Properties* 13, available at https://www1.nyc.gov/assets/finance/downloads/pdf/brochures/class_2_guide.pdf.

Section two of Proposed Int. No. 1722-A would establish that this local law takes effect on July 1, 2018.

(The following is the text of the Fiscal Impact Statement for Int. No. 1722-A:)



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

PROPOSED INTRO. NO. 1722-A

COMMITTEE: FINANCE

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to providing notice to class two property owners about registration of rent-stabilized units and housing affordability programs

SPONSORS: By the Speaker (Council Member Mark-Viverito) and Council Members Constantinides, Menchaca and Kallos

SUMMARY OF LEGISLATION: Proposed Intro. No. 1722-A would require the New York City Department of Finance to provide notice to owners of Class 2 properties regarding the registration of rent stabilized units with the New York State Division of Housing and Community Renewal, as well as information regarding financing programs administered by the Department of Housing Preservation and Development to facilitate affordability. This notice shall, when practicable, be included on the property tax bill for the payment of property taxes due January 1 of each year.

EFFECTIVE DATE: This local law would take effect July 1, 2018.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	Full Fiscal Impact FY19
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: It is anticipated that there would be no impact on revenues resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: It is anticipated that there would be no impact on expenditures resulting from the enactment of this legislation because the Department of Finance would use existing resources to implement the provisions of the legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCES OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Jonathan K. Seltzer, Legislative Financial Analyst

ESTIMATE REVIEWED BY: Eric Bernstein, Counsel, Finance Division
 Crilhien Francisco, Unit Head, Finance Division
 Nathan Toth, Deputy Director, Finance Division

LEGISLATIVE HISTORY: This legislation was introduced to the Council as Intro. No. 1722 on October 17, 2017 and was referred to the Committee on Finance (Committee). The legislation was amended after introduction, and the Committee considered the amended legislation, Proposed Int. No. 1722, at a hearing on November 15, 2017, and the legislation was laid over. The Committee will vote on the amended legislation on November 16, 2017. Upon a successful vote by the Committee, Proposed Intro. No. 1722-A will be submitted to the full Council for a vote on November 16, 2017.

DATE PREPARED: November 16, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1722-A:)

Int. No. 1722-A

By the Speaker (Council Member Mark-Viverito) and Council Members Constantinides, Menchaca, Kallos, Ferreras-Copeland and Miller.

A Local Law to amend the administrative code of the city of New York, in relation to providing notice to class two property owners about registration of rent-stabilized units and housing affordability programs

Be it enacted by the Council as follows:

Section 1. Subchapter 1 of chapter 2 of title 11 of the administrative code of the city of New York is amended by adding a new section 11-140 to read as follows:

§ 11-140 Notice to class two properties. The department shall, prior to the first day of January, provide notice to owners of class two properties, as defined in subdivision 1 of section 1802 of the real property tax law, of their annual obligation to register any dwelling units within their building that are subject to rent stabilization, pursuant to chapter 4 of title 26, with the state division of housing and community renewal. Such notice shall also include information regarding financing programs administered by the department of housing preservation and development to facilitate affordability. Such notice shall, when practicable, be included on the property tax bill for payment of the installment of real property tax that is due and payable on the first day of January.

§ 2. This local law takes effect July 1, 2018.

JULISSA FERRERAS-COPELAND, *Chairperson*; YDANIS A. RODRIGUEZ, JAMES G. VAN BRAMER, ROBERT E. CORNEGY, Jr., MARK LEVINE, HELEN K. ROSENTHAL, STEVEN MATTEO; Committee on Finance, November 16, 2017.

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

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

Report for Int. No. 1763

Report of the Committee on Finance in favor of approving and adopting, a Local Law to amend the administrative code of the city of New York, in relation to the eligible funds exemption for veterans.

The Committee on Finance, to which the annexed preconsidered proposed local law was referred on November 16, 2017, respectfully

REPORTS:

Introduction

On November 16, 2017, the Committee on Finance, chaired by Council Member Julissa Ferreras-Copeland, will hold a second hearing on a preconsidered introduction, sponsored by Council Members Ferreras-Copeland, Steven Matteo and Eric Ulrich, titled *A Local Law to amend the administrative code of the city of New York, in relation to the eligible funds exemption for veterans*. At the first hearing on this legislation, the Committee heard testimony from the New York City Department of Finance (DOF), as well as veterans' advocates. This legislation will be introduced in the full Council on November 16, 2017.

I. Background

a. Veterans in New York City

According to the New York City Department of Veterans' Services, New York City is home to over 210,000 veterans and their families.¹ Queens is home to the largest total number of veterans, followed by Brooklyn, Manhattan, the Bronx and Staten Island. However, Staten Island has the highest proportion of veterans within the five boroughs, with 42.6 veterans per 1,000 residents, followed by the Bronx and Queens (24.1 each), Manhattan (22.7) and Brooklyn (19.5).² This population represents service eras from World War II to Iraq and Afghanistan. The Housing Assistance Council estimates that the home-ownership rate of veterans across New York State is 74.7%.³ This is less than the veteran homeownership rate nationally, which is 82 percent.⁴ However, it is considerably more than the national rate of 63 percent, and the overall New York City rate of 31 percent.⁵ Nearly one in ten (9.2%) homes in New York State is occupied by veterans.⁶

b. The Eligible Funds Exemption

DOF currently administers two categories of property tax exemptions for veterans: the Eligible Funds Exemption, originally enacted in 1897⁷ and the more greatly utilized Alternative Veterans Exemption, enacted in 1984.⁸ A veteran may only receive one of these exemptions at a time, however, if a property is co-owned with another qualifying veteran, each individual exemption may be combined.

¹ New York City Department of Veterans Services, "About," <http://www1.nyc.gov/site/veterans/about/about.page> (last accessed November 13, 2017)

² Office of the New York State Comptroller, *State Support for New York's Veterans* (November 2015), available at http://www.osc.state.ny.us/reports/other/veterans_11_2015.pdf

³ Housing Assistance Council, *Supporting Veterans in New York*, available at http://veteransdata.info/states/2360000/NEW_YORK.pdf (last accessed November 13, 2017)

⁴ U.S. House of Representatives, Committee on Veterans Affairs, "Testimony of James H. Danis II, CMB, AMP, on behalf of the Mortgage Bankers Association, President, Residential Mortgage Corporation, Fayetteville, NC," <https://archives-veterans.house.gov/witness-testimony/james-h-danis-ii-cmb-amp> (last accessed November 13, 2017)

⁵ New York University Furman Center, *N.Y.U Furman Center/Citi Report on Homeownership and Opportunity in New York City* (August 5, 2016), available at http://furmancenter.org/files/NYUFurmanCenterCiti_HomeownershipOpportunityNYC_AUG2016.pdf

⁶ *Id.*

⁷ Chapter 347 of the New York Laws of 1897

⁸ Chapter 525 of the New York Laws of 1984

The Eligible Funds Exemption partially reduces the assessed value of a property purchased by a veteran with “eligible funds” received upon discharge from active duty service. Eligible funds include such payments as a veterans’ pension, bonus, or insurance, compensation paid to prisoners of war, and mustering out pay.⁹ While veterans may co-mingle eligible funds with other funds used to purchase their property, to obtain the exemption they must demonstrate to the assessor that eligible funds were used to purchase the subject real property.¹⁰ Since 2015, the maximum reduction in assessed value permitted by the exemption is \$7,500.¹¹

Individuals who were eligible to receive the Eligible Funds Exemption included: (1) all persons who rendered military or naval services to the United States at any time; (2) certain individuals who served in World War II in the U.S. Merchant Marines; and (3) those individuals who served in a civilian capacity during World War II in either the American Field Service (overseas duty) or as a flight crew and aviation ground support employee of Pan American Airlines contract with the Air Transport Command.¹²

Legal title of the property must be in the name of a qualified owner, including either the veteran or their spouse, the un-remarried surviving spouse of a veteran, the veteran’s dependent father or mother, or the veteran’s children under 21 years of age. If the qualifying veteran is deceased, the exemption may continue on the eligible property if the title remains in the name of one of the other qualifying owners.¹³

c. The Exemption in New York City

Until 1984, the Eligible Funds Exemption was the only veterans’ exemption available in New York State. That year, the State Legislature enacted the Alternative Veterans Exemption, which New York City subsequently adopted. Upon the adoption of the Alternative Veterans Exemption, veterans were given the option of converting their exemption to the new exemption, or continuing to receive the Eligible Funds Exemption.¹⁴ Additionally, once it adopted the Alternative Veterans Exemption, the city was prohibited from granting any further Eligible Funds Exemptions.¹⁵ Pursuant to state law, the City did, however, extend the exemption to veterans who were owners of cooperative apartments in 1997.¹⁶

According to DOF, approximately 3,300 veterans continue to receive the Eligible Funds Exemption as of Tax Year 2017/2018.¹⁷ DOF estimates that the average benefit currently received through the Eligible Funds Exemption is \$360 per recipient.¹⁸

Unlike the Alternative Veterans Exemption, the Eligible Funds Exemption does not currently extend to the portion of property taxes paid for school purposes. In October 2017, New York State Governor Andrew Cuomo signed into law Senate Bill 1724, which authorized the Council to adopt a local law providing for such an extension.¹⁹ This would align the Eligible Funds Exemption with the Alternative Veterans Exemption (for which the Council approved this extension in June 2017).²⁰ DOF estimates that extending the Eligible Funds Exemption to cover school taxation would result in an additional annual property tax savings of approximately \$502 per recipient.²¹ In the current tax year, this will be approximately an additional \$251 per recipient, as the benefit will be received only for the second half of the year.²² DOF testified that property owners who qualify will see the increase in their exemption reflected on their April 2018 property tax bill.²³ Tax Year 2018/2019 will be the first year in which qualifying veterans will receive the full benefits.

⁹ For a full list of “eligible funds,” see New York State Department of Taxation and Finance, *Instructions for Form RP-458: Application for Veterans Exemption*, https://www.tax.ny.gov/pdf/current_forms/orpts/rp458i.pdf

¹⁰ *Id.*

¹¹ Chapter 425 of the New York Laws of 2014

¹² New York State Department of Taxation and Finance, “Eligible Funds Exemption-Overview,” <https://www.tax.ny.gov/pit/property/exemption/eligfndsoverview.htm> (last accessed November 13, 2017)

¹³ New York State Department of Taxation and Finance, “Eligible Funds Exemption-Eligibility Requirements,” <https://www.tax.ny.gov/pit/property/exemption/eligfndsexempt.htm> (last accessed November 13, 2017)

¹⁴ *Id.*

¹⁵ New York State Department of Taxation and Finance, “Eligible Funds Exemption-Overview,” *supra* note 10.

¹⁶ L.L. 68/1997

¹⁷ Council of the City of New York, Testimony of Michael Hyman before the Committee on Finance (Nov. 15, 2017)

¹⁸ *Id.*

¹⁹ The New York State Senate, Senate Bill S1724, <https://www.nysenate.gov/legislation/bills/2017/S1724> (last accessed November 13, 2017)

²⁰ L.L. 120/2017.

²¹ Council of the City of New York, Testimony of Michael Hyman, *supra* note 17.

²² *Id.*

²³ *Id.*

II. Analysis of Preconsidered Int. No. 1763

Section one of the preconsidered introduction would amend the Administrative Code to add new section 11-245.46, titled "Exemption for veterans; taxes for school purposes exempted." Section 11-245.46 establishes that, pursuant to Real Property Tax Law Section 458(3), the exemptions authorized under Section 458 of the Real Property Tax Law are applicable to taxes for school purposes.

Section 2 of the preconsidered introduction would establish that the local law takes effect January 1, 2018.

Accordingly, this Committee recommends its adoption.

(The following is the text of Int. No. 1763:)

Int. No. 1763

By Council Members Ferreras-Copeland, Matteo, Ulrich, Kallos and Miller.

A Local Law to amend the administrative code of the city of New York, in relation to the eligible funds exemption for veterans

Be it enacted by the Council as follows:

Section 1. Part 1 of subchapter 2 of chapter 2 of title 11 of the administrative code of the city of New York is amended by adding a new section 11-245.46 to read as follows:

§ 11-245.46 Exemption for veterans; taxes for school purposes exempted. Pursuant to paragraph (3) of subdivision one of section four hundred fifty-eight of the real property tax law, the city hereby provides that the exemption authorized pursuant to such section shall be applicable to taxes for school purposes.

§2. This local law takes effect January 1, 2018.

JULISSA FERRERAS-COPELAND, *Chairperson*; YDANIS A. RODRIGUEZ, JAMES G. VAN BRAMER, ROBERT E. CORNEGY, Jr., MARK LEVINE, HELEN K. ROSENTHAL, STEVEN MATTEO; Committee on Finance, November 16, 2017.

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

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

Report for Res. No. 1713

Report of the Committee on Finance in favor of approving a Resolution amending and restating the resolution computing and certifying base percentage, current percentage and current base proportion of each class of real property for fiscal 2018 to the state board of real property tax services pursuant to section 1803-a, real property tax law.

The Committee on Finance, to which the annexed preconsidered resolution was referred on November 16, 2017, respectfully

REPORTS:

Introduction. Section 1803-a, Real Property Tax Law, requires the City Council to certify to the State Board of Real Property Tax Services (the "SBRPTS") certain calculations used in the process of updating the class shares from the previous year. These calculations are made every year by the Council to reflect the following changes in each class of real property:

- a. Changes in the market value of taxable real property (as determined by SBRPTS sample studies),
- b. Physical changes as a result of new construction or demolitions,
- c. Changes in taxable status, and
- d. Transfers of real property among the four classes of real property as a result of changes in use or for other reasons.

Under SBRPTS regulations, the Council must update the class shares by making two separate certifications. The action to be taken in the above-referenced resolution constitutes the first step of establishing the class shares of the four classes of taxable real property in the City to which the tax levy for the Fiscal 2018 budget will be applied. The purpose of this step is to give effect to the latest class equalization rates required by Article 18, Real Property Tax Law. Using these rates, new estimates of market values for each class are calculated.

The second step, certifying the "adjusted base proportions", is the subject of a separate resolution that takes account of all the changes that are included in the final assessment roll, after Tax Commission review of taxpayer protests. Attached hereto, as Exhibit A, are definitions of terms that are used in the analysis below.

Analysis. The class equalization rates described above produce prospective current base proportions that show increases in Classes 1 and 2 above the Fiscal 2017 adjusted base proportion, or "class shares" (as shown in column R of SBRPS Form RP-6700 attached to the above-captioned resolution), and decreases in the class shares of Classes 3 and 4. Pursuant to Section 1803-a(1)(c) of the Real Property Tax Law if the increase in any class exceeds 5 percent, the Council is directed to shift the excess (and only the excess) to any other class or classes so long as the shift does not cause the current base proportion of any other class to increase by more than 5 percent. However, pursuant to an amendment to the Real Property Tax Law enacted during the 2017 session and codified in Section 1803-a(1)(cc) of the Real Property Tax Law, the City is authorized to limit the increase for Fiscal 2018 so that the current base proportion of any class does not exceed the adjusted base proportion of the previous year. Class 1 and 2 exceed this cap. Therefore, in the above-captioned resolution, the excess above 0 percent from Classes 1 and 2 is shifted to Classes 3 and 4.

As shown in the chart below, the shift of the increase from Classes 1 and 2 to Classes 3 and 4 will result in the Fiscal 2018 current base proportions of all four classes to show the following changes from their adjusted base proportions in Fiscal 2017.

Class	Percent Change Before Shifting Excess to Classes 2 & 3	Percent Change After Shifting Excess to Classes 2 & 3
1	+ 4.419	0.00
2	+ 0.063	0.00
3	- 6.429	0.00
4	- 0.704	0.00

However, these "current base proportions" must still be adjusted for the physical changes and transfers among classes which are contained in the final assessment roll. These adjustments will be made in a separately amended and restated resolution constituting the Council's second step. The "adjusted base proportions" thus derived will be the class shares used for allocating the real property tax levy for Fiscal 2018.

EXHIBIT A

"Class equalization rate" represents the percentage that the total assessed value of each class is of the market value of the class, as shown in SBRPTS sample studies.

"Base percentage" represents the percentage of total market value that each class constitutes in the 1989 base tax roll. The 1989 base tax roll is the one that was used in setting the tax levy for Fiscal 1990.

"Current percentage" is similar to the base percentage, but applies to the most recent year for which the SBRPTS has established class equalization rates (in this case, the 2016 tax roll).

"Local base proportions" are the class tax shares used to fix the tax rates for Fiscal 1991.

"Current base proportions" are the local base proportions modified to take into account the market value changes revealed by the latest class equalization rates.

Accordingly, this Committee recommends its adoption.

(The following is the text of Res. No. 1713:)

Preconsidered Res. No. 1713

RESOLUTION AMENDING AND RESTATING THE RESOLUTION COMPUTING AND CERTIFYING BASE PERCENTAGE, CURRENT PERCENTAGE AND CURRENT BASE PROPORTION OF EACH CLASS OF REAL PROPERTY FOR FISCAL 2018 TO THE STATE BOARD OF REAL PROPERTY TAX SERVICES PURSUANT TO SECTION 1803-a, REAL PROPERTY TAX LAW.

By Council Member Ferreras-Copeland.

Whereas, On March 10, 2017, the State Board of Real Property Tax Services (the "SBRPTS") certified the final state equalization rate, class ratios and class equalization rates for the City's Fiscal 2018 assessment rolls, required by Article 18, Real Property Tax Law; and

Whereas, Section 1803-a (1), Real Property Tax Law, requires the Council to compute and certify, to the SBRPTS, for each tax levy, the base percentage, the current percentage and the current base proportion of each class of real property in the City subsequent to the date on which the SBRPTS files with the Clerk of the Council a certification setting forth the final state equalization rate, class ratios and class equalization rates for the City's Fiscal 2018 assessment rolls, pursuant to Section 1212, Real Property Tax Law; and

Whereas, On June 6, 2017, the Council adopted a resolution computing and certifying the base percentage, current percentage and current base proportion of each class of real property for Fiscal 2018 to the State Board of Real Property Tax Services pursuant to Section 1803-a, Real Property Tax Law (the "June 6th Resolution"); and

Whereas, The June 6th Resolution reflects a 5.0 percent cap on any increase in the current base proportion for any class of real property, as compared with the previous year's adjusted base proportion; and

Whereas, After the adoption of the June 6th Resolution, Section 1803-a, Real Property Tax Law, was amended to lower the percent of increase in the current base proportion as compared with the previous year's adjusted base proportion to 0 percent;

NOW, THEREFORE, be it resolved by the Council of the City of New York as follows:

Section 1. Computation and Certification of Base Percentages, Current Base Percentages and Current Base Proportions for Fiscal 2018. (a) The Council hereby computes and certifies the base percentage, the current percentage and the current base percentage for the City's Fiscal 2018 assessment rolls as shown on SBRPTS Form RP-6700, attached hereto as Exhibit A and incorporated herein by reference (the "CBP Certificate").

(b) The Clerk of the Council is hereby authorized and directed to execute the CBP Certificate and to file it with the SBRPTS after the date on which the SBRPTS filed with the Clerk of the Council a certification setting forth the final state equalization rate, class ratios and class equalization rates for the City's Fiscal 2018 assessment rolls, pursuant to Section 1212, Real Property Tax Law.

Section 2. Effective Date. This resolution shall take effect immediately.

ATTACHMENT: Exhibit A

"CBP Certificate"

For text, please see the Search Legislation option at the New York City Council www.council.nyc.gov website and refer to the Exhibit A on the Attachments tab of the Res 1713-2017 file:

<http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3211448&GUID=A1017F79-DAA0-438A-9E03-4724AA1B4F1B&Options=ID|Text|&Search=res+1713>

JULISSA FERRERAS-COPELAND, *Chairperson*; YDANIS A. RODRIGUEZ, JAMES G. VAN BRAMER, ROBERT E. CORNEGY, Jr., MARK LEVINE, HELEN K. ROSENTHAL; Committee on Finance, November 16, 2017.

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

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

Report for Res. No. 1714

Report of the Committee on Finance in favor of approving a Resolution amending and restating the resolution computing and certifying adjusted base proportion of each class of real property for fiscal 2018 to the state board of real property tax services pursuant to section 1803-a, real property tax law.

The Committee on Finance to which the annexed preconsidered resolution was referred on November 16, 2017, respectfully

REPORTS:

Introduction. The above-captioned resolution completes the certification procedure required by Section 1803-a, Real Property Tax Law, to establish the class shares used in levying the real property taxes for the adopted Fiscal 2018 budget.

On June 6, 2017, the Council adopted a resolution computing and certifying the current base proportions for Fiscal 2018 (the "CBP Resolution"). After the adoption of the CBP Resolution, Section 1803-a, Real Property Tax Law, was amended to lower the percent of increase in the current base proportion as compared with the previous year's adjusted base proportion from 5.0 percent to 0.0 percent, which altered the calculations contained in the CBP Resolution. Pursuant to this amendment to state law, the Council will vote to adopt a resolution on November 16, 2017, amending and restating the CBP Resolution. On June 6, 2017, the Council also adopted a resolution computing and certifying the adjusted base proportion of each class of real property for Fiscal 2018 (the "ABP Resolution"). The above-captioned resolution amends and restates the ABP Resolution to reflect the changes in the proposed November 16, 2017 CBP Resolution.

The current base proportion for each class of real property takes into account the market value changes in the class occurring between the assessment roll for the base period, 1989, and the latest roll for which the State Board of Real Property Tax Services ("SBRPTS") has established class equalization rates, 2016. The CBP Resolution modified the class shares for the Fiscal 2018 property tax levy accordingly. The remaining step, to be taken in the above-captioned resolution, adjusts these current base proportions to take account of the various physical changes (such as demolitions, new construction, changes in exempt status and transfers among classes) that are reflected in the new final assessment roll. The computations called for in the SBRPTS procedure are designed to separate the effects of these physical changes from equalization changes made by local assessors.

Analysis. The calculations shown on the SBRPS Form RP-6702 attached to the above-captioned resolution modify the share for each class to reflect physical changes. For Fiscal 2018, all property tax classes see modest increases due to physical change. The Fiscal 2018 adjusted base proportions for Classes 1 and 4 show modest declines of an average of 0.6 percent from the Fiscal 2018. Classes 2 and 3 on the other hand see

increases due to physical changes putting their adjusted base percentage about 0.4 percent and 4.6 percent, respectively, over their current base proportions (see exhibit A of the above-captioned resolution).

Pursuant to Section 1803-a(1)(cc) of the Real Property Tax Law which was enacted during the 2017 legislative session (limiting the increase in Fiscal 2018 current base proportions to the Fiscal 2017 adjusted base proportions), the Fiscal 2017 adjusted base proportions become the Fiscal 2018 current base proportions for all four classes. Therefore, the changes in adjusted base proportions from Fiscal 2017 to Fiscal 2018, as reported in the table below, reflect the same changes to the Fiscal 2018 current base proportions discussed above.

Comparison of Class Shares for Fiscal 2017 and Fiscal 2018			
Class	Fiscal 2017	Fiscal 2018	Percent Change
1	14.8922	14.8429	-0.33
2	37.2591	37.4190	+0.43
3	6.0207	6.2975	+4.60
4	41.8280	41.4406	-0.93
Total	100.0000	100.0000	

The tax rates resulting from the use of class shares shown above for Fiscal 2018 are compared to the Fiscal 2017 tax rates in the following table.

Comparison of Tax Rates for Fiscal 2017 and Fiscal 2018 (Per \$100 Assessed Value)			
Class	Fiscal 2017	Fiscal 2018	\$ Difference
1	\$19.991	\$20.385	\$0.39
2	12.892	12.719	-0.17
3	10.934	11.891	0.96
4	10.574	10.514	-0.06

Accordingly, this Committee recommends its adoption.

(The following is the text of Res. No. 1714:)

Preconsidered Res. No. 1714

RESOLUTION AMENDING AND RESTATING THE RESOLUTION COMPUTING AND CERTIFYING ADJUSTED BASE PROPORTION OF EACH CLASS OF REAL PROPERTY FOR FISCAL 2018 TO THE STATE BOARD OF REAL PROPERTY TAX SERVICES PURSUANT TO SECTION 1803-a, REAL PROPERTY TAX LAW.

By Council Member Ferreras-Copeland.

Whereas, On May 25, 2017, pursuant to Section 1514 of the Charter of the City of New York, the Commissioner of the Department of Finance delivered to the Council the certified assessment rolls for all real property assessable for taxation in the City in each borough thereof for the fiscal year beginning on July 1, 2017 and ending on June 30, 2018 ("Fiscal 2018"), a certified copy of which is in the Office of the Clerk of the City pursuant to Section 516, Real Property Tax Law (the "Fiscal 2018 Assessment Rolls"); and

Whereas, Section 1803-a (5), Real Property Tax Law, requires the Council subsequent to the filing of the final Fiscal 2018 Assessment Rolls, to adjust current base proportions computed pursuant to the Current Base Proportion Resolution to reflect additions to and removals from the Fiscal 2018 Assessment Rolls as described therein (each such current base proportion so adjusted to be known as an "Adjusted Base Proportion"); and

Whereas, Within five (5) days upon determination of the Adjusted Base Proportions, Section 1803-a (6), Real Property Tax Law, requires the Council to certify, to the State Board of Real Property Tax Services ("SBRPTS"), the Adjusted Base Proportion for each class of real property applicable to the City, the assessed value of all property in each class of real property, the net change in assessed value for each class on the Fiscal 2018 Assessment Rolls resulting from the additions to or removals from the Fiscal 2018 Assessment Rolls as described above, and the net change in assessed value for each class on the Fiscal 2018 Assessment Rolls resulting from changes other than those referred to above; and

Whereas, On June 6, 2017, the Council adopted a resolution in which the Council computed and certified the current base proportion, the current percentage and the base percentage of each class of real property in the City for Fiscal 2018 pursuant to Section 1803-a (1), Real Property Tax Law (the "Current Base Proportion Resolution"); and

Whereas, After the June 6th adoption of the Current Base Proportion Resolution, Section 1803-a, Real Property Tax Law, was to lower the percent of increase in the current base proportion as compared with the previous year's adjusted base proportion to 0 percent; and

Whereas, Pursuant to the amendment to Section 1803-a, Real Property Tax Law, on November 16, 2017, the Council adopted a resolution computing and certifying the base percentage, current percentage and current base proportion of each class of real property for Fiscal 2018 to the SBRPTS pursuant to Section 1803-a, Real Property Tax Law;

NOW, THEREFORE, be it resolved by The Council of The City of New York as follows:

Section 1. Computation and Certification of Adjusted Base Proportions and Related Information for Fiscal 2018. (a) The Council hereby computes and certifies the Adjusted Base Proportion for each class of real property applicable to the City, the assessed value of all property in each class of real property, the net change in assessed value for each class on the Fiscal 2018 Assessment Rolls resulting from the additions to or removals from the Fiscal 2018 Assessment Rolls as described in Section 1803-a (5), Real Property Tax Law, and the net change in assessed value for each class on the Fiscal 2018 Assessment Rolls resulting from changes other than those described in Section 1803-a (5), Real Property Tax Law, as shown on SBRPTS Form RP-6702, attached hereto as Exhibit A and incorporated herein by reference (the "ABP Certificate").

(b) The Clerk of the Council is hereby authorized and directed to execute the ABP Certificate and to file it with the SBRPTS no later than five (5) days after the date hereof.

Section 2. Effective Date. This resolution shall take effect immediately.

ATTACHMENT: Exhibit A

“ABP Certificate”

For text, please see the Search Legislation option at the New York City Council www.council.nyc.gov website and refer to the Exhibit A on the Attachments tab of the Res 1714-2017 file:

<http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3211449&GUID=ADCBF5A9-2970-4C35-8FFF-B66CF663BC6F&Options=ID|Text|&Search=res+1714>

JULISSA FERRERAS-COPELAND, *Chairperson*; YDANIS A. RODRIGUEZ, JAMES G. VAN BRAMER, ROBERT E. CORNEGY, Jr., MARK LEVINE, HELEN K. ROSENTHAL; Committee on Finance, November 16, 2017.

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

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

Report for Res. No. 1715

Report of the Committee on Finance in favor of approving a Resolution amending and restating the resolution computing and certifying adjusted base proportion of each class of real property for fiscal 2018 to the state board of real property tax services pursuant to section 1803-a, real property tax law.

The Committee on Finance, to which the annexed preconsidered resolution was referred on November 16 2017, respectfully

REPORTS:

Introduction. On April 26, 2017, the Mayor submitted the executive budget for Fiscal 2018 to the Council pursuant to Section 249 of the Charter. On June 6, 2017, the Council adopted the budget for Fiscal 2018 pursuant to Section 254 of the Charter (the "Fiscal 2018 Budget"). Pursuant to Section 1516 of the Charter, the Council must fix the annual real property tax rates immediately upon such approval of the Fiscal 2018 Budget. On June 6, 2017, by resolution, the Council fixed the real property tax rates for Fiscal 2018 (the "Tax Fixing Resolution") and authorized the levy of real property taxes for Fiscal 2018.

After the final adoption of the Fiscal 2018 Budget, the Governor signed into law Chapter 72 Laws of New York, 2017 ("Chapter 72"). Chapter 72 adds a new paragraph (cc) to subdivision 1 of section 1803-a, Real Property Tax Law, which provides that, in any special assessing unit which is a city (a "special assessing city"), for current base proportions to be determined in such special assessing city's fiscal year 2018, the

current base proportion of any class shall not exceed the adjusted base proportion of the immediately preceding year.

In order to effectuate the provisions of Chapter 72, it is necessary to amend and restate the provisions of the Tax Fixing Resolution. In the amended and restated resolution, captioned above, fixing the real property tax rates for Fiscal 2018 (the "Amended and Restated Tax Fixing Resolution"), the Council amends and restates the annual real property tax rates, as described in greater detail below, and authorizes the levy of real property taxes for Fiscal 2018.

Determining the Amount of the Real Property Tax Levy. In the Amended and Restated Tax Fixing Resolution, the Council determines the amount of the real property tax levy for Fiscal 2018, pursuant to the provisions of Section 1516 of the Charter, in the following manner. (1) First, the Council acknowledges the amount of the Fiscal 2018 Budget to be \$85,238,681,837 as set forth in the communication from the Mayor pursuant to Section 1515(a) of the Charter (the "Fiscal 2018 Budget Amount"). (2) The Council then acknowledges the estimate of the probable amount of all non-property tax revenues to be \$59,426,668,837, as set forth in the communication from the Mayor pursuant to Section 1515(a) of the Charter (the "Fiscal 2018 Revenue Estimate"). (Attached hereto as Exhibit A is a description of the Fiscal 2018 Revenue Estimate, detailing all sources of revenues exclusive of real property taxes.) (3) Pursuant to Section 1516 of the Charter, the Council finally determines the net amount required to be raised by tax on real property to be \$25,812,013,000, by subtracting the amount of the Fiscal 2018 Revenue Estimate from the Fiscal 2018 Budget Amount.

In order to achieve a real property tax yield of \$25,812,013,000, however, due to provision for uncollectible taxes and refunds and collection of levies from prior years equal in the aggregate to \$1,914,142,959, the Council determines that a real property tax levy of \$27,726,155,959 is required. Such amount, levied at rates on the classes of real property as further described below will produce a balanced budget within generally accepted accounting principles for municipalities.

The Council also provides for the application of the real property tax levy (net of provision for uncollectible taxes and refunds and collection of levies from prior years) to (1) debt service not subject to the constitutional operating limit, (2) debt service subject to the constitutional operating limit and (3) the Fiscal 2018 Budget in excess of the amount of the Fiscal 2018 Revenue Estimate.

Authorizing and Fixing the Real Property Tax Rates. After having determined the amount of the real property tax levy, the Council authorizes and fixes the real property tax rates. On May 25, 2017, the Commissioner of the Department of Finance (the "Commissioner") delivered the certified assessment rolls for all real property assessable for taxation in the City in each borough thereof for Fiscal 2018 to the Council, pursuant to Section 1514 of the Charter (the "Fiscal 2018 Assessment Rolls"). On November 16, 2017 the Council will vote to amend and restate a resolution in which the Council computed and certified the current base proportion, the current percentage and the base percentage of each class of real property in the City for Fiscal 2018 (the "Current Base Proportion Resolution"), pursuant to Section 1803-a (1) of the Real Property Tax Law. On November 16, 2017, pursuant to Section 1803-a of the Real Property Tax Law, the Council will vote to amend and restate a resolution in which the Council adjusted the current base proportions of each class of real property in the City for Fiscal 2018, to reflect the additions to, and full or partial removal from, the Fiscal 2018 Assessment Rolls (the "Adjusted Base Proportion Resolution").

The following sections describe the determinations the Council must make before it fixes the real property tax rates and the process by which the Council fixes the real property tax rates.

Assessed Valuation Calculations. In the Amended and Restated Tax Fixing Resolution, the Council sets out the assessed valuation calculations of taxable real property in the City by class within each borough of the City. Next, the Council sets out the assessed valuation (1) by class of real property for the purpose of taxation (exclusive of the assessed valuation of veterans' real property exempt under state law from tax for general

purposes but subject to tax for school purposes) in each borough of the City and (2) by class of veterans' real property subject to tax for school purposes in each borough of the City.

Compliance with Constitutional Operating Limit Provisions. In the Amended and Restated Tax Fixing Resolution, the Council also provides evidence of compliance with constitutional operating limit provisions. The Council determines that the amount to be levied by tax on real property for the Fiscal 2018 Budget does not exceed the limit imposed by Section 10, Article VIII of the Constitution of the State of New York, as amended, and Article 12-A of the Real Property Tax Law (the "Operating Limit Provisions"). The Operating Limit Provisions require that the City not levy taxes on real property in any fiscal year in excess of an amount equal to a combined total of two and one-half percent (2 ½%) of the average full valuation of taxable real property in the City, determined by taking the assessed valuations of taxable real property on the last completed assessment roll and the four (4) preceding assessment rolls of the City and applying thereto the special equalization ratio which such assessed valuations of each such roll bear to the full valuations as fixed and determined by the State Office of Real Property Services ("ORPS"), minus (i) the amount to be raised by tax on real property in such year for the payment of the interest on and the redemption of certificates of other evidence of indebtedness described in the Constitution and (ii) the aggregate amount of business improvement district charges exclusive of debt service. (Attached hereto as Exhibit B is a description of net reductions of the amounts to be raised by the Fiscal 2018 tax levy as authorized by New York State law for purposes of the Operating Limit determination.)

Adjusted Base Proportions. The Amended and Restated Tax Fixing Resolution sets forth the adjusted base proportions for Fiscal 2018, pursuant to the amended and restated Adjusted Base Proportion Resolution, to be used in determining the Fiscal 2018 tax rates for the four classes of properties.

Tax Rates on Adjusted Base Proportions. Finally, in the Amended and Restated Tax Fixing Resolution, the Council authorizes and fixes, pursuant to Section 1516 of the Charter, the rates of tax for Fiscal 2018 by class upon: (1) each dollar of assessed valuation of real property subject to taxation for all purposes of, and within, the City, as fixed in cents and thousandths of a cent per dollar of assessed valuation, as follows:

All One-, Two- and Three-Family Residential Real Property.....	0.20385
All Other Residential Real Property	0.12719
Utility Real Property	0.11891
All Other Real Property	0.10514

and (2) each dollar of assessed valuation of veterans' real property exempt under state law from tax for general purposes but subject to tax for school purposes of, and within, the City, as fixed in cents and thousandths of a cent per dollar of assessed valuation, as follows:

All One-, Two- and Three-Family Residential Real Property.....	0.11869
All Other Residential Real Property	0.07426
Utility Real Property	0.06948
All Other Real Property	0.06143

Authorization of the Levy of Property Taxes for Fiscal 2018. The Council authorizes and directs the Commissioner, pursuant to Section 1517 of the Charter, to set down in the Fiscal 2018 Assessment Rolls,

opposite to the several sums set down as the valuation of real property, the respective sums to be paid as a tax thereon and add and set down the aggregate valuations of real property in the boroughs of the City and send a certificate of such aggregate valuation in each such borough to the State Comptroller. The Amended and Restated Tax Fixing Resolution then requires the City Clerk to procure the proper warrants, in the form attached thereto, such warrants to be signed by the Public Advocate and counter-signed by the City Clerk.

The Tax Fixing Resolution, as hereby amended and restated, would remain in full force and effect as of the date it was enacted, and the Amended and Restated Tax Fixing Resolution would take effect as of the date of hereof.

Accordingly, the Committee on Finance recommends adoption of the Amended and Restated Tax Fixing Resolution.

ATTACHMENT: Exhibit A and Exhibit B to the Committee Report

For text, please see the Search Legislation option at the New York City Council www.council.nyc.gov website and refer to the Exhibits A and B on the Attachments tab of the Res 1715-2017 file:

[HTTP://LEGISTAR.COUNCIL.NYC.GOV/LEGISLATIONDETAIL.ASPX?ID=3211454&GUID=F7CFCEE7-53B2-4E1D-8A8C-7700D365CDF3&OPTIONS=ID|TEXT|&SEARCH=RES+1715](http://LEGISTAR.COUNCIL.NYC.GOV/LEGISLATIONDETAIL.ASPX?ID=3211454&GUID=F7CFCEE7-53B2-4E1D-8A8C-7700D365CDF3&OPTIONS=ID|TEXT|&SEARCH=RES+1715)

(The following is the text of Res. No. 1715:)

[Res. No. 1715](#)

RESOLUTION AMENDING AND RESTATING THE RESOLUTION TO PROVIDE THE AMOUNTS NECESSARY FOR THE SUPPORT OF THE GOVERNMENT OF THE CITY OF NEW YORK AND THE COUNTIES THEREIN AND FOR THE PAYMENT OF INDEBTEDNESS THEREOF, FOR THE FISCAL YEAR BEGINNING ON JULY 1, 2017 AND ENDING ON JUNE 30, 2018 BY THE LEVY OF TAXES ON THE REAL PROPERTY IN THE CITY OF NEW YORK, IN ACCORDANCE WITH THE PROVISIONS OF THE CONSTITUTION OF THE STATE OF NEW YORK, THE REAL PROPERTY TAX LAW AND THE NEW YORK CITY CHARTER.

By Council Member Ferreras-Copeland.

For text of the resolution, please see the Search Legislation option at the New York City Council www.council.nyc.gov website and refer to the Res 1715-2017 file:

<http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3211454&GUID=F7CFCEE7-53B2-4E1D-8A8C-7700D365CDF3&Options=ID%7cText%7c&Search=res+1715>

JULISSA FERRERAS-COPELAND, *Chairperson*; YDANIS A. RODRIGUEZ, JAMES G. VAN BRAMER, ROBERT E. CORNEGY, Jr., MARK LEVINE, HELEN K. ROSENTHAL; Committee on Finance, November 16, 2017.

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

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

Report for L.U. No. 813

Report of the Committee on Land Use in favor of a Resolution approving Forest Hills MHA, Block 2159, Lot 2; Queens, Community District No. 6, Council District No. 29.

The Committee on Finance, to which the annexed preconsidered Land Use item was referred on November 16, 2017 and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:

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

November 16, 2017

TO: Hon. Julissa Ferreras-Copeland
Chair, Finance Committee
Members of the Finance Committee

FROM: Eric Bernstein, Counsel, Finance Division
Rebecca Chasan, Counsel, Finance Division

RE: Finance Committee Agenda of November 16, 2017 - Resolutions approving tax exemptions for two Land Use items (Council Districts 14 and 29)

Item 1: Creston Parkview

Creston Parkview will be a new, 189-unit building located in the Fordham Manor neighborhood in the Bronx. The project will be developed by Radson Development under the Department of Housing Preservation and Development (HPD)'s Mix & Match program.¹ The project will consist of one building that includes community facility and parking space.

Under the proposed project, HP Creston Housing Development Fund Company, Inc. (HDFC) will acquire the Exemption Area and Creston Parkview LLC and Creston Parkview Mid LLC (collectively, "Companies") will both operate the Exemption Area. The HDFC and the Companies (collectively, "Owner") will finance the acquisition and construction of the Exemption Area with loans from the New York City Housing Development Corporation and HPD, as well as low income housing tax credits. The Owner and HPD will enter into a regulatory agreement establishing certain controls upon the operation of the Exemption Area.

Summary:

- Borough – Bronx
- Block 3175, Lot 26
- Council District – 14
- Council Member – Cabrera

¹ The Mix & Match Program funds the new construction of mixed income multi-family rental projects in which 50% of the units are at low income rents affordable to households earning up to 60% of Area Median Income (AMI) and the other 50% of units would have rents affordable to moderate and/or middle income households earning up to 130% of AMI.
<http://www1.nyc.gov/site/hpd/developers/development-programs/mixed-income.page>

- Council Member approval – Yes
- Number of buildings – 1
- Number of units – 189 (including one superintendent’s unit)
- Type of Exemption-Article XI Tax Exemption, Full, 40-year term
- Population – low-income households
- Sponsor – Radson Development LLC
- Purpose – New construction
- Cost to the City –
 - NPV of Exemption Benefits: \$7.8M
- Housing Code Violations-N/A
- Anticipated AMI targets:
 - Shelter Rent Allowance (<30% AMI): 19 units
 - 37% AMI: 19 units
 - 47% AMI: 19 units
 - 57% AMI: 37 units
 - 70% AMI: 19 units
 - 80% AMI: 56 units
 - 90% AMI: 19 units

Item 2: Forest Hills MHA

The Forest Hills Cooperative Corporation is a NYCHA development in Forest Hills, Queens. The project consists of three residential towers, each with 12 stories, with a total of 430 units. The Cooperative was formed with the purpose of leasing the development from NYCHA under a 40-year ground lease agreement. The project is to convey the property from NYCHA to a newly created rental HDFC Mutual Housing Association (MHA), close on a loan to rehab the property in accordance with the Green Physical Needs Assessment (GPNA) as well as provide a full 40-year Article XI property tax exemption coinciding with a regulatory agreement. There is community facility space that is also included in the Article XI exemption area.

The ground lease with NYCHA expired in 2015 and since then has been renewed on a month-to-month basis. The Coop Corp. Board has decided to invoke their right, which was memorialized in a modification of the ground lease in 1979, to hold a vote to become a private affordable housing complex. After the vote takes place, NYCHA will then convey the property to a newly created rental HDFC Mutual Housing Association (MHA).

The MHA will sell undeveloped land to fund the down payment of the acquisition price, pre-development and soft costs associated with the HRP loan; however, this transaction is not the subject of this request. Part of the down payment of the acquisition price will also cover a deficit until the new construction project closes in 2020. The remainder of the acquisition price will fund the MHA’s medium- to long-term capital improvement projects, as well as a preservation reserve account.

The tenants are currently paying 28% of their income in rent but will be responsible to pay 30% of their income towards rent upon conveyance. Their current rents will be registered with DHCR and all units will become rent stabilized.

Summary:

- Borough – Queens
- Block 2159, Lot 2
- Council District – 29
- Council Member – Koslowitz
- Council Member approval – Yes

- Number of buildings – 4 (including one community facility building included in the exemption area)
- Number of units – 430
- Type of Exemption-Article XI Tax Exemption, Full, 40-year term
- Population – low-income households
- Sponsor – Forest Hills MHA Housing Development Fund Corporation
- Purpose – Preservation
- Cost to the City –
 - NPV of Exemption Benefits: \$13.5M (\$31,531/unit)
- Housing Code Violations-None
- Anticipated AMI targets: 80% upon turnover; current rents average 27% AMI and all units will be rent stabilized at current rents

(For text of the coupled resolutions for LU Nos. 814, please see the Report of the Committee on Finance for LU Nos. 814 printed in these Minutes; for the coupled resolution for LU No. 813, please see below:)

In connection herewith, Council Member Ferreras-Copeland offered the following resolution:

Res. No. 1718

Resolution approving an exemption from real property taxes for property located at (Block 2159, Lot 2) Queens, pursuant to Section 577 of the Private Housing Finance Law (Preconsidered L.U. No. 813).

By Council Member Ferreras-Copeland.

WHEREAS, the New York City Department of Housing Preservation and Development (“HPD”) submitted to the Council its request dated October 30, 2017 that the Council take the following action regarding a housing project located at (Block 2159, Lot 2) Queens (“Exemption Area”):

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

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

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

RESOLVED:

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

1. For the purposes hereof, the following terms shall have the following meanings:
 - a. “Community Facility Space” shall mean those portions of the Exemption Area which the Regulatory Agreement requires to be devoted solely to community facility uses.

- b. “Effective Date” shall mean the later of (i) the date of conveyance of the Exemption Area to the Owner, or (ii) the date that HPD and the Owner enter into the Regulatory Agreement.
 - c. “Exemption” shall mean the exemption from real property taxation provided hereunder.
 - d. “Exemption Area” shall mean the real property located in the Borough of Queens, City and State of New York, identified as Block 2159, Lot 2 on the Tax Map of the City of New York.
 - e. “Expiration Date” shall mean the earlier to occur of (i) a date which is forty (40) years from the Effective Date, (ii) the date of the expiration or termination of the Regulatory Agreement, or (iii) the date upon which the Exemption Area ceases to be owned by either a housing development fund company or an entity wholly controlled by a housing development fund company.
 - f. “HDFC” shall mean Forest Hills MHA Housing Development Fund Corporation or a housing development fund company that acquires the Exemption Area with the prior written consent of HPD.
 - g. “HPD” shall mean the Department of Housing Preservation and Development of the City of New York.
 - h. “Owner” shall mean the HDFC.
 - i. “Regulatory Agreement” shall mean the regulatory agreement between HPD and the Owner establishing certain controls upon the operation of the Exemption Area during the term of the Exemption.
2. All of the value of the property in the Exemption Area, including both the land and any improvements (excluding those portions, if any, devoted to business or commercial use other than the Community Facility Space), shall be exempt from real property taxation, other than assessments for local improvements, for a period commencing upon the Effective Date and terminating upon the Expiration Date.
3. Notwithstanding any provision hereof to the contrary:
- a. The Exemption shall terminate if HPD determines at any time that (i) the Exemption Area is not being operated in accordance with the requirements of Article XI of the Private Housing Finance Law, (ii) the Exemption Area is not being operated in accordance with the requirements of the Regulatory Agreement, (iii) the Exemption Area is not being operated in accordance with the requirements of any other agreement with, or for the benefit of, the City of New York, (iv) any interest in the Exemption Area is conveyed or transferred to a new owner without the prior written approval of HPD, or (v) the construction or demolition of any private or multiple dwelling on the Exemption Area has commenced without the prior written consent of HPD. HPD shall deliver written notice of any such determination to Owner and all mortgagees of record, which notice shall provide for an opportunity to cure of not less than sixty (60) days. If the noncompliance specified in such notice is not cured within the time period specified therein, the Exemption shall prospectively terminate.

- b. The Exemption shall apply to all land in the Exemption Area, but shall only apply to buildings on the Exemption Area that exist on the Effective Date.
 - c. Nothing herein shall entitle the HDFC, the Owner or any past owner to a refund of any real property taxes which accrued and were paid with respect to the Exemption Area prior to the Effective Date.
4. In consideration of the Exemption, the owner of the Exemption Area, for so long as the Exemption shall remain in effect, shall waive the benefits of any additional or concurrent exemption from or abatement of real property taxation which may be authorized under any existing or future local, state or federal law, rule or regulation.

JULISSA FERRERAS-COPELAND, *Chairperson*; YDANIS A. RODRIGUEZ, JAMES G. VAN BRAMER, ROBERT E. CORNEGY, Jr., MARK LEVINE, HELEN K. ROSENTHAL, STEVEN MATTEO; Committee on Finance, November 16, 2017.

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

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

Report for L.U. No. 814

Report of the Committee on Land Use in favor of a Resolution approving Creston Parkview, Block 3175, Lot 26; the Bronx, Community District No. 7, Council District No. 14.

The Committee on Finance, to which the annexed preconsidered Land Use item was referred on November 16, 2017 and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:

(For text of the Memo, please see the Report of the Committee on Finance for LU No. 813 printed in these Minutes)

Accordingly, this Committee recommends its adoption.

In connection herewith, Council Member Ferreras-Copeland offered the following resolution:

Res. No. 1719

Resolution approving an exemption from real property taxes for property located at (Block 3175, Lot 26) Bronx, pursuant to Section 577 of the Private Housing Finance Law (Preconsidered L.U. No. 814).

By Council Member Ferreras-Copeland.

WHEREAS, the New York City Department of Housing Preservation and Development (“HPD”) submitted to the Council its request dated October 27, 2017 that the Council take the following action regarding a housing project located at (Block 3175, Lot 26) Bronx (“Exemption Area”):

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

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

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

RESOLVED:

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

1. For the purposes hereof, the following terms shall have the following meanings:
 - a. “Community Facility Space” shall mean those portions of the Exemption Area which the Regulatory Agreement requires to be devoted solely to community facility uses.
 - b. “Companies” shall mean Creston Parkview LLC and Creston Parkview Mid LLC or limited liability companies that acquire the beneficial interests in the Exemption Area with the approval of HPD.
 - c. “Effective Date” shall mean the later of (i) the date of conveyance of the Exemption Area to the HDFC, or (ii) the date that HPD and the Owner enter into the Regulatory Agreement.
 - d. “Exemption” shall mean the exemption from real property taxation provided hereunder.
 - e. “Exemption Area” shall mean the real property located in the Borough of the Bronx, City and State of New York, identified as Block 3175, Lot 26 on the Tax Map of the City of New York.
 - f. “Expiration Date” shall mean the earlier to occur of (i) a date which is forty (40) years from the Effective Date, (ii) the date of the expiration or termination of the Regulatory Agreement, or (iii) the date upon which the Exemption Area ceases to be owned by either a housing development fund company or an entity wholly controlled by a housing development fund company.
 - g. “HDFC” shall mean HP Creston Housing Development Fund Company, Inc. or a housing development fund company that acquires the Exemption Area with the prior written consent of HPD.
 - h. “HPD” shall mean the Department of Housing Preservation and Development of the City of New York.
 - i. “Owner” shall mean, collectively, the HDFC and the Companies.

- j. “Regulatory Agreement” shall mean the regulatory agreement between HPD and the Owner establishing certain controls upon the operation of the Exemption Area during the term of the Exemption.
2. All of the value of the property in the Exemption Area, including both the land and any improvements (excluding those portions, if any, devoted to business or commercial use other than the Community Facility Space), shall be exempt from real property taxation, other than assessments for local improvements, for a period commencing upon the Effective Date and terminating upon the Expiration Date.
3. Notwithstanding any provision hereof to the contrary:
 - a. The Exemption shall terminate if HPD determines at any time that (i) the Exemption Area is not being operated in accordance with the requirements of Article XI of the Private Housing Finance Law, (ii) the Exemption Area is not being operated in accordance with the requirements of the Regulatory Agreement, (iii) the Exemption Area is not being operated in accordance with the requirements of any other agreement with, or for the benefit of, the City of New York, (iv) any interest in the Exemption Area is conveyed or transferred to a new owner without the prior written approval of HPD, or (v) the construction or demolition of any private or multiple dwelling on the Exemption Area has commenced without the prior written consent of HPD. HPD shall deliver written notice of any such determination to Owner and all mortgagees of record, which notice shall provide for an opportunity to cure of not less than sixty (60) days. If the noncompliance specified in such notice is not cured within the time period specified therein, the Exemption shall prospectively terminate.
 - b. The Exemption shall apply to all land in the Exemption Area, but shall only apply to a building on the Exemption Area that has a permanent certificate of occupancy or a temporary certificate of occupancy for all of the residential areas on or before five years from the Effective Date.
 - c. Nothing herein shall entitle the HDFC, the Owner, or any past owner to a refund of any real property taxes which accrued and were paid with respect to the Exemption Area prior to the Effective Date.
4. In consideration of the Exemption, the owner of the Exemption Area, for so long as the Exemption shall remain in effect, shall waive the benefits of any additional or concurrent exemption from or abatement of real property taxation which may be authorized under any existing or future local, state or federal law, rule or regulation.

JULISSA FERRERAS-COPELAND, *Chairperson*; YDANIS A. RODRIGUEZ, JAMES G. VAN BRAMER, ROBERT E. CORNEGY, Jr., MARK LEVINE, HELEN K. ROSENTHAL, STEVEN MATTEO; Committee on Finance, November 16, 2017.

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

Report of the Committee on Governmental Operations

Report for Int. No. 508-A

Report of the Committee on Governmental Operations in favor of approving and adopting, as amended, a Local Law to amend the New York city charter, in relation to online facilitation of voter registration.

The Committee on Governmental Operations, to which the annexed proposed amended local law was referred on October 22, 2014 (Minutes, page 3786), respectfully

REPORTS:

INTRODUCTION

On November 14th, 2017, the Committee on Governmental Affairs, chaired by Council Member Benjamin Kallos, will hold a second hearing and a vote on Proposed Int. No. 508-A, a local law to amend the New York city charter, in relation to online facilitation of voter registration. The bill was previously heard by the committee on October 26, 2016.

BACKGROUND

Online voter registration has been embraced by many election officials and advocates. The bipartisan Presidential Commission on Election Administration, in its 2014 report, listed expanding online registration as its top recommendation for localities.¹ Thirty-six states, including New York, now offer online registration to applicants with an existing signature in the state's motor vehicles agency's database.²

In New York State, the public can register to vote, or update their information, online by using the NYS Department of Motor Vehicles' Electronic Voter Registration Application.³ To register, applications must have a New York State DMV issued driver license, permit or Non-Driver ID, as well as be able to provide the zip code currently on file with the DMV and the last four digits of their Social Security Number.⁴ Once completed, the application is transferred from the DMV to the local Board of Elections, since as their website stated "[t]he DMV does not approve or deny voter registration applications. We only send the application to the County or City Board of Elections for their review."⁵ Their role is merely that of an electronic intermediary.

The Governor has stated that since its 2012 launch the website has processed more than 600,000 applications but the demand for this service is such that the website has developed a reputation for crashing right before a registration deadline.⁶ In March of 2016, documents obtained by WNYC under a Freedom of Information Law Request show that the DMV's director of Agency Program Services sent an email to Board of Elections staff statewide explaining that the site was struggling from high traffic due to a Facebook promotion that linked to the site and that the bottleneck was delaying for several days the DMV from sending out applications already received.⁷ The site went down again a few hours before the deadline and so the public was told to download a registration form, fill it out, save it, email it to the DMV and include a statement of affirmation in the body of the message.⁸ Although the DMV explained that one of the difficulties in March had been that the only way to fill out an online application was if the applicant also had a MyDMV account, which is no longer required, it also may demonstrate the difficulties of a single system serving such a populous state.

¹ Presidential Commission on Election Administration, "The American Voting Experience: Report and Recommendations of the Presidential Commission on Election Administration," January 2014.

² National Conference of State Legislatures, "Online Voter Registration," November 13, 2017, available at <http://www.ncsl.org/research/elections-and-campaigns/electronic-or-online-voter-registration.aspx>.

³ <https://dmv.ny.gov/org/more-info/electronic-voter-registration-application>

⁴ Id.

⁵ Id.

⁶ Bergin, Brigid, 'DMV Jammed Up By Voter Registration Traffic,' *WNYC News*, Oct 14, 2016, available at: <http://www.wnyc.org/story/dmv-jammed-voter-registration-traffic/>

⁷ Id.

⁸ Id.

Proposed Int. No. 508-A*Summary of Proposed Int. No. 508-A*

Proposed Int. No. 508-A first amends the Charter to require the Campaign Finance Board to provide a secure website and mobile application that allows any individual qualified to vote in the city of New York to confidentially submit the information collected on a voter registration form, pursuant to §5-210 of the NYS Election law. The information collected would include the applicant's signature, which is required to be of a quality and likeness comparable to a signature written with ink. All of the notices and information contained on, or accompanying, a printed voter registration form would be viewable by the applicant, as well as additional information such as timeframes and deadlines.

Upon receipt of all such information, the Campaign Finance Board would be required to transmit such information to the New York City Board of Elections through a method consistent with NYS Election law, which may include the printing and mailing or delivering of such forms.

Second, the bill requires the Campaign Finance Board to consider various methods for collecting signatures, including the uploading of an electronic file, direct input through a touch or stylus interface and, with the applicant's permission, the use of a signature already on file with an agency (such as those stored as part of the ID NYC program); provided that such methods can produce a signature of a quality and likeness comparable to a signature written with ink.

Third, an application program interface (API) would be made available to the public to allow approved third party programs to transmit voter registration information to the Campaign Finance Board, provided it was practicable to do so and consistent with the privacy of users, data security and applicable law.

Fourth, the bill establishes minimum timelines for the transmission of voter registration information received from the public to the NYC Board of Elections.

Fifth, the bill permits the Campaign Finance Board to receive advice and assistance from the Voter Assistance Advisory Committee and the Coordinator of Voter Assistance. It also permits the Campaign Finance Board to, with the consent of the Mayor, delegate any powers or duties granted under this bill to a Mayoral agency.

Sixth, the bill requires information on the implementation and operation of the website and mobile application to be reported as part of the already existing annual report, issued by the Voter Assistance Advisory Committee, regarding voter registration and voter participation in New York City.

Finally, the Agency Based Voter Registration law would be amended to require agencies to provide links to the website and mobile application created under this bill.

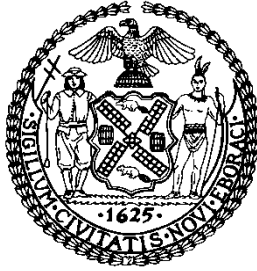
Changes to Proposed Int. No. 508-A

In addition to technical amendments, Proposed Int. No. 508-A has been amended in the following manner:

- The bill now requires the Campaign Finance Board to be the implementing agency, rather than the Office of Operations.
- The bill now permits transmission of voter registration information through any method that complies with the NYS Election Law, and not only by printing and mailing such information.
- The bill now requires additional information to be presented to users of the website and mobile application.
- The bill amends the minimum timelines for transmission of voter registration information, making them similar to the timelines required under the Agency Based Voter Registration law.
- The bill now requires the Campaign Finance Board to consider multiple methods for the transmission of a signature, provided they can provide a signature of a comparable quality and likeness to a signature written in ink.
- The bill now requires the creation of a public application program interface, for use by approved programs.

- The bill now permits advice and assistance to be provided by the Voter Assistance Advisory Commission and the Coordinator of Voter Assistance. It also permits delegations of the powers and duties therein to a Mayoral agency.
- The bill now requires annual reporting on the usage of the website and mobile application, as well as the number of registrations received through each.
- The bill will now take effect 18 months after it becomes law.

(The following is the text of the Fiscal Impact Statement for Int. No. 508-A:)



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

PROPOSED INTRO. NO. 508-A

COMMITTEE: Governmental Operations

TITLE: A Local Law to amend the New York city charter, in relation to online facilitation of voter registration.

SPONSORS: Council Members Kallos, Reynoso, Richards, Dromm, Levine, Rosenthal, Levin, Lander, Rodriguez, Rose, Menchaca, Cabrera, Chin, Constantinides, Johnson, Koo, Lancman, Mendez, Miller, Ferreras-Copeland, Williams, Van Bramer and Espinal

SUMMARY OF LEGISLATION: This bill requires the New York City Campaign Finance Board (CFB) to create a website and mobile application that allows individuals to complete voter registration forms online. The CFB would further be required to collect and transmit these forms to the New York City Board of Elections (BOE) within specified time periods following receipt of a complete application and signature. The bill would require that the methods used for signature collection be able to produce a signature of a quality and likeness comparable to an ink signature. Finally, the bill would require reporting on the implementation of the voter registration portal (as part of an existing annual report on CFB’s voter registration efforts).

EFFECTIVE DATE: 18 months after becoming law, provided, however, that the CFB and any other affected city office or agency shall take such actions prior to such time as are necessary for timely implementation of this local law.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	Full Fiscal Impact FY19
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	(\$200,000)	(\$380,000)	(\$380,000)
Net	\$200,000	\$380,000	\$380,000

IMPACT ON REVENUES: It is anticipated that there would be no impact on revenues resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: It is anticipated that there would be a fiscal impact of approximately \$200,000 in Fiscal 2018. These costs include \$130,000 in 7 months of salary and benefit expenses for two new CFB staff: a

software developer and an analyst who will work in conjunction with the Department of Information Technology and Telecommunications on the website's and mobile application's development and management as well as the tracking and managing of data and coordination with the BOE. The remaining \$70,000 in Fiscal 2018 expenditures will fund start up consulting, translation, data storage and security expenses.

Costs are expected to rise to \$380,000 in Fiscal 2019. \$230,000 of this funding is expected to cover 12 months of salary and benefit costs for the CFB's two additional employees, \$100,000 to cover continued start up consulting, translation, data storage and security costs, and the remaining \$50,000 to cover additional administrative costs for the beginning of the program's implementation.

Costs are anticipated to fall to \$340,000 in Fiscal 2020 and each subsequent fiscal year, representing the legislation's post-implementation continued annual staffing and administrative costs.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCES OF INFORMATION: New York City Council Finance Division
Campaign Finance Board

ESTIMATE PREPARED BY: Zachary Harris, Legislative Financial Analyst

ESTIMATE REVIEWED BY: Nathaniel Toth, Deputy Director
John Russell, Unit Head
Eric Bernstein, Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the Council as Intro. No. 508 on October 22, 2014 and referred to the Committee on Governmental Operations (Committee). A hearing was held by the Committee on October 26, 2016 and the legislation was laid over. The legislation was subsequently amended and the amended legislation, Proposed Intro. No. 508-A, will be considered by the Committee on November 14, 2017. Upon a successful vote by the Committee, Proposed Intro. No. 508-A will be submitted to the full Council for a vote on November 16, 2017.

DATE PREPARED: November 13, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 508-A:)

Int. No. 508-A

By Council Members Kallos, Reynoso, Richards, Dromm, Levine, Rosenthal, Levin, Lander, Rodriguez, Rose, Menchaca, Cabrera, Chin, Constantinides, Johnson, Koo, Lancman, Mendez, Miller, Ferreras-Copeland, Williams, Van Bramer, Espinal and Perkins.

A Local Law to amend the New York city charter, in relation to online facilitation of voter registration.

Be it enacted by the Council as follows:

Section 1. Chapter 46 of the New York city charter is amended by adding a new section 1057-f to read as follows:

§1057-f Online voter registration. a. The campaign finance board shall provide a secure website and mobile application that allows any individual qualified to vote in the city of New York to confidentially submit to such board through such website and mobile application the information collected on a voter registration

application form pursuant to section 5-210 of the election law for the purpose of registering to vote or updating such individual's voter registration. Such website and mobile application shall allow such individual to electronically provide a signature of a quality and likeness comparable to a signature written with ink, consistent with subdivision c of this section. The website and mobile application shall also allow such individual to view the notices contained on or accompanying a printed voter registration application form. Upon receipt of such information and signature, the campaign finance board shall print such information onto a voter registration application form, electronically-affix such signature, and transmit such printed application to the New York city board of elections, consistent with section 5-210 of the election law, or transmit such information and signature through any other method consistent with section 5-210 of the election law.

b. Such website and mobile application shall also conspicuously set forth information concerning the timeframes and deadlines for applying to register to vote or updating registration, to assist such individual in ascertaining whether the registration or update will take effect for the next election. Such website and mobile application shall also conspicuously set forth information concerning how a voter may confirm their registration information.

c. The website and mobile application provided pursuant to this section shall permit the submission of an individual's signature through one or more methods determined by the campaign finance board to result in a signature of a quality and likeness comparable to a signature written with ink. Methods to be considered by the campaign finance board shall include, but not be limited to: (i) the uploading of an electronic file; and (ii) direct input through a touch or stylus interface. In addition to any other method or methods utilized pursuant to this subdivision, the campaign finance board may, with the consent of an individual, utilize a signature previously provided by such individual to an agency or pursuant to the New York city identity card program, established by section 3-115 of the administrative code, if such board determines that such signature otherwise meets the requirements of this section and may be used consistent with the applicable law governing the program for which the signature was provided.

d. To the extent practicable and consistent with the privacy of users, data security and applicable law, the campaign finance board shall make available to the public a web application program interface that permits programs approved by such board to directly transmit voter registration application form information to such board in a manner equivalent to the submission authorized by subdivision a of this section.

e. The campaign finance board shall transmit voter registration application forms completed pursuant to this section to the New York city board of elections within two weeks of receipt of complete information, including a signature provided in accordance with subdivision c, provided that if such information is received within two weeks before the last day for registration to vote in a citywide election, such completed forms shall be transmitted as soon as is practicable to the New York city board of elections and if such information is received within five days before the last day for registration to vote in a citywide election, such completed forms shall be transmitted to the New York city board of elections not later than five days after the date of acceptance.

f. In implementing the provisions of this section, the campaign finance board may receive advice and assistance from the voter assistance advisory committee and the coordinator of voter assistance. In addition, in implementing such provisions, such board may, with the consent of the mayor, receive advice and assistance from and delegate any powers and duties set forth in this section to any office of the mayor or agency the head of which is appointed by the mayor.

§ 2. Paragraph 6 of subdivision b of section 1054 of the New York city charter, is amended to read as follows:

6. prepare and publish reports, including, at the minimum, an annual report to be published no later than April thirtieth in each year, regarding voter registration and voter participation in New York City, and forward copies of such reports to the mayor, the council, the borough presidents, and all other public officials with responsibilities for policies, programs and appropriations related to voter registration and voter participation in New York City and to private entities that are currently or potentially involved in activities intended to increase voter registration and voting. Such annual report shall include, but not be limited to (a) a description of voter assistance activities and the effectiveness of those activities in increasing voter registration and voter participation; (b) the number of voter registration forms distributed by the programs related to voter assistance and voter participation, the manner in which those forms were distributed and the estimated number of persons registered through the activities of the programs, *including the number of voter registration application forms*

received and transmitted to the New York city board of elections during the preceding calendar year pursuant to section 1057-f, both in total and disaggregated for the website and mobile application; (c) the number and characteristics of citizens registered and unregistered to vote during the previous primary, general and special elections and for the most recent time period for which such information is available; (d) the number and characteristics of citizens who voted during the previous primary, general and special elections; (e) a review and analysis of voter registration and voter participation processes in New York City during the previous year, including data on usage and visitation for the website and mobile application required pursuant to section 1057-f; (f) recommendations for increasing voter registration and voter participation; and (g) any other information or analysis the board deems necessary and appropriate; and

§ 3. Subdivision 2 of section 1057-a of the New York city charter, as amended by local law number 139 for the year 2016, is amended to read as follows:

2. Participating agencies shall provide and distribute voter registration forms to all persons together with written applications for services, renewal or recertification for services and change of address relating to such services, in the same language as such application, renewal, recertification or change of address form where practicable; provided however that this section shall not apply to services that must be provided to prevent actual or potential danger to life, health or safety of any individual or of the public. Participating agency staff shall provide assistance in completing these distributed voter registration forms, and in cases in which such an agency would provide assistance with its own form, such agency shall provide the same degree of assistance with regard to the voter registration form as is provided with regard to the completion of its own form, if so requested. Participating agencies shall also include a voter registration form with any agency communication sent through the United States mail for the purpose of supplying clients with application, renewal or recertification for services and change of address relating to such services materials. Participating agencies shall also incorporate an opportunity to request a voter registration application into any application for services, renewal or recertification for services and change of address relating to such services provided on computer terminals, the World Wide Web or the Internet. Any person indicating that they wish to be sent a voter registration form, via computer terminals, the World Wide Web or the Internet shall be *provided with a link to the website and mobile application required pursuant to section 1057-f and, at the person's discretion,* sent such a form by the participating agency, or directed to a bank on that system where such a form may be downloaded. *Each participating agency shall also maintain on its website at least one link to the website and mobile application required pursuant to section 1057-f.*

§ 4. This local law shall take effect 18 months after its enactment, provided, however, that the campaign finance board and any other affected city office or agency shall take such actions prior to such time as are necessary for timely implementation of this local law.

BEN KALLOS, *Chairperson*; DAVID G. GREENFIELD, ANTONIO REYNOSO, RITCHIE J. TORRES, JOSEPH C. BORELLI; Committee on Governmental Operations, November 14, 2017.

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

Report of the Committee on Health

Report for Int. No. 657-A

Report of the Committee on Health in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to the documentation of annual water tank inspections and the reporting of such inspections.

The Committee on Health, to which the annexed proposed amended local law was referred on February 12, 2015 (Minutes, page 468), respectfully

REPORTS:

I. Introduction

Today, the Committee on Health, chaired by Council Member Corey Johnson, will hold a hearing on Proposed Int. No. 657-A, a local law to amend the administrative code of the city of New York, in relation to the documentation of annual water tank inspections and the reporting of such inspections. This bill was originally heard at a hearing of this Committee on October 24, 2017, at which the Committee received testimony from the Department of Health and Mental Hygiene (“DOHMH”), advocates, and other interested parties.

II. Background

Buildings in the City of New York have been using water tanks as part of their drinking water supply systems since the 19th century.¹ The City’s water mains provide enough pressure to deliver water to about six stories of a building. Taller buildings use an electric pump to carry water into water tanks on the top of the building, and gravity distributes the water to the floors below.² The large majority of water tanks in the City are constructed from wood due to its insulating properties, easy maintenance and low cost.³ Water for drinking, bathing and other everyday uses is drawn from the middle of the tank, while the water in the bottom is used for firefighting and sprinkler systems.⁴ When not maintained properly, the water tanks have been found to contain viruses, bacteria and parasites, such as E. coli, a bacterium carried in the feces of some animals.⁵

In 2009, the Council passed Local Law 11 (“LL 11”), requiring that building owners have their water tanks inspected annually and submit inspection results to DOHMH when requested. LL 11 required building owners to maintain a record of inspections for 5 years, and to post a public notice stating that inspection results are available upon request. LL 11 also required DOHMH to report to the Council on compliance with inspection requirements each year for three years.

In the last required annual report to the Council in 2013, DOHMH estimated that 10,000 buildings in the City contain at least one water tank.⁶ DOHMH conducted inspections on a random selection of 110 buildings over 7 stories in height (125 tanks) and found that only 33% were able to demonstrate proof of a water tank inspection in the previous year, 22% could show proof that records were maintained for 5 years, and 15% had posted public notices of the availability of inspection results.⁷ In 2014, the New York City Health Code was amended to require building owners to submit annual water tank inspection results to DOHMH by January 15 of each year, rather than by request.⁸

In 2014, the *New York Times* conducted its own testing of 12 water tanks in Manhattan, Queens and Brooklyn and found E. coli in five of the tanks.⁹ These positive results came from the bottoms of the tanks, below the pipe level that feeds into the building.¹⁰ Dr. Stephen C. Edberg, a public-health microbiologist at Yale University, said, “The problem is that if any part of the tank gets contaminated, all of it is contaminated.”¹¹ DOHMH claimed the methodology used by the *Times* was flawed and its conclusions faulty.¹²

¹ Ray Rivera, Frank G. Runyeon and Russ Buettner. *Inside City’s Water Tanks, Layers of Neglect*, N.Y. TIMES, Jan. 27, 2014, <https://www.nytimes.com/2014/01/27/nyregion/inside-citys-water-tanks-layers-of-neglect.html>.

² *Id.*

³ Sean Joseph. *Water towers: NYC’s misunderstood icons*, N.Y. TIMES, Apr. 7, 2009, <https://www.amny.com/real-estate/city-living/water-towers-nyc-s-misunderstood-icons-1.6982696>

⁴ Rivera, *supra* note 1.

⁵ *Id.*

⁶ NYC Dep’t of Health & Mental Hygiene, *New York City Building Drinking Water Inspection Report 2013*.

⁷ *Id.*

⁸ NYC Health Code §31-02.

⁹ Rivera, *supra* note 1.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

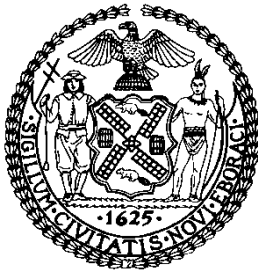
III. Analysis of Proposed Int. No. 657-A

Proposed Int. No. 657-A would codify the Health Code requirement for building owners to submit annual water tank inspection reports to DOHMH in the Administrative Code. The legislation would also require DOHMH to post annual inspection documentation to its website and the City's open data portal, require DOHMH to provide guidance on its website to assist users in accessing such reports from the open data portal, and to provide guidance to assist users in determining whether a building is required to conduct water tank inspections pursuant to section 17-194 of the Administrative Code or section 141.07 of the Health Code. Additionally, the bill requires DOHMH to provide notice that the failure to conduct a required inspection is a violation of the law, and to post information on its website about how to submit a complaint about a water tank, or water from a water tank.

Proposed Int. No. 657-A would require DOHMH to submit an annual report relating to water tank inspections to the Council, and require that such reports include data on the number of inspection results received, along with the number of inspection results received that demonstrate compliance with the health-related requirements for water tanks.

The legislation would take effect 120 days after it becomes law.

(The following is the text of the Fiscal Impact Statement for Int. No. 657-A:)



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

PROPOSED INTRO. NO: 657-A

COMMITTEE: Health

TITLE: A local law to amend the administrative code of the city of New York, in relation to the documentation of annual water tank inspections.

SPONSOR(S): Council Members Garodnick, Johnson, the Public Advocate (Ms. James) and Council Members Gentile, Koo, Rose, Espinal, Levine, Williams, Lancman, Cabrera, Mendez, Crowley, Constantinides, Koslowitz, Kallos, Torres, Vacca, Rosenthal, Richards, Levin, Salamanca, Barron, Cornegy and Menchaca

SUMMARY OF LEGISLATION: Proposed Intro. No. 657-A would codify in the Administrative Code the existing requirement from the Health Code that any owner of a building that has a water tank as part of its drinking water supply system to submit documentation of its annual inspection to the Department of Health and Mental Hygiene (DOHMH, Department). The documentation would state whether the tank met all applicable requirements at the time of inspection and would provide a description of any non-compliance with applicable requirements.

The bill would also require the Department to post the inspection documentation on its website and on the public data web portal. The information available to the public would include guidance on accessing prior inspection reports; guidance on determining whether a building is required to have a water tank inspection; and information on submitting a complaint about a water tank, or water from a water tank, to the Department. The bill would also require DOHMH to include in its annual report to the Council the number of complete building water tank inspection results the Department received.

EFFECTIVE DATE: This legislation would take effect 120 days after becoming law.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2018

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	Full Fiscal Impact FY18
Revenues	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: It is anticipated that this legislation would not have an impact on revenues.

IMPACT ON EXPENDITURES: It is estimated that this bill would not have an impact on expenditures because DOHMH would utilize existing resources to implement the legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division
New York City Department of Health and Mental Hygiene

ESTIMATE PREPARED BY: Jeanette Merrill, Legislative Financial Analyst

ESTIMATE REVIEWED BY: Nathan Toth, Deputy Director, NYC Council Finance Division
Cirilhien R. Francisco, Unit Head, NYC Council Finance Division
Rebecca Chasan, Counsel, NYC Council Finance Division

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on February 12, 2015 as Intro. No. 657 and was referred to the Committee on Health (Committee). The Committee held a hearing on October 24, 2017 and the bill was laid over. The bill was subsequently amended, and the Committee will vote on the amended legislation, Proposed Int. No. 657-A, at a hearing on November 15, 2017. Upon successful vote by the Committee, the full Council will vote on the legislation on November 16, 2017.

DATE PREPARED: November 13, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 657-A:)

Int. No. 657-A

By Council Members Garodnick, Johnson, the Public Advocate (Ms. James) and Council Members Gentile, Koo, Rose, Espinal, Levine, Williams, Lancman, Cabrera, Mendez, Crowley, Constantinides, Koslowitz, Kallos, Torres, Vacca, Rosenthal, Richards, Levin, Salamanca, Barron, Cornegy, Menchaca, Eugene and Miller.

A Local Law to amend the administrative code of the city of New York, in relation to the documentation of annual water tank inspections and the reporting of such inspections

Be it enacted by the Council as follows:

Section 1. Subdivision b of section 17-194 of the administrative code of the city of New York, as added by local law number 11 for the year 2009, is amended to read as follows:

b. Any owner of a building that has a water tank as part of its drinking water supply system shall have such water tank inspected at least once annually. Such inspection shall ensure that the water tank complies with all provisions of the administrative code of the city of New York, the construction codes of the city of New York and the health code of the city of New York. The results of such inspection shall be recorded in a manner prescribed by the commissioner. Such results shall be maintained by the owner for at least five years from the date of inspection and shall be made available to the department upon request within five business days. [The department shall request such information from the building owner or manager when contacted pursuant to subdivision c of this section.] *Documentation of such annual inspection shall be submitted in a form and manner prescribed by the department. Such documentation shall state whether or not all applicable requirements were met at the time of inspection and provide a description of any non-compliance with applicable requirements.*

§ 2. Subdivision e of section 17-194 of the administrative code of the city of New York is relettered subdivision f.

§ 3. Subdivision d of section 17-194 of the administrative code of the city of New York, as added by local law number 11 for the year 2009, is amended, and a new subdivision e is added to such section, to read as follows:

d. Beginning March 1, [2010] 2019, and each year thereafter [for three years], the department shall submit to the council a report which shall provide information about water tank inspections for the preceding calendar year including, but not limited to:

1. the estimated number of building water tanks and the estimated number of buildings serviced by such tanks;

2. *the number of complete building water tank inspection results received by the department pursuant to subdivision b of this section;*

3. *the number of building water tank inspection results [examined by the department and the number that were in] received by the department that documented compliance with [subdivision b of this section] applicable requirements[;*

3. *the estimated compliance rate with subdivision b of this section for the city]; and*

4. *the number of violations issued by the department pursuant to subdivision [e] f of this section, section 141.07 of the health code or chapter 31 of title 24 of the rules of the city of New York.*

e. *Water tank inspection information on website. Within 35 business days of receiving the documentation of an annual inspection required pursuant to subdivision b, the department shall post such documentation on its website and the web portal providing access to public data sets described in section 23-502. The department's website shall provide notice that failure to conduct a required water tank inspection is a violation of law. Information available to the public shall include:*

1. *guidance to assist users in accessing any prior inspection report for a building available on the web portal providing access to public data sets described in section 23-502;*

2. *guidance to assist users in determining whether a building is required to have a water tank inspection pursuant to this section or section 141.07 of the health code; and*

3. *information about how to submit a complaint about a water tank, or water from a water tank, to the department.*

§ 4. This local law takes effect 120 days after it becomes law.

COREY D. JOHNSON, *Chairperson*; JAMES VACCA, MATHIEU EUGENE, JAMES G. VAN BRAMER, ROBERT E. CORNEGY, Jr.: Committee on Health, November 15, 2017.

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

Report of the Committee on Immigration

Report for Int. No. 1557-A

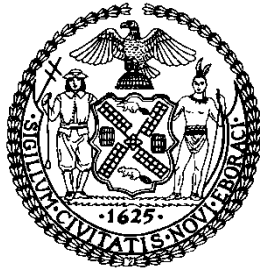
Report of the Committee on Immigration in favor of approving and adopting, as amended, a Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to establishing a chief privacy officer and policies and protocols relating to the handling of identifying information.

The Committee on Immigration, to which the annexed proposed amended local law was referred on April 25, 2017 (Minutes, page 1131), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Immigration for Int. No. 1588-A printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 1557-A:



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

**PROPOSED INTRO. NO: 1557-A
COMMITTEE: Immigration**

TITLE: A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to establishing a chief privacy officer and policies and protocols relating to the handling of identifying information

SPONSORS: The Speaker (Council Member Mark-Viverito) and Council Members Levin, Dromm, Menchaca, Chin, Gibson, Kallos and Rosenthal

SUMMARY OF LEGISLATION: Proposed Intro. No. 1557-A would require the mayor to designate a City Chief Privacy Officer, who would have the power and duty to promulgate policies and protocols regarding the collection, retention, and disclosure of identifying information, provide guidance and information on privacy laws, policies and procedures, review agency identifying information policies and direct agencies to make changes necessary to ensure compliance with applicable laws, and specify types of information that would be subject to protection by agencies. Additionally, the legislation would specify the minimum requirements of the policies and protocols promulgated by the Chief Privacy Officer, establish an interagency information protection committee that would recommend policies and procedures to the mayor, Council Speaker, and Chief Privacy Officer, and require every City agency to report on their data collection, retention, and disclosure policies and current practices.

EFFECTIVE DATE: This local law would take effect on the same day that Proposed Intro. No 1588-A takes effect provided that where the provisions of sections 23-1203, 23-1204, and 23-1205 of the administrative code of the city of New York, as added by section two of this local law, cannot be applied consistently with

currently applicable contracts, such provisions shall only apply with respect to contracts entered into or renewed after the effective date of this local law.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	Full Fiscal Impact FY19
Revenues	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: It is anticipated that there would be no impact on revenues as a result of this legislation.

IMPACT ON EXPENDITURES: It is anticipated that there would be no impact on expenditures as a result of this legislation because existing resources would be used to implement the legislation. The legislation requires the Mayor to designate an already existing City employee, so the legislation would have no staffing impact. Additionally, the legislation requires that the committee will be staffed by agency staff.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Jin Lee, Financial Analyst

ESTIMATE REVIEWED BY: Nathan Toth, Deputy Director
Cirilhien Francisco, Unit Head
Eric Bernstein, Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the Council on April 25, 2017 as Intro. No. 1557 and referred to the Committee on Immigration (Committee). The Committee, along with the Committees on Education and Public Safety, considered the legislation at a hearing on April 26, 2017, and the legislation was laid over. The legislation was subsequently amended, and the Committee will consider the amended legislation, Proposed Intro. No. 1557-A, on November 15, 2017. Upon successful vote by the Committee, Proposed Intro. No. 1557-A will be submitted to the full Council for a vote on November 16, 2017.

DATE PREPARED: November 14, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1557-A:)

Int. No. 1557-A

By The Speaker (Council Member Mark-Viverito) and Council Members Levin, Dromm, Menchaca, Chin, Gibson, Kallos, Rosenthal, Constantinides and Vacca.

A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to establishing a chief privacy officer and policies and protocols relating to the handling of identifying information

Be it enacted by the Council as follows:

Section 1. Section 8 of the New York city charter is amended by adding a new subdivision h to read as follows:

h. The mayor shall designate the head of an office of the mayor, or of such other agency headed by a mayoral appointee as the mayor may determine, to act as the city's chief privacy officer. For the purposes of this subdivision, identifying information has the same meaning as set forth in section 23-1201 of the administrative code. Consistent with the provisions of subdivision g of this section, such officer shall have the power and duty to:

1. promulgate, after receiving the recommendations of the committee established pursuant to section 23-1204 of the administrative code, policies, and protocols regarding the collection, retention, and disclosure of identifying information by agencies, contractors, and subcontractors, provided that particular policies and protocols may apply to all agencies, contractors, and subcontractors or to a subset thereof;

2. provide guidance and information to the city and every agency thereof on federal, state, and local laws, policies, and protocols related to the collection, retention, and disclosure of identifying information and direct agencies to make any changes necessary to achieve or maintain such compliance;

3. review, in collaboration with the committee established pursuant to section 23-1204 of the administrative code, agency identifying information reports submitted pursuant to section 23-1205 of the administrative code;

4. specify types of information, in addition to identifying information as defined in section 23-1201 of the administrative code, that shall be subject to protection by agencies, as required by such officer, based on the nature of such information and the circumstances of its collection or potential disclosure.

§ 2. Chapter 12 of title 23 of the administrative code of the city of New York is amended by adding new sections 23-1203, 23-1204, and 23-1205 to read as follows:

§ 23-1203 Policies and protocols of the chief privacy officer. The policies and protocols promulgated by the chief privacy officer pursuant to subdivision h of section 8 of the charter shall, at a minimum:

1. require that identifying information is anonymized where appropriate in accordance with the purpose or mission of a city agency;

2. require the privacy officer of each city agency to issue guidance to city agency employees, contractors and subcontractors regarding such agency's collection, retention, and disclosure of identifying information;

3. require any city agency disclosing identifying information to a third party when such a disclosure is not classified as routine pursuant to section 23-1202 to enter into an agreement ensuring that the anticipated use and any potential future use of such information by such third party occurs only in a manner consistent with this chapter unless: (i) such disclosure is made under exigent circumstances, or (ii) such an agreement would not further the purposes of this chapter due to the absence of circumstances in which such disclosure would unduly compromise an important privacy interest.

4. describe disclosures of identifying information to third parties when such a disclosure is classified as routine pursuant to section 23-1202 for which, because of the nature or extent of such disclosures or because of the nature of the relationship between the city agency and third party, such disclosing agency is required to enter into an agreement with such third party requiring that the anticipated use and any potential future use of such information by such third party occurs only in a manner consistent with this chapter;

5. describe disclosures of identifying information that are not to be treated as routine pursuant to section 23-1202, as determined by the nature and extent of such disclosures, and require an additional level of review and approval by the privacy officer of such agency or the contractor or subcontractor before such disclosures are made;

6. describe circumstances when disclosure of an individual's identifying information to third parties in violation of this chapter would, in light of the nature, extent, and foreseeable adverse consequences of such disclosure, require the disclosing city agency, contractor, or subcontractor to make reasonable efforts to notify the affected individual as soon as practicable;

7. establish standard contract provisions, or required elements of such provisions, related to the protection of identifying information;

8. require the privacy officer of each city agency to arrange for dissemination of information to agency employees, contractors, and subcontractors and develop a plan for compliance with this chapter and any policies and protocols developed under this chapter; and

9. establish a mechanism for accepting and investigating complaints for violations of this chapter.

§ 23-1204 Committee. a. There is hereby established in the office of the mayor, or such other city agency headed by a mayoral appointee as the mayor may determine, an identifying information protection committee.

1. Such committee shall consist of:

(a) the corporation counsel or a designee of the corporation counsel;

(b) the director of the mayor's office of operations or such director's designee;

(c) the coordinator of criminal justice or such coordinator's designee;

(d) any deputy mayors who may be designated by the mayor to serve on such committee or their designees; and

(e) the commissioners of the following agencies or such commissioners' designees:

(1) the administration for children's services;

(2) the department of social services;

(3) the police department;

(4) the department of correction;

(5) the department of probation;

(6) the department of health and mental hygiene;

(7) the department of information technology and telecommunications;

(8) the fire department; and

(9) representatives of such other agencies as the mayor may designate having relevant duties or expertise with respect to federal, state, and local laws and policies relating to protecting identifying information.

2. Unless otherwise determined by the mayor, the chair of such committee shall be the director of the mayor's office of operations or such director's designee. Staff services for such committee shall be provided by the participating agencies.

b. The committee, in collaboration with the chief privacy officer, shall review city agency reports provided pursuant to section 23-1205 and recommend policies and procedures regarding the collection, retention and disclosure of identifying information while taking into consideration each city agency's unique mission, subject matter expertise, and legal obligations.

c. No later than October 30, 2018, the committee shall communicate its final recommendations pursuant to subdivision b of this section along with the city agency reports required pursuant to section 23-1205 to the applicable city agencies, the mayor, the speaker of the council, and the chief privacy officer. Beginning July 31, 2020 and every two years thereafter, the committee shall review such agency reports and any policies and protocols adopted pursuant to this chapter.

d. Within 90 days of receiving any final recommendations of the committee, the chief privacy officer shall adopt policies and protocols, in accordance with sections 23-1202 and 23-1203, as necessary or appropriate in furtherance of this chapter.

e. No information that is otherwise required to be reported or disclosed pursuant to this section shall be reported or disclosed in a manner that would violate any applicable provision of federal, state, or local law relating to the privacy of information or that would interfere with a law enforcement investigation or other investigative activity by an agency or would compromise public safety.

§ 23-1205 City agency policies. a. No later than July 31, 2018, and every two years thereafter by July 31, each city agency shall provide a report regarding the collection, retention, and disclosure of identifying information by such agency and any contractors or subcontractors utilized by such agency. Each such report shall include:

1. information concerning identifying information collected, retained, and disclosed, including:

(a) the types of identifying information collected, retained, and disclosed, including, but not limited to, where practicable, those types enumerated in the definition of identifying information;

(b) the types of collections and disclosures classified as routine and any collections or disclosures approved by the chief privacy officer;

(c) current policies regarding collection, retention, and disclosure, including:

- (1) policies regarding requests for disclosures from other city agencies, local public authorities or local public benefit corporations, and third parties;*
- (2) policies regarding proposals for disclosures to other city agencies, local public authorities or local public benefit corporations, and third parties;*
- (3) policies regarding the classification of disclosures as necessitated by the existence of exigent circumstances or as routine; and*
- (4) which divisions and categories of employees within an agency make disclosures of identifying information following the approval of the privacy officer;*
- (d) use of agreements regarding the anticipated use and any potential future use of identifying information disclosed;*
- (e) types of entities requesting the disclosure of identifying information or proposals for disclosures of identifying information, the reasons why an agency discloses identifying information in response to requests or proposes the disclosure of identifying information, and why any such disclosures furthers the purpose or mission of such agency; and*
- (f) the reasons why any collection and retention of identifying information furthers the purposes or mission of such agency;*
- 2. the impact of any privacy policies and protocols issued by the chief privacy officer, any guidance issued by the privacy officer of such agency or the committee, the provisions of this chapter, and other applicable law on the agency's collection, retention, and disclosure of identifying information;*
- 3. consideration and implementation, where applicable, of alternative policies that minimize the collection, retention, and disclosure of identifying information to the greatest extent possible while furthering the purpose or mission of such agency; and*
- 4. policies on access to identifying information by employees, contractors, and subcontractors, including consideration of the necessity of access to such information for the performance of their duties and implementation of policies that minimize such access to the greatest extent possible while furthering the purpose or mission of an agency.*
- b. Each city agency shall submit the report prepared pursuant to subdivision a of this section to the mayor, the speaker of the council, the chief privacy officer, and the committee.*
- c. No information that is otherwise required to be reported or disclosed pursuant to this section shall be reported or disclosed in a manner that would violate any applicable provision of federal, state, or local law relating to the privacy of information or that would interfere with a law enforcement investigation or other investigative activity by an agency or would compromise public safety.*

§ 3. This local law takes effect on the same date and in the same manner that a local law for the year 2017 amending the administrative code of the city of New York relating to identifying information, as proposed in introduction number 1588-A, takes effect, provided that where the provisions of sections 23-1203, 23-1204, and 23-1205 of the administrative code of the city of New York, as added by section two of this local law, cannot be applied consistently with currently applicable contracts, such provisions shall only apply with respect to contracts entered into or renewed after the effective date of this local law.

CARLOS MENCHACA, *Chairperson*; MATHIEU EUGENE, DANIEL DROMM, RAFAEL L. ESPINAL, Jr.; Committee on Immigration, November 15, 2017.

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

Report for Int. No. 1579-A

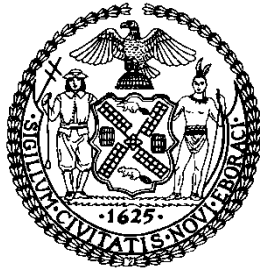
Report of the Committee on Immigration in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to access to non-public areas of city property and property of human services contractors and subcontractors.

The Committee on Immigration, to which the annexed proposed amended local law was referred on April 25, 2017 (Minutes, page 1153), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Immigration for Int. No. 1588-A printed below in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 1579-A:



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

**PROPOSED INTRO. NO: 1579-A
COMMITTEE: Immigration**

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to access to non-public areas of city property and property of human services contractors and subcontractors

SPONSORS: Council Members Menchaca, Johnson, The Speaker (Council Member Mark-Viverito), Levin, Kallos, Chin, Gibson, Ferreras-Copeland, Rosenthal and Constantinides

SUMMARY OF LEGISLATION: Proposed Intro. No. 1579-A addresses possible safety and privacy concerns that may deter New Yorkers from seeking city services by restricting access to non-public areas of City property, as well as locations where human services contractors provide services. Under the bill, non-local government personnel authorized to enforce civil or criminal laws would not be permitted to access non-public areas of city property, unless:

- the city has entered into an agreement, contract, or subcontract granting access;
- access is required by a judicial warrant or local, state, or federal law;
- such personnel are accessing the property as part of a cooperative arrangement involving city, state, or federal agencies;
- access furthers the purpose or mission of a city agency; or
- exigent circumstances exist.

Additionally, access requirements would also apply to human services contractors, whether or not their services are provided on city property, where such services are provided under a city contract (either through the contractor or their subcontractor). Each agency would be required to provide free training to employees contracted for security services at covered City buildings. Finally, each agency would be required to establish and post online agency-specific guidelines or rules implementing the law.

EFFECTIVE DATE: This local law would take effect in 120 days, provided that affected agencies may immediately take all steps necessary for timely appropriation. Additionally, where the provisions of the local law concerning human services contractors and training for employees contracted for security services cannot be applied consistent with currently applicable contracts, these provisions would only apply with respect to contracts entered into or renewed after the effective date of this local law.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	Full Fiscal Impact FY19
Revenues	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: It is anticipated that there would be no impact on revenues as a result of this legislation.

IMPACT ON EXPENDITURES: It is anticipated that there would be no impact on expenditures as a result of this legislation because existing resources would be used to implement the legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Crilhien Francisco, Unit Head

ESTIMATE REVIEWED BY: Nathan Toth, Deputy Director
Eric Bernstein, Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the Council as Intro. No. 1579 on April 25, 2017 and was referred to the Committee on Immigration (Committee). The Committee, along with the Committees on Education and Public Safety, considered the legislation at a hearing on April 26, 2017, and the legislation was laid over. The legislation was subsequently amended, the Committee will consider amended legislation, Proposed Intro. No. 1579-A, on November 15, 2017. Upon successful vote by the Committee, Proposed Intro. No. 1579-A will be submitted to the full Council for a vote on November 16, 2017.

DATE PREPARED: November 14, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1579-A:)

Int. No. 1579-A

By Council Members Menchaca, Johnson, The Speaker (Council Member Mark-Viverito), Levin, Kallos, Dromm, Chin, Gibson, Ferreras-Copeland, Rosenthal and Constantinides.

A Local Law to amend the administrative code of the city of New York, in relation to access to non-public areas of city property and property of human services contractors and subcontractors

Be it enacted by the Council as follows:

Section 1. Chapter 2 of title 4 of the administrative code of the city of New York is amended by adding a new section 4-210 to read as follows:

§ 4-210 *Access to city property.* a. *Definitions.* As used in this section, the following terms have the following meanings:

City property. The term “city property” means any real property leased or owned by the city that serves a city governmental purpose and over which the city has operational control.

Human services. The term “human services” has the meaning as set forth in subdivision c of section 6-129.

Judicial warrant. The term “judicial warrant” means a warrant issued by a judge appointed pursuant to article III of the United States constitution or a federal magistrate judge appointed pursuant to section 631 of title 28 of the United States code, or any successor provision, or by a court of the state of New York, that authorizes a law enforcement officer to take into custody the person who is the subject of such warrant or to conduct a search or otherwise enter the premises at issue in accordance with the terms of the warrant.

b. *Limited access to city property.* The city shall not knowingly permit governmental personnel who are empowered to enforce civil or criminal laws, other than personnel of the city, the department of education, or a local public benefit corporation or local public authority, to have access to non-public areas of city property unless:

1. such personnel are authorized to have access pursuant to an agreement, contract, or subcontract;
2. such personnel present a judicial warrant;
3. access is otherwise required by law;
4. such personnel are accessing such property as part of a cooperative arrangement involving city, state, or federal agencies;
5. access furthers the purpose or mission of a city agency; or
6. exigent circumstances exist.

c. *Human services contractors and subcontractors.* Agencies shall require any contractor having regular contact with the public in the daily administration of human services to apply the requirements of subdivision b to any location, whether or not on city property, where such services are provided under a city contract, whether through such contractors or their subcontractors.

d. *Guidelines and rules.* Any agency with jurisdiction over city property shall adopt guidelines or rules, as appropriate, to implement this section or, alternatively, the mayor or an office or agency designated by the mayor may adopt guidelines or rules applicable to multiple agencies, in furtherance of the efficient implementation of this section. Any guidelines or rules shall provide for designating an individual at each city agency who shall be responsible for the implementation of this local law and any such guidelines or rules.

e. *Posting on city website.* The mayor, or an office or agency designated by the mayor, shall ensure that any generalized guidelines or rules, including agency-wide guidelines or rules, regarding limited access to city property are posted on a website maintained by or on behalf of the city.

f. *Training.* All new or renewed city contracts for security services on city property at which there is regular contact with the public in the daily administration of human services by or on behalf of the city shall contain a provision requiring relevant employees of the security contractor or subcontractor be provided with training on the requirements of this section, at no cost to such employees. Any employees subject to this requirement shall be compensated at their regular rate of compensation for time spent participating in such training, where applicable.

§ 2. This local law takes effect 120 days after it becomes law, provided that effective immediately, affected agencies may take all steps necessary for timely implementation. In addition, where the provisions of subdivisions c and f of section 4-210 of the administrative code of the city of New York, as added by section one of this local law, cannot be applied consistent with currently applicable contracts, such subdivision shall only apply with respect to contracts entered into or renewed after the effective date of this local law.

CARLOS MENCHACA, *Chairperson*; MATHIEU EUGENE, DANIEL DROMM, RAFAEL L. ESPINAL, Jr.; Committee on Immigration, November 15, 2017.

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

Report for Int. No. 1588-A

Report of the Committee on Immigration in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to identifying information

The Committee on Immigration, to which the annexed proposed amended local law was referred on April 25, 2017 (Minutes, page 1167), respectfully

REPORTS:

INTRODUCTION

On November 15, 2017, the Committee on Immigration, chaired by Council Member Carlos Menchaca, held a second hearing on the following legislation:

- **Int. No. 1588-A:** A Local Law in relation to identifying information;
- **Int. No. 1557-A:** A Local Law in relation to establishing a chief privacy officer and policies and protocols relating to the handling of identifying information; and
- **Int. No. 1579-A:** A Local Law in relation to access to non-public areas of city property and property of human services contractors and subcontractors.

The first hearing on these bills was on April 26, 2017. At the second hearing, all three bills were adopted by a vote of four in the affirmative, zero in the negative, with zero abstentions.

BACKGROUND

Int. No. 1588-A and Int. No. 1557-A

City employees, contractors, and subcontractors interact with tens of millions of residents and visitors each year. Just two common contact points with the City—311 and the Human Resources Administration (HRA)—resulted in contacts with approximately 39 million New Yorkers during 2016, while over 900,000 New Yorkers enrolled the IDNYC municipal identification program since June 2015.

¹ These interactions regularly result in the collection of data, and in cases where services are provided, the collection of personal information. Individuals provide sensitive information to the City with the expectation that it will be kept confidential and only used in their best interests.

Int. No. 1588-A would require City employees and contractors to protect identifying information—such as contact information, sexual orientation, religion, and immigration status—by limiting its collection, disclosure, and retention. A newly-established privacy officer within each agency would review and approve the collection, disclosure, and retention of identifying information to ensure such actions further the purpose or mission of such agency and protect identifying information from unauthorized disclosure.

¹ Press Release, City of New York, *311 Sets New Record with Nearly 36 Million Interactions in 2016*, Jan. 19, 2017, available at <http://www1.nyc.gov/office-of-the-mayor/news/033-17/311-sets-new-record-nearly-36-million-interactions-2016>; N.Y.C. Human Resources Administration, About HRA, <https://www1.nyc.gov/site/hra/about/about-hra.page> (last accessed Apr. 23, 2017); and N.Y.C. Council Committee on General Welfare, Testimony of Commissioner Nisha Agarwal, Mayor's Office of Immigrant Affairs, Mar. 22, 2017, available at <http://legistar.council.nyc.gov/View.aspx?M=F&ID=5097261&GUID=81831E8E-9529-4F8C-BFE0-FEC79044C080>.

Int. No. 1557-A requires every City agency to report on their current data collection, retention, and disclosure policies and practices. A newly established Chief Privacy Officer and interagency committee would review those reports and develop new, detailed protocols for minimizing the collection and disclosure of identifying information and protecting against the unauthorized disclosure.

Local Laws and Policies

The City has a number of policies and laws concerning impermissible access to personal information. In 2005, the Council enacted legislation requiring City agencies to inform individuals whenever there has been a breach of security with respect to sensitive personal information.² Earlier this year, the Council enacted legislation that requires that any City agency disposing of electronic equipment that is capable of storing information while depowered to ensure, prior to such electronic equipment's disposal, that all information therein has been erased.³

The Citywide Information Security Policy, issued by the Department of Information Technology and Telecommunications (DOITT), establishes mandatory standards relating to personally identifiable information that must be followed by City employees, as well as agencies and contractors.⁴ The policy covers topics such as anti-piracy; the role of the chief information security officer; data classification; digital media re-use and disposal; encryption; identity management for public users of City systems; the screening, training, and supervision of personnel with access to responsibilities concerning access to information; user responsibilities; and vulnerability management.⁵

Though neither the Citywide Policy nor existing local laws address policies on when personal information held by the City should be collected, retained, or disclosed, the Council and the Administration have taken steps to secure sensitive information with regard to the IDNYC program. The Council created IDNYC, a free identification card, in the spring of 2014 to provide every New York City resident the opportunity to obtain legitimate government-issued photo identification.⁶ Under the IDNYC program, all residents can obtain an IDNYC, regardless of race, color, creed, age, national origin, alienage or citizenship status, gender, sexual orientation, disability, marital status, partnership status, any lawful source of income, housing status, status as a victim of domestic violence or status as a victim of sex offenses or stalking, or conviction or arrest record.⁷ Eligibility can be established through the submission of a range of documents that prove identity and residency.⁸ The law required confidentiality of information collected and prohibited its disclosure without written authorization or a court order.⁹ Copies of records submitted by applicants must be destroyed at least once per quarter, unless their retention is required by law.¹⁰

In addition, the Administration was required to determine the need to continue to retain documents and make appropriate modifications to their retention policies no later than December 31, 2016.¹¹ If no such determination was made or if the Administration concluded that retention was no longer necessary, documents could no longer be retained for longer than the time needed to review the application.¹² On December 7, 2016, HRA issued an order finding that there was no need to retain application materials used to prove identity or residency and from that date forward, copies of records would not be kept.¹³

² N.Y.C. Admin. Code § 10-502.

³ Int. No. 1052, L.L. 2017/011, codified at N.Y.C. Admin. Code § 10-154.

⁴ N.Y.C. Department of Information Technology and Telecommunications, IT Security Requirements for Vendors & Contractors, <https://www1.nyc.gov/site/doitt/business/it-security-requirements-vendors-contractors.page> (last accessed Apr. 23, 2017).

⁵ *Id.*

⁶ Int. 253, L.L. 2014/035, codified at N.Y.C. Admin. Code § 3-115.

⁷ *Id.*

⁸ *Id.* at § 3-115(d).

⁹ *Id.* at § 3-115(e).

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ N.Y.C. Human Resources Administration, Executive Order No. E-739, Retention of Copies of Records Provided by New York City Identity Card (IDNYC) Program Applicants to Prove Identity and Residency, Dec. 7, 2016, available at https://www1.nyc.gov/assets/idnyc/downloads/pdf/eo_739_retention_120716.pdf.

Int. No. 1579-A

Int. No. 1579-A addresses possible safety and privacy concerns that may deter New Yorkers from seeking city services by restricting access to non-public areas of City property, as well as locations where human services contractors provide services. Under the bill, non-local law enforcement will not be permitted to access non-public areas of city property or where human services contractors operate unless: (1) there is an agreement with the city, (2) access is required by law, (3) access furthers the purpose or mission of the agency, or (4) there are exigent circumstances.

ANALYSIS***Int. No. 1588-A***

Section one of Int. No. 1588-A would add a new chapter 12 to title 23 of the Administrative Code regarding identifying information. Section 23-1201 would set forth the following definitions for the chapter:

- Chief Privacy Officer: the person designated by the mayor to act as the city's Chief Privacy Officer, or their designee.
- Contracting agency: a city, county, borough, or other office, position, administration, department, division, bureau, board or commission, or a corporation, institution, or agency of government, the expenses of which are paid in whole or in part from the City treasury.
- Contractor: a party to a contract with a contracting agency to provide human services, or other services designated by the chief privacy officer.
- Employee: any officer or person who is paid from the City treasury.
- Human services: services provided to third parties, including social services such as day care, foster care, home care, homeless assistance, housing and shelter assistance, preventive services, youth services, and senior centers; health or medical services; legal services; employment assistance services, vocational and educational programs; and recreation programs.
- Identifying information: any information obtained by or on behalf of the city that may be used on its own or with other information to identify or locate an individual, including, but not limited to: name, sexual orientation, gender identity, race, marital or partnership status, status as a victim of domestic violence or sexual assault, status as a crime victim or witness, citizenship or immigration status, eligibility for or receipt of public assistance or City services, all information obtained from an individual's income tax records, information obtained from any surveillance system operated by, for the benefit of, or at the direction of the Police Department, motor vehicle information or license plate number, biometrics such as fingerprints and photographs, languages spoken, religion, nationality, country of origin, place of birth, arrest record or criminal conviction, employment status, employer information, current and previous home and work addresses, contact information such as phone number and email address, information concerning social media accounts, date and/or time of release from the custody of the Administration for Children's Services, the Department of Correction, or the Police Department (PD), any scheduled court appearances, or any scheduled appointments with any employee, contractor, or subcontractor.
- Privacy officer: the person designated by the head of each City agency to act as such agency's privacy officer. Where a disclosure of identifying information is in response to a request pursuant to the state Freedom of Information Law (FOIL), an agencies' FOIL officers may perform the functions otherwise performed by the privacy officer with respect to such request.
- Routine collection or disclosure: the collection or disclosure of identifying information that is made during the normal course of City agency business and furthers their purpose or mission. "Routine collection or disclosure" also includes the collection or disclosure of identifying information that occurs between agencies when the privacy officers of the collecting agency and the disclosing agency agree that the collection or disclosure furthers the purpose or mission of their respective agencies.

- Subcontractor: a party to a contract with a contractor to provide human services, or other services designated by the chief privacy officer.
- Third party: any person other than: (i) personnel of the City, the Department of Education, or a local public benefit corporation or local public authority, or (ii) personnel of a contractor or subcontractor where such contractor or subcontractor is authorized to possess the relevant identifying information.

Section 23-1202 would require City employees, contractors, and contractors to collect, retain, and disclose information only in accordance with the new chapter.

Absent exigent circumstances, the collection of identifying information would be prohibited without the written approval of the agency privacy officer and unless it: (1) furthers the purpose or mission of the agency, or (2) is required by law.

The agency privacy officer could pre-approve certain routine collections that further the purpose of mission of the agency. If an agency wishes to collect information that is in the best interest of the city, it must be approved by the Chief Privacy Officer. Pre-approval would not be required for collections by the PD in connection with a criminal investigation or where collection is in connection with an open City investigation of the welfare of a minor or individual who is not legally competent.

Absent exigent circumstances, the disclosure of identifying information would be prohibited without the written approval of the agency privacy officer and unless it:

1. has been authorized by the individual to whom such information pertains, or their guardian if the individual is a minor or not legally competent;
2. furthers the purpose of mission of the agency; or
3. is required by law or treaty;

The agency privacy officer could pre-approve certain routine disclosures that further the purpose of mission of the agency. If an agency wishes to make a disclosure that is in the best interest of the city, it must be approved by the Chief Privacy Officer. Pre-approval would not be required for disclosures to or by the PD in connection with a criminal investigation or where a disclosure is in connection with an open City investigation of the welfare of a minor or individual who is not legally competent.

If an individual's identifying information is disclosed in violation of this chapter, the relevant agency privacy officer must notify the chief privacy officer as soon as practicable. If the policies of the Chief Privacy Officer mandate notification, the agency must make reasonable efforts to notify such individual in writing of the identifying information disclosed and to whom it was disclosed as soon as practicable. Notification is not required where it would violate existing law, interfere with a law enforcement investigation, or compromise public safety. The Chief Privacy Officer would be required to submit a quarterly report containing an anonymized compilation or summary of such disclosures to the Council and shall make such report available online.

If identifying information is collected or disclosed under exigent circumstances, information about such collection or request and disclosure, along with an explanation of why such exigent circumstances existed, must be sent to the chief privacy officer as soon as practicable. Notification is not required where:

1. the collection or disclosure is by or to PD in connection with an open investigation of criminal activity;
2. the collection or disclosure is in connection with an open investigation concerning the welfare of a minor or an individual who is not legally competent; or
3. the collection or disclosure is by or to an employee acting in furtherance of law enforcement or public health or safety powers of their agency under exigent circumstances and such collections or disclosures occur during the normal course of that agency's business.

The Chief Privacy Officer must submit a quarterly report containing an anonymized compilation or summary of such disclosures to the Council and make such report available online.

A city agency must retain identifying information where required by law. In addition, a city agency may retain identifying information to further the purpose or mission of such agency, or when retention is in the interest of the city and is not contrary to the purpose or mission of the agency. Agencies would not be prohibited from retaining aggregate demographic information that is anonymized.

Each city agency, acting in accordance with the policies and protocols of the Chief Privacy Officer, may issue additional agency-specific guidance in furtherance of the new chapter.

Each city agency would require contractors that obtain identifying information, whether directly or through subcontractors, to apply the requirements of the new chapter relating to collection, disclosure, and retention, as well as any applicable policies and protocols. The duties of the agency privacy officer could be exercised by contractors and subcontractors by agency designation.

Nothing in the new chapter would be construed to create a private right of action to enforce any provision of the new chapter. Additionally, nothing would prohibit City officers and employees from performing their duties in accordance with federal, state, and local law.

Int. No. 1588-A would take effect in 180 days.

Int. No. 1557-A

Int. No. 1557-A would amend the Code and the City Charter in relation to a Chief Privacy Officer. The Mayor would designate a Chief Privacy Officer. The Chief Privacy Officer would be tasked with:

1. promulgating policies and protocols regarding the collection, retention, and disclosure of identifying information;
2. providing guidance to the City on federal, state, and local laws and policies related to the collection, retention, and disclosure of identifying information and directing agencies to make any changes necessary to achieve or maintain compliance;
3. reviewing agency identifying information reports; and
4. specifying additional types of identifying information that must be subject to protection.

The Chief Privacy Officer would be required to develop policies and procedures:

1. requiring that, to the extent possible, identifying information is anonymized;
2. require each agency privacy officer to issue guidance to employees, contractors, and subcontractors regarding the agency's collection, retention, and disclosure of identifying information;
3. require any agency making a non-routine disclosure of identifying information to a third party to enter into an agreement ensuring that the any anticipated use is consistent with the new chapter unless: (i) the disclosure is made under exigent circumstances, or (ii) the disclosure would not unduly compromise an important privacy interest.
4. describe routine disclosures of identifying information to third parties for which, because of their nature, extent, or the relationship between the agency and third party, such disclosing agency is required to enter into an agreement with such third party requiring that any anticipated use of such information is consistent with the new chapter;
5. describe disclosures of identifying information that are not to be treated as routine, as determined by the nature and extent of such disclosures, and require an additional level of review and approval by a privacy officer before such disclosures are made;
6. describe circumstances when disclosure of an individual's identifying information to third parties in violation of this chapter would, in light of the nature, extent, and foreseeable adverse consequences of such disclosure, require the disclosing city agency, contractor, or subcontractor to make reasonable efforts to notify the affected individual as soon as practicable;
7. establish standard contract provisions, or required elements, related to the protection of identifying information;
8. require each agency privacy officer to arrange for dissemination of information to employees, contractors, and subcontractors and develop a plan for compliance; and
9. establish a mechanism for accepting and investigating complaints for violations of the new chapter.

The proposed local law would also establish an identifying information protection committee consisting of the following individuals, or their designees:

1. the Corporation Counsel;
2. the Director of the Mayor's Office of Operations;
3. the Coordinator of Criminal Justice;
4. any Deputy Mayors designated by the Mayor; and
5. the Commissioners of the following agencies:
 - (a) the Administration for Children's Services;
 - (b) the Department of Social Services;

- (c) the PD;
- (d) the Department of Correction;
- (e) the Department of Probation;
- (6) the Department of Health and Mental Hygiene;
- (7) the Department of Information Technology and Telecommunications;
- (8) the Fire Department; and
- (9) representatives of other agencies designated by the Mayor that have relevant duties or expertise with respect to laws and policies relating to protecting identifying information.

Unless the Mayor determines otherwise, the Director of the Mayor's Office of Operations would chair the committee. The committee, in collaboration with the Chief Privacy Officer, would review city agency reports on their use of identifying information and recommend policies and procedures. No later than October 30, 2018, the committee would communicate its final recommendations, along with the city agency reports, to the applicable City agencies, the Mayor, the Council, and the Chief Privacy Officer. Beginning July 31, 2020 and every two years thereafter, the committee would review the agency reports and any policies and protocols adopted pursuant to the new chapter. Within 90 days of receiving any final recommendations of the committee, the Chief Privacy Officer must adopt policies and protocols as necessary or appropriate. The committee would not be required to report or disclose information in a manner that would violate any applicable provision of federal, state, or local law or that would interfere with a law enforcement investigation or other investigative activity by an agency or would compromise public safety.

No later than July 31, 2018, and every two years thereafter by July 31, each City agency would be required to provide a report regarding the collection, retention, and disclosure of identifying information by such agency and any contractors or subcontractors utilized by such agency. Each report would include:

1. information concerning identifying information collected, retained, and disclosed, including:
 - (a) the types of identifying information collected, retained, and disclosed, including, but not limited to, where practicable, those types enumerated in the definition of identifying information;
 - (b) the types of collections and disclosures classified as routine and any collections or disclosures approved by the chief privacy officer;
 - (c) current policies regarding collection, retention, and disclosure, including:
 - (1) policies regarding requests for disclosures and proposals for disclosure involving other City agencies and third parties;
 - (2) policies regarding the classification of disclosures as necessitated by the existence of exigent circumstances or as routine; and
 - (3) which divisions and categories of employees within an agency make disclosures;
 - (d) use of agreements with third parties;
 - (e) types of entities requesting a disclosure or proposals for disclosures, the reasons why an agency discloses in response to requests or proposes the disclosure, and why any the disclosures furthers the purpose or mission of the agency; and
 - (f) the reasons why any collection and retention furthers the purposes or mission of the agency;
2. the impact of any privacy policies and protocols issued by the chief privacy officer, any guidance issued by the privacy officer of such agency or the committee, the provisions of the new chapter, and other applicable law on the agency's collection, retention, and disclosure;
3. consideration and implementation, where applicable, of alternative policies that minimize collection, retention, and disclosure to the greatest extent possible while furthering the purpose or mission of such agency; and
4. policies on access by employees, contractors, and subcontractors, including consideration of the necessity of access to such information for the performance of their duties and implementation of policies that minimize such access to the greatest extent possible while furthering the purpose or mission of an agency.

Each city agency would submit the report to the Mayor, the Council, the Chief Privacy Officer, and the committee. Agencies would not be required to report or disclose information in a manner that would violate any applicable provision of federal, state, or local law or that would interfere with a law enforcement investigation or other investigative activity by an agency or would compromise public safety.

Int. No. 1557-A would take effect in 180 days.

Int. No. 1579-A

Int. No. 1579-A would add a new section 4-210 to the Code regarding access to City property. The following definitions would apply:

- **City property**: any real property leased or owned by the City serving a City governmental purpose and over which the City has operational control.
- **Human services**: services provided to third parties, including social services such as day care, foster care, home care, homeless assistance, housing and shelter assistance, preventive services, youth services, and senior centers; health or medical services; legal services; employment assistance services, vocational and educational programs; and recreation programs.
- **Judicial warrant**: a warrant issued by a judge appointed pursuant to Article III of the United States Constitution or a federal magistrate judge, or by a court of New York State, that authorizes a law enforcement officer to take into custody the person who is the subject of such warrant or to conduct a search or otherwise enter the premises at issue in accordance with the terms of the warrant.

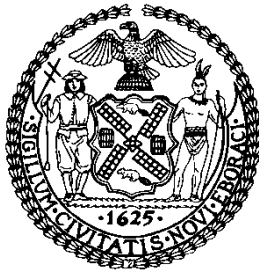
Non-local law enforcement would not be permitted to access non-public areas of city property unless:

- the City has entered into an agreement, contract, or cooperative agreement granting access;
- access is required by a judicial warrant or local, state, or federal law;
- access furthers the purpose or mission of a City agency; or
- exigent circumstances exist.

These access requirements would also apply to human services contractors, whether or not their services are provided on City property. Each agency would be required to ensure that employees of security services contractors at covered City buildings receive training on these access requirements at no cost, with such employees compensated for their time spent in training. Finally, the City would be required to establish and post online guidelines or rules implementing the law.

The proposed local law would take effect in 120 days.

The following is the text of the Fiscal Impact Statement for Int. No. 1588-A:



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

**PROPOSED INTRO. NO: 1588-A
COMMITTEE: Immigration**

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to identifying information.

SPONSORS: Council Members Williams, The Speaker (Council Member Mark-Viverito), Espinal, Ferreras-Copeland, Barron, Levin, Kallos, Dromm, Menchaca, Chin, Gentile, Rosenthal and Constantinides

SUMMARY OF LEGISLATION: Proposed Intro. No. 1588-A would establish standards and requirements for the collection, retention, and disclosure of identifying information, and would require City employees, contractors, and subcontractors to protect all identifying information in accordance with these standards and requirements. The legislation would also permit City agencies, in accordance with the policies and protocols of the Chief Privacy Officer, to issue agency-specific guidance in furtherance of these standards. Finally, the legislation would mandate that City agencies require contractors that obtain identifying information to apply the standards and requirements of this local law.

EFFECTIVE DATE: This local law would take effect in 180 days, provided that affected agencies may immediately take all steps necessary for timely implementation. Furthermore, where the provisions of this local law cannot be applied consistently with currently applicable contracts, such provisions shall apply only with respect to contracts entered into or renewed after the effective date of this local law.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	Full Fiscal Impact FY19
Revenues	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: It is anticipated that there would be no impact on revenues as a result of this legislation.

IMPACT ON EXPENDITURES: It is anticipated that there would be no impact on expenditures as a result of this legislation because existing resources would be used to implement the legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Jin Lee, Financial Analyst

ESTIMATE REVIEWED BY: Nathan Toth, Deputy Director
 Crilhien Francisco, Unit Head
 Eric Bernstein, Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the Council as Intro. No. 1588 on April 25, 2017 and was referred to the Committee on Immigration (Committee). The Committee, along with the Committees on Education and Public Safety, considered the legislation at a hearing on April 26, 2017, and the legislation was laid over. The legislation was subsequently amended, the Committee will consider the amended legislation, Proposed Intro. No. 1588-A, on November 15, 2017. Upon successful vote by the Committee, Proposed Intro. No. 1588-A will be submitted to the full Council for a vote on November 16, 2017.

DATE PREPARED: November 14, 2017.

(For text of Int. Nos. 1557-A and 1579-A and their Fiscal Impact Statements, please see the Report of the Committee on Immigration for Int. Nos. 1557-A and 1579-A, respectively, printed in these Minutes; for text of Int. No. 1588-A, please see below)

Accordingly, this Committee recommends the adoption of Int. Nos. 1557-A, 1579-A, and 1588-A.

(The following is the text of Int. No. 1588-A:)

Int. No. 1588-A

By Council Members Williams, The Speaker (Council Member Mark-Viverito), Espinal, Ferreras-Copeland, Barron, Levin, Kallos, Dromm, Menchaca, Chin, Gentile, Rosenthal and Constantinides

A Local Law to amend the administrative code of the city of New York, in relation to identifying information

Be it enacted by the Council as follows:

Section 1. Title 23 of the administrative code of the city of New York is amended by adding a new chapter 12 to read as follows:

CHAPTER 12
IDENTIFYING INFORMATION

§ 23-1201 Definitions. As used in this chapter, the following terms have the following meanings:

Chief privacy officer. The term “chief privacy officer” means the person designated by the mayor pursuant to subdivision h of section 8 of the charter to act as the city’s chief privacy officer, or their designee.

Contracting agency. The term “contracting agency” means a city, county, borough, or other office, position, administration, department, division, bureau, board or commission, or a corporation, institution, or agency of government, the expenses of which are paid in whole or in part from the city treasury.

Contractor. The term “contractor” means a person who is a party to a contract with a contracting agency to provide human services, or other services designated in policies and protocols of the chief privacy officer.

Employee. The term “employee” means any officer or other person whose salary or wages are paid by a city agency.

Human services. The term “human services” has the meaning set forth in subdivision c of section 6-129.

Identifying information. The term “identifying information” means any information obtained by or on behalf of the city that may be used on its own or with other information to identify or locate an individual, including, but not limited to: name, sexual orientation, gender identity, race, marital or partnership status, status as a victim of domestic violence or sexual assault, status as a crime victim or witness, citizenship or immigration status, eligibility for or receipt of public assistance or city services, all information obtained from an individual’s income tax records, information obtained from any surveillance system operated by, for the benefit of, or at the direction of the police department, motor vehicle information or license plate number, biometrics such as fingerprints and photographs, languages spoken, religion, nationality, country of origin, place of birth, arrest record or criminal conviction, employment status, employer information, current and previous home and work addresses, contact information such as phone number and email address, information concerning social media accounts, date and/or time of release from the custody of the administration for children’s services, the department of correction, or the police department, any scheduled court appearances, or any scheduled appointments with any employee, contractor, or subcontractor.

Privacy officer. The term “privacy officer” means the person designated by the head of each city agency to act as such agency’s privacy officer. Where a disclosure of identifying information is in response to a request pursuant to the state freedom of information law, city agencies’ freedom of information law officers may perform the functions otherwise performed by the privacy officer with respect to such request.

Routine collection or disclosure. The term “routine collection or disclosure” means the collection or disclosure of identifying information that is made during the normal course of city agency business and furthers the purpose or mission of such agency. Routine collection or disclosure also includes the collection or disclosure of identifying information that occurs between agencies of the city when the privacy officers of the collecting agency and the disclosing agency agree that the collection or disclosure furthers the purpose or mission of their respective agencies.

Subcontractor. The term "subcontractor" means a person who is a party to a contract with a contractor to provide human services, or other services designated in policies and protocols of the chief privacy officer.

Third party. The term "third party" means any person other than: (i) personnel of the city, the department of education, or a local public benefit corporation or local public authority, or (ii) personnel of a contractor or subcontractor where such contractor or subcontractor is authorized to possess the relevant identifying information.

§ 23-1202 Collection, retention and disclosure of identifying information.

a. Employees, contractors, and subcontractors shall collect, retain, and disclose identifying information only in accordance with this chapter.

b. Collection. 1. Absent exigent circumstances, no employee shall collect identifying information without the written approval of the privacy officer of such employee's agency. In addition, such collection shall not be allowed unless it:

(a) furthers the purpose or mission of such city agency; or

(b) is required by law or treaty.

2. Notwithstanding the provisions of paragraph 1 of this subdivision:

(a) the privacy officer of an employee's agency may approve in advance certain routine collections of identifying information;

(b) the chief privacy officer may approve in advance a collection of identifying information not otherwise authorized by paragraph 1 of this subdivision upon the determination that such collection is in the best interests of the city; and

(c) the provisions of paragraph 1 of this subdivision do not apply:

(1) to any collection of identifying information by or to the police department in connection with an investigation of a crime that has been committed or credible information about an attempted or impending crime, or

(2) where the collection is in connection with an open investigation by a city agency concerning the welfare of a minor or an individual who is otherwise not legally competent.

Any such collections shall not require any additional approval by the privacy officer or chief privacy officer.

c. Disclosure. 1. Absent exigent circumstances, no employee shall disclose identifying information to any party outside such employee's agency, including an employee of another city agency, without the written approval of the privacy officer of such agency. In addition, such disclosure shall not be allowed unless it:

(a) has been authorized in writing by the individual to whom such information pertains or, if such individual is a minor or is otherwise not legally competent, by such individual's parent, legal guardian, or other person with legal authority to consent on behalf of the individual;

(b) furthers the purpose or mission of such city agency; or

(c) is required by law or treaty.

2. Notwithstanding the provisions of this subdivision:

(a) the privacy officer of an employee's agency may approve in advance certain routine disclosures of identifying information;

(b) the chief privacy officer may approve in advance a disclosure to another city agency or agencies not otherwise authorized by paragraph 1 of this subdivision upon the determination that such disclosure is in the best interests of the city; and

(c) the provisions of paragraph 1 of this subdivision do not apply:

(1) to any disclosure of identifying information by or to the police department in connection with an investigation of a crime that has been committed or credible information about an attempted or impending crime, or

(2) where the disclosure is in connection with an open investigation by a city agency concerning the welfare of a minor or an individual who is otherwise not legally competent.

Any such disclosure shall not require any additional approval by the privacy officer or chief privacy officer.

3. Any request for identifying information or a proposal for the unsolicited disclosure of identifying information by an employee that does not concern a routine disclosure shall be sent to the privacy officer of such employee's agency as soon as practicable.

4. *If an individual's identifying information is disclosed in violation of this chapter, the privacy officer of such employee's agency that becomes aware of such disclosure shall notify the chief privacy officer as soon as practicable and, if such disclosure is one described in policies and protocols issued pursuant to subdivision 6 of section 23-1203, the agency responsible for the disclosure shall make reasonable efforts to notify such individual in writing of the identifying information disclosed and to whom it was disclosed as soon as practicable; provided, however, that this paragraph shall not require any notification that would violate the provisions of subdivision e of section 23-1204. The chief privacy officer shall submit a quarterly report containing an anonymized compilation or summary of such disclosures to the speaker of the council and shall make such report available online. Such report may be combined with the report required by subdivision d of this section.*

d. Exigent circumstances. 1. In the event identifying information is collected or disclosed under exigent circumstances, information about such collection or request and disclosure, along with an explanation of why such exigent circumstances existed, shall be sent to the chief privacy officer as soon as practicable after such collection or disclosure. This subdivision shall not require any such notification where:

(a) the collection or disclosure is by or to the police department in connection with an open investigation of criminal activity;

(b) the collection or disclosure is in connection with an open investigation concerning the welfare of a minor or an individual who is otherwise not legally competent; or

(c) the collection or disclosure is by or to an employee acting in furtherance of law enforcement or public health or safety powers of such employee's agency under exigent circumstances and such collections or disclosures occur during the normal course of such agency's business.

2. The chief privacy officer shall submit a quarterly report containing an anonymized compilation or summary of such disclosures to the speaker of the council and make such report available online.

e. Retention. A city agency shall retain identifying information where required by law. In addition, a city agency may retain identifying information to further the purpose or mission of such city agency, or when retention is in the interest of the city and is not contrary to the purpose or mission of such agency. This subdivision shall not prohibit a city agency from retaining aggregate demographic information that is anonymized.

f. Agency policies and protocols. Each city agency, acting in accordance with the policies and protocols of the chief privacy officer, may issue additional agency-specific guidance in furtherance of this chapter, including the policies and protocols promulgated pursuant to section 23-1203.

g. Contractors and subcontractors. Each city agency shall require contractors that obtain identifying information, whether directly or through subcontractors, to apply the requirements of subdivisions b, c, d, and e of this section and any applicable policies and protocols adopted pursuant to this chapter; provided, however, that the duties of the privacy officer may be exercised by such contractors and subcontractors by designation of the agency.

h. Private right of action. Nothing in this chapter shall be construed to create a private right of action to enforce any provision of such chapter.

i. Construction. Nothing in this chapter shall prohibit city officers and employees from performing their duties in accordance with federal, state, and local law.

§ 2. This local law takes effect 180 days after it becomes law; provided that effective immediately, affected agencies may take all steps necessary for timely implementation. In addition, where the provisions of chapter 12 of title 23 of the administrative code of the city of New York, as added by section one of this local law, cannot be applied consistently with currently applicable contracts, such provisions shall only apply with respect to contracts entered into or renewed after the effective date of this local law.

CARLOS MENCHACA, *Chairperson*; MATHIEU EUGENE, DANIEL DROMM, RAFAEL L. ESPINAL, Jr.; Committee on Immigration, November 15, 2017.

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

Reports of the Committee on Land Use

Report for Int. No. 1692-A

Report of the Committee on Land Use in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to technical corrections to local law 116 for the year 2017.

The Committee on Land Use, to which the annexed proposed amended local law was referred on August 24, 2017, (Minutes, page 2972) respectfully

REPORTS:

I. INTRODUCTION

On November 15, 2017, the Committee on Land Use will consider Proposed Introduction No. 1692-A, A Local Law to amend the administrative code of the city of New York, in relation to technical corrections to local law 116 for the year 2017 (Local Law 116). The Committee held a public hearing on the proposed legislation on October 26. Representatives of the Department of City Planning (DCP) testified in support of the legislation.

II. BACKGROUND: PROPOSED INTRODUCTION NO. 1692-A

A privately owned public space (POPS) is a public space located on private property.¹ Local Law 116, a Local Law to amend the Administrative Code of the City of New York in relation to reporting and publication of information about privately owned public spaces (POPS), was passed by the Council on June 21, 2017 as Introduction Number 1219-A, and become law on July 24, 2017 having been returned to the Council unsigned by the Mayor. Local Law 116 will become effective on October 19, 2017. Introduction No. 1692-2017 would make a number a technical amendments to that law and become effective on the same day.

Local Law 116 establishes a definition of POPS that includes the various privately owned indoor and outdoor spaces required to be open to the public pursuant to the Zoning Resolution (ZR) now or previously in effect, all POPS tracked by DCP in the POPS data set in the open data portal (which includes POPS established pursuant to the ZR and various approvals), and POPS established pursuant to various types of actions taken by DCP, the Board of Standards and Appeals, the Council, and the Board of Estimate. Introduction No. 1692-A would amend the definition of POPS created by Local Law 116 to include a “publicly accessible space”, a new type of POPS established as part of the Greater East Midtown Rezoning. Introduction No. 1692-A would delete the word “discretionary” as an inaccurate modifier for the word “certification” and would delete the words “board of estimate” because that body that did not take actions pursuant to section 197-d of the Charter during the covered period (on or after January 1, 2001). The new law would also delete the words “or predecessor section” because the actions covered by Local Law 116 all occur after the enactment of 197-d, i.e. there is no applicable predecessor section.

Local Law 116 also requires DCP to make available on the department’s website certain information including “For all privately owned public spaces established on after October 1, 2017, a site map of the contours of the privately owned public space relative to the other structures on the zoning lot and the adjacent streets or public ways.” Introduction No. 1692-A would add the word “or” between the words “on” and “after.”

Local Law 116 provides that notwithstanding the requirements of the ZR, each owner of a POPS shall be required to post signage with specified information. However, the law does not impose a penalty for a violation of this provision.

Introduction No. 1692-A corrects this by amending the construction code to codify minimum penalties for POPS violations whether established pursuant to the ZR, section 197-d of the Charter, or new section 25-114 (as added by Local Law 116). A first violation would be subject to a penalty of not less than \$4000, with

¹ *Privately Owned Public Spaces: Hearing on Int. No. 1219 Before the New York City Council Comm. on Land Use* (June 29, 2016) (testimony of Edith Hsu-Chen on behalf of DCP) (Tr. 16).

subsequent violations subject to a penalty of not less than \$10,000. These penalties are consistent with penalties that currently apply to POPS established pursuant to the ZR.

III. ANALYSIS OF PROPOSED INTRODUCTION NO. 1692-A

Bill section one would amend subdivision a of section 25-114 of the Administrative Code, as added by Local Law 116 for year 2017, as follows:

The bill would repeal the word “discretionary” in embedded list item 3.

The bill would repeal the words “or the board of estimate” and “or predecessor section” in embedded list item iv of embedded list item 3.

Bill section 2 would amend paragraph 3 of subdivision c of section 25-114 of the Administrative Code to add the word “or” between the words “on” and “after” to read, in pertinent part, as follows: “For all privately owned public spaces established on or after October 1, 2017.”

Bill section 3 would amend subdivision e of section 25-114 by changing the word “sign” to “signage.”

Bill section 4 would amend section 28-201.2.2 of the Administrative Code by adding a new item 6 that would classify as a major violation a violation of a condition, restriction or requirement established pursuant to the Zoning Resolution, section 197-d of the Charter, or section 25-114 of the Administrative Code, related to a privately a privately owned public space as such term is defined in section 25-114.

Bill section 5 would amend section 28-202.1 of the Administrative Code by adding a new exception 8 providing that a violation of a condition, restriction or requirement established pursuant to the Zoning Resolution, section 197-d of the Charter or section 25-114 of the Administrative Code, related to a privately owned public space as such term is defined in section 25-114, shall be subject to a civil penalty of not less than \$4,000 for the first offense and not less than \$10,000 for each subsequent offense, in addition to any separate monthly penalty imposed pursuant to item 2 of section 28-202.1.

Section 6 of the bill would provide that this local law takes effect immediately.

(The following is from the text of the Fiscal Impact Statement for Int. No. 1692-A:)

SUMMARY OF LEGISLATION: Proposed Intro. No. 1692-A would amend the construction code by classifying violations of conditions, restrictions and requirements relating to privately owned public spaces (POPS) as major violations and would establish a minimum \$4,000 penalty for a first violation and a minimum \$10,000 penalty for a subsequent violation.

EFFECTIVE DATE: This local law would take effect immediately.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	Full Fiscal Impact FY19
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: Although this legislation contemplates the imposition of civil penalties, the Council assumes compliance with legislation and therefore estimates that there would be no impact on revenues resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: It is anticipated that there would be no impact on expenditures resulting from the enactment of this legislation because Department of City Planning and the designated agency would use existing resources to implement the legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCES OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Jonathan K. Seltzer, Legislative Financial Analyst

ESTIMATE REVIEWED BY: Rebecca Chasan, Counsel, Finance Division
Cirilhen Francisco, Unit Head, Finance Division
Nathan Toth, Director, Finance division

LEGISLATIVE HISTORY: This legislation was introduced to the Council as Intro. No. 1692 on August 24, 2017 and was referred to the Committee on Land Use (Committee). The Committee considered the legislation at a Proposed Intro. No. 1692-A hearing on October 16, 2017, and the legislation was laid over. The legislation was subsequently amended and the amended legislation, Proposed Intro. No. 1692-A, will be considered by the Committee on November 15, 2017. Upon a successful vote by the Committee, Proposed Intro. No. 1692-A will be submitted to the full Council for a vote on November 16, 2017.

DATE PREPARED: November 14, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1692-A:)

Int. No. 1692-A

By Council Members Kallos, Greenfield and Espinal.

A Local Law to amend the administrative code of the city of New York, in relation to technical corrections to local law 116 for the year 2017

Be it enacted by the Council as follows:

Section 1. Subdivision a of section 25-114 of the administrative code, as added by local law 116 for the year 2017, is amended to read as follows:

§ 25-114 Privately owned public spaces. a. For the purposes of this section:

Privately owned public space. The term “privately owned public space” means (1) a plaza, residential plaza, urban plaza, public plaza, elevated plaza, arcade, through block arcade, through block galleria, through block connection, open air concourse, covered pedestrian space, *publicly accessible space* or sidewalk widening provided for in the zoning resolution now or previously in effect; (2) such other privately owned outdoor or indoor space required to be open to the public and for which the department of city planning maintains a record in the privately owned public space data set accessible through the open data web portal that is linked to nyc.gov or successor website pursuant to section 23-502; and (3) such other privately owned outdoor or indoor spaces required to be open to the public pursuant to any of the following [discretionary] actions occurring on or after January 1, 2001: (i) a decision, authorization, certification, or special permit issued by the city planning commission; (ii) a certification issued by the chair of the city planning commission; (iii) a variance of the zoning resolution or special permit issued by the board of standards and appeals; or (iv) action taken by the council [or the board of estimate] pursuant to section 197-d of the charter [or predecessor section]. Such term does not include any waterfront public access areas regulated pursuant to article 6 chapter 2 of the zoning resolution. With respect to item (3) of this definition, the requirements of subdivisions c and f

of this section shall not apply until after the date of the first report required pursuant to subdivision b of this section.

§ 2. Paragraph 3 of subdivision c of section 25-114 of the administrative code, as added by local law 116 for the year 2017, is amended to read as follows:

3. For all privately owned public spaces established on *or* after October 1, 2017, a site map of the contours of the privately owned public space relative to the other structures on the zoning lot and the adjacent streets or public ways;

§ 3. Subdivision e of section 25-114 of the administrative code, as added by local law 116 for the year 2017, is amended to read as follows:

e. Regardless of the requirements of the zoning resolution, the owner of each privately owned public space shall post in such privately owned public space [a sign] *signage*, of such size, design and content and in such location as may be specified by rule of the department of city planning, stating the name and contact information of the person charged by such owner with oversight of complaints about such privately owned public space. In addition to any other information as may be required by the department of city planning, such signage shall include a statement that such privately owned public space is open to the public, the hours it is open, the primary amenities it is required to provide, and a statement that complaints can be registered by calling 311. In relation to any privately owned public spaces established on *or* after October 1, 2017, such [sign] *signage* shall also include a site map, as approved by the department, displaying the contours of such privately owned public space relative to the other structures on the zoning lot and the adjacent streets or public ways.

§ 4. Section 28-201.2.2 of the administrative code is amended by adding a new item 6, to read as follows:

6. *A violation of a condition, restriction or requirement established pursuant to the zoning resolution, section 197-d of the charter or section 25-114, related to a privately owned public space as such term is defined in section 25-114.*

§ 5. Section 28-202.1 of the administrative code of the city of New York is amended by adding a new exception 8, to read as follows:

8. *A violation of a condition, restriction or requirement established pursuant to the zoning resolution, section 197-d of the charter or section 25-114, related to a privately owned public space as such term is defined in section 25-114, shall be subject to a civil penalty of not less than \$4,000 for the first offense and not less than \$10,000 for each subsequent offense, in addition to any separate monthly penalty imposed pursuant to item 2 of this section.*

§ 6. This local law takes effect immediately.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, DANIEL R. GARODNICK, DARLENE MEALY, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, MARK TREYGER; BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr.; Committee on Land Use, November 15, 2017.

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

Report for L.U. No. 784

Report of the Committee on Land Use in favor of approving Application No. C 170464 ZSM submitted by 449 Broadway, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-781 of the Zoning Resolution to modify the requirements of Section 42-14(D)(2)(b) to allow Use Group 6 uses (retail uses) on portions of the ground floor and cellar of an existing 5-story building on property located at 449 Broadway (Block 231, Lot 36), in an M1-5B District, Borough of Manhattan, Community District 2, Council District 1.

The Committee on Land Use, to which the annexed Land Use item was referred on October 17, 2017 (Minutes, page 3584) and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 2

C 170464 ZSM

City Planning Commission decision approving an application submitted by 449 Broadway, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-781 of the Zoning Resolution to modify the requirements of Section 42-14(D)(2)(b) to allow Use Group 6 uses (retail uses) on portions of the ground floor and cellar of an existing 5-story building on property located at 449 Broadway (Block 231, Lot 36), in an M1-5B District.

INTENT

To approve the Special Permit in order to modify the use regulations of Section 42-14(D)(2)(b) to permit Use Group 6 retail uses on portions of the ground floor and cellar of a five-story building located at 449 Broadway, in the SoHo neighborhood of Manhattan Community District 2.

PUBLIC HEARING

DATE: October 24, 2017

Witnesses in Favor: Two

Witnesses Against: None

SUBCOMMITTEE RECOMMENDATION

DATE: November 14, 2017

The Subcommittee recommends that the Land Use Committee approve the decision of the City Planning Commission.

In Favor:

Richards, Gentile, Garodnick, Williams, Reynoso, Torres, Grodenchik

Against:

None

Abstain:

None

COMMITTEE ACTION

DATE: November 15, 2017

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Gentile, Palma, Garodnick, Mealy, Rodriguez, Koo, Lander, Levin, Williams, Richards, Cohen, Kallos, Reynoso, Treyger, Grodenchik, Salamanca.

Against:

None

Abstain:

None

In connection herewith, Council Member Greenfield and Richards offered the following resolution:

Res. No. 1720

Resolution approving the decision of the City Planning Commission on ULURP No. C 170464 ZSM (L.U. No. 784), for the grant of a special permit pursuant to Section 74-781 of the Zoning Resolution to modify the requirements of Section 42-14D(2)(b) to allow Use Group 6 uses (retail uses) on portions of the ground floor and cellar of an existing 5-story building on property located at 449 Broadway (Block 231, Lot 36), in an M1-5B District, within the SoHo Cast-Iron Historic District, Community District 2, Borough of Manhattan.

By Council Members Greenfield and Richards.

WHEREAS, the City Planning Commission filed with the Council on October 6, 2017 its decision dated October 4, 2017 (the "Decision"), on the application submitted by 449 Broadway, LLC, pursuant to Sections 197-c and 201 of the New York City Charter, for the grant of a special permit pursuant to Section 74-781 of the Zoning Resolution to modify the requirements of Section 42-14D(2)(b) to allow Use Group 6 uses (retail uses) on portions of the ground floor and cellar of an existing 5-story building on property located at 449 Broadway (Block 231, Lot 36), in an M1-5B District, within the SoHo Cast-Iron Historic District, (ULURP No. C 170464 ZSM), Community District 2, Borough of Manhattan (the "Application");

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

WHEREAS, the City Planning Commission has made the findings required pursuant to Section 74-781 of the Zoning Resolution of the City of New York;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on October 24, 2017;

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

WHEREAS, the application was determined by the New York City Department of City Planning to be a Type II action, which requires no further review (the "Type II Determination").

RESOLVED:

The Council finds that the action requires no further review for impacts on the environment pursuant to the Type II Determination.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in this report, C 170464 ZSM), incorporated by reference herein, the Council approves the Decision of the City Planning Commission subject to the following conditions:

1. The property that is the subject of this application (C 170464 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following plans, prepared by PKSB Architects filed with this application and incorporated in this resolution:

<u>Dwg. No.</u>	<u>Title</u>	<u>Last Date Revised</u>
Z-002	Zoning Analysis	04/10/2015
Z-003	Site Plan	04/10/2015
Z-004	Cellar Floor Plan	04/10/2015
Z-005	Ground Floor Plan	04/10/2015
Z-006	Building Sections	05/12/2015

2. Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plans listed above which have been filed with this application. All zoning computations are subject to verification and approval by the New York City Department of Buildings.
3. Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.
4. All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sublessee or occupant.
5. Upon the failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions, agreements, terms or conditions of this resolution whose provisions shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or entity. Any such failure as stated above, or any alteration in the development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, cancellation or amendment of the special permit hereby granted.

6. Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city's or such employee's or agent's failure to act in accordance with the provisions of this special permit.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, DANIEL R. GARODNICK, DARLENE MEALY, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, MARK TREYGER; BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr.; Committee on Land Use, November 15, 2017.

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

Report for L.U. No. 787

Report of the Committee on Land Use in favor of approving Application No. C 170025 ZMK submitted by JMS Realty Corp. pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 13b, to change an M1-1 and M1-2 zoning district to an R7D/C2-4 and an R6A/C2-4 zoning district on portions of three blocks fronting on Myrtle Avenue, between Walworth Street and Nostrand Avenue, Borough of Brooklyn, Community District 3, Council District 33.

The Committee on Land Use, to which the annexed Land Use item was referred on October 17, 2017 (Minutes, page 3585) and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:

SUBJECT

BROOKLYN CB - 3

C 170025 ZMK

City Planning Commission decision approving an application submitted by JMS Realty Corp. pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 13b, to change an M1-1 and M1-2 zoning district to an R7D/C2-4 and an R6A/C2-4 zoning district on portions of three blocks fronting on Myrtle Avenue, between Walworth Street and Nostrand Avenue.

INTENT

To approve the amendment to the Zoning Map, which in conjunction with the related action would facilitate the development of a new eight-story mixed-use building containing approximately 75 residential units, including 19 units of permanently affordable housing, in the Bedford-Stuyvesant neighborhood of Brooklyn Community District 3.

PUBLIC HEARING**DATE:** October 24, 2017**Witnesses in Favor:** One**Witnesses Against:** One**SUBCOMMITTEE RECOMMENDATION****DATE:** November 14, 2017

The Subcommittee recommends that the Land Use Committee approve the decision of the City Planning Commission with modifications.

In Favor:

Richards, Gentile, Garodnick, Williams, Reynoso, Torres, Grodenchik.

Against:

None

Abstain:

None

COMMITTEE ACTION**DATE:** November 15, 2017

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Gentile, Palma, Garodnick, Mealy, Rodriguez, Koo Lander, Levin, Williams, Richards, Cohen, Kallos, Reynoso, Treyger, Grodenchik, Salamanca.

Against:

None

Abstain:

None

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, DANIEL R. GARODNICK, DARLENE MEALY, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS,. ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, MARK TREYGER; BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr.; Committee on Land Use, November 15, 2017.

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

Report for L.U. No. 788

Report of the Committee on Land Use in favor of approving Application No. N 170026 ZRK submitted by JMS Realty Corp., pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying Appendix F for the purpose of establishing a Mandatory Inclusionary Housing area, Borough of Brooklyn, Community District 3, Council District 33.

The Committee on Land Use, to which the annexed Land Use item was referred on October 17, 2017 (Minutes, page 3585) and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:**SUBJECT****BROOKLYN CB - 3****N 170026 ZRK**

City Planning Commission decision approving an application submitted by JMS Realty Corp., pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying Appendix F for the purpose of establishing a Mandatory Inclusionary Housing area.

INTENT

To approve the amendment to the Zoning Resolution, which in conjunction with the related action would facilitate the development of a new eight-story mixed-use building containing approximately 75 residential units, including 19 units of permanently affordable housing, in the Bedford-Stuyvesant neighborhood of Brooklyn Community District 3.

PUBLIC HEARING**DATE:** October 24, 2017**Witnesses in Favor:** One**Witnesses Against:** One**SUBCOMMITTEE RECOMMENDATION****DATE:** November 14, 2017

The Subcommittee recommends that the Land Use Committee approve the decision of the City Planning Commission with modifications.

In Favor:

Richards, Gentile, Garodnick, Williams, Reynoso, Torres, Grodenchik.

Against:

None

Abstain:

None

COMMITTEE ACTION

DATE: November 15, 2017

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Gentile, Palma, Garodnick, Mealy, Rodriguez, Koo, Lander, Levin, Williams, Richards, Cohen, Kallos, Reynoso, Treyger, Grodenchik, Salamanca.

Against:

None

Abstain:

None

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, DANIEL R. GARODNICK, DARLENE MEALY, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, MARK TREYGER; BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr.; Committee on Land Use, November 15, 2017.

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

Report for L.U. No. 789

Report of the Committee on Land Use in favor of approving Application No. 20175287 TCM pursuant to Section 20-226 of the Administrative Code of the City of New York, concerning the petition of KioRestaurant, LLC, d/b/a KHE-YO, for a revocable consent to establish, maintain and operate an unenclosed sidewalk café located at 157 Duane Street, Borough of Manhattan, Community Board 1, Council District 1. This application is subject to review and action by the Land Use Committee only if called-up by vote of the Council pursuant to Rule 11.20b of the Council and Section 20-226 of the New York City Administrative Code.

The Committee on Land Use, to which the annexed Land Use item was referred on October 17, 2017 (Minutes, page 3585) and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:**SUBJECT**

MANHATTAN CB - 1

20175287 TCM

Application pursuant to Section 20-226 of the Administrative Code of the City of New York concerning the petition of Kio Restaurant, LLC, d/b/a Khe-Yo, for a new revocable consent to establish, maintain and operate an unenclosed sidewalk café located at 157 Duane Street.

INTENT

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

PUBLIC HEARING

DATE: October 24, 2017

Witnesses in Favor: One

Witnesses Against: One

SUBCOMMITTEE RECOMMENDATION

DATE: November 14, 2017

The Subcommittee recommends that the Land Use Committee approve the Petition.

In Favor:

Richards, Gentile, Garodnick, Williams, Reynoso, Torres, Grodenchik,

Against:

None

Abstain:

None

COMMITTEE ACTION

DATE: November 15, 2017

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Gentile, Palma, Garodnick, Mealy, Rodriguez, Koo, Lander, Levin, Williams, Richards, Cohen, Kallos, Reynoso, Treyger, Grodenchik, Salamanca.

Against:

None

Abstain:

None

In connection herewith, Council Members Greenfield and Richards offered the following resolution:

Res. No. 1721

Resolution approving the petition for a new revocable consent for an unenclosed sidewalk café located at 157 Duane Street, Borough of Manhattan (Non-ULURP No. 20175287 TCM; L.U. No. 789).

By Council Members Greenfield and Richards.

WHEREAS, the Department of Consumer Affairs filed with the Council on October 6, 2017 its approval dated October 6, 2017 of the petition of Kio Restaurant, LLC, d/b/a Khe-Yo, for a new revocable consent to establish, maintain and operate an unenclosed sidewalk café located at 157 Duane Street, Community District 1, Borough of Manhattan (the "Petition"), pursuant to Section 20-226 of the New York City Administrative Code (the "Administrative Code");

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

WHEREAS, upon due notice, the Council held a public hearing on the Petition on October 24, 2017; and

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

RESOLVED:

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

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, DANIEL R. GARODNICK, DARLENE MEALY, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, MARK TREYGER; BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr.; Committee on Land Use, November 15, 2017.

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

Report for L.U. No. 791

Report of the Committee on Land Use in favor of approving Application No. C 170352 POK submitted by the New York City Office of Emergency Management and the Department of Citywide Administrative Services, pursuant to Section 197-c of the New York City Charter, for the site selection and acquisition of property located at 930 Flushing Avenue (Block 3140, Lot 1), for use as a warehouse and ancillary office space, Borough of Brooklyn, Community District 4, Council District 34.

The Committee on Land Use, to which the annexed Land Use item was referred on October 17, 2017 (Minutes, page 3586) and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:

SUBJECT**BROOKLYN CB - 4****C 170352 PQK**

Application submitted by New York City Emergency Management and the Department of Citywide Administrative Services pursuant to Section 197-c of the New York City Charter, for the acquisition of property located at 930 Flushing Avenue (Block 3140, Lot 1) for use as a warehouse.

INTENT

To approve the acquisition of the site in order for New York City Emergency Management to use the remaining 207,000 square feet to expand the use of the building located at 930 Flushing as a warehouse for storage and backup emergency operations.

PUBLIC HEARING**DATE:** October 24, 2017**Witnesses in Favor:** Two**Witnesses Against:** None**SUBCOMMITTEE RECOMMENDATION****DATE:** November 14, 2017

The Subcommittee recommends that the Land Use Committee approve the decision of the City Planning Commission.

In Favor:

Koo, Palma, Mendez, Levin, Rose, Kallos.

Against:

None

Abstain:

None

COMMITTEE ACTION**DATE:** November 15, 2017

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Gentile, Palma, Garodnick, Mealy, Rodriguez, Koo, Lander, Levin, Williams, Richards, Cohen,

Kallos, Reynoso, Treyger, Grodenchik, Salamanca.

Against: **Abstain:**
None None

In connection herewith, Council Members Greenfield and Salamanca offered the following resolution:

Res. No. 1722

Resolution approving the decision of the City Planning Commission on ULURP No. C 170352 PQK (L.U. No. 791), for the acquisition of property located at 930 Flushing Avenue (Block 3140, Lot 1), for use as a warehouse, in Community District 4, Borough of Brooklyn.

By Council Members Greenfield and Salamanca.

WHEREAS, the City Planning Commission filed with the Council on October 2, 2017 its decision dated September 19, 2017 (the "Decision") on the application submitted pursuant to Section 197-c of the New York City Charter by New York City Emergency Management and the New York City Department of Citywide Administrative Services for the acquisition of property located at 930 Flushing Avenue (Block 3140, Lot 1), in the Bushwick section of Brooklyn to facilitate the expanded use of a warehouse used by New York City Emergency Management (the "Site"), (ULURP No. C 170352 PQK), Community District 4, Borough of Brooklyn (the "Application");

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

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on October 24, 2017;

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

WHEREAS, the Council has considered the relevant environmental issues, including the negative declaration issued on February 22, 2016 (the "Negative Declaration");

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment as set forth in the Negative Declaration.

Pursuant to Section 197-d of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in this report, C 170352 PQK, incorporated by reference herein, the Council approves the Decision.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, DANIEL R. GARODNICK, DARLENE MEALY, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, MARK TREYGER; BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr.; Committee on Land Use, November 15, 2017.

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

Report for L.U. No. 792

Report of the Committee on Land Use in favor of approving Application No. C 170454 ZMK submitted by the New York City Department of Housing Preservation & Development pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 17b, changing an R6 zoning district to an R7-2/C2-3 zoning district on Block 3566, Lot 6 at 3 Livonia Avenue, Borough of Brooklyn Community District 16, Council District 41.

The Committee on Land Use, to which the annexed Land Use item was referred on October 17, 2017 (Minutes, page 3586) and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:

SUBJECT

BROOKLYN CB - 16

C 170454 ZMK

City Planning Commission decision approving an application submitted by the New York City Department of Housing Preservation and Development pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 17b:

1. changing from an R6 District to an R7-2 District property bounded by a line 100 feet northerly of Livonia Avenue, Grafton Street, Livonia Avenue, and Howard Avenue; and
2. establishing within the proposed R7-2 District a C2-3 District bounded by a line 100 feet northerly of Livonia Avenue, Grafton Street, Livonia Avenue, and Howard Avenue.

INTENT

To approve the Special Permit which in conjunction with the related actions would facilitate the development of a new eight-story mixed-use building containing approximately 126 supportive and affordable housing units, in addition to approximately 3,079 square feet of retail or community facility space, in the Brownsville neighborhood of Brooklyn Community District 16.

PUBLIC HEARING

DATE: October 24, 2017

Witnesses in Favor: Three

Witnesses Against: None

SUBCOMMITTEE RECOMMENDATION**DATE:** November 16, 2017

The Subcommittee recommends that the Land Use Committee approve the decision of the City Planning Commission.

In Favor:

Salamanca, Mealy, Rodriguez, Cohen, Treyger.

Against:

None

Abstain:

None

COMMITTEE ACTION**DATE:** November 16, 2017

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Gentile, Palma, Mealy, Mendez, Rodriguez, Koo, Lander, Levin, Rose, Williams, Richards, Cohen, Reynoso, Torres, Treyger, Grodenchik, Salamanca.

Against:

None

Abstain:

None

In connection herewith, Council Members Greenfield and Salamanca offered the following resolution:

Res. No. 1723

Resolution approving the decision of the City Planning Commission on ULURP No. C 170454 ZMK, a Zoning Map amendment (L.U. No. 792).

By Council Members Greenfield and Salamanca.

WHEREAS, the City Planning Commission filed with the Council on October 6, 2017 its decision dated October 4, 2017 (the "Decision"), on the application submitted by the New York City Department of Housing Preservation and Development, pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment of the Zoning Map, Section No. 17b, changing an R6 zoning district to an R7-2/C2-3 zoning district, which in conjunction with the related actions would facilitate the development of a new eight-story mixed-use building containing approximately 126 supportive housing units, in addition to 3,079 square feet of retail or community facility space, in the Brownsville neighborhood of Brooklyn (ULURP No. C 170454 ZMK), Community District 16, Borough of Brooklyn (the "Application");

WHEREAS, the Application is related to applications N 170455 ZRK (L.U. No. 793), a zoning text amendment to designate a Mandatory Inclusionary Housing (MIH) area; C 170456 HAK (L.U. No. 794), an Urban Development Action Area Project (UDAAP) designation, project approval, and disposition of City-owned property to a developer selected by HPD; and C 170457 ZSK (L.U. No. 795), a zoning special permit to modify bulk regulations;

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

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on October 24, 2017;

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

WHEREAS, the Council has considered the relevant environmental issues, including the negative declaration issued June 2, 2017 (CEQR No. 16HPD052K), (the “Negative Declaration”);

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment as set forth in the Negative Declaration.

Pursuant to Section 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in the report, C 170454 ZMK, incorporated by reference herein, the Council approves the Decision of the City Planning Commission.

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No. 17b:

1. changing from an R6 District to an R7-2 District property bounded by a line 100 feet northerly of Livonia Avenue, Grafton Street, Livonia Avenue, and Howard Avenue; and
2. establishing within the proposed R7-2 District a C2-3 District bounded by a line 100 feet northerly of Livonia Avenue, Grafton Street, Livonia Avenue, and Howard Avenue;

as shown on a diagram (for illustrative purposes only) dated June 19, 2017, Community District 16, Borough of Brooklyn.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, DARLENE MEALY, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, DEBORAH L. ROSE, JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, ANDREW COHEN, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER; BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr.; Committee on Land Use, November 16, 2017.

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

Report for L.U. No. 793

Report of the Committee on Land Use in favor of approving Application No. N 170455 ZRK submitted by the New York City Department of Housing Preservation and Development, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying Appendix F for the purpose of establishing a Mandatory Inclusionary Housing area, Borough of Brooklyn, Community District 16, Council District 41.

The Committee on Land Use, to which the annexed Land Use item was referred on October 17, 2017 (Minutes, page 3586) and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:

SUBJECT

BROOKLYN CB - 16

N 170455 ZRK

City Planning Commission decision approving an application submitted by the New York City Department of Housing Preservation and Development, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying Appendix F for the purpose of establishing a Mandatory Inclusionary Housing area.

INTENT

To approve the amendment to the Zoning Resolution which in conjunction with the related actions would facilitate the development of a new eight-story, mixed-use building containing approximately 126 supportive and affordable housing units, in addition to approximately 3,079 square feet of retail or community facility space, in the Brownsville neighborhood of Brooklyn Community District 16.

PUBLIC HEARING

DATE: October 24, 2017

Witnesses in Favor: Three

Witnesses Against: None

SUBCOMMITTEE RECOMMENDATION

DATE: November 16, 2017

The Subcommittee recommends that the Land Use Committee approve the decision of the City Planning Commission.

In Favor:

Salamanca, Mealy, Rodriguez, Cohen, Treyger.

Against:

None

Abstain:

None

COMMITTEE ACTION

DATE: November 16, 2017

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Gentile, Palma, Mealy, Mendez, Rodriguez, Koo, Lander, Levin, Rose, Williams, Richards, Cohen, Reynoso, Torres, Treyger, Grodenchik, Salamanca.

Against:

None

Abstain:

None

In connection herewith, Council Members Greenfield and Salamanca. offered the following resolution:

Res. No. 1724

Resolution approving the decision of the City Planning Commission on Application No. N 170455 ZRK, for an amendment of the Zoning Resolution of the City of New York, modifying Appendix F for the purpose of establishing a Mandatory Inclusionary Housing area in Community District 16, Borough of Brooklyn (L.U. No. 793).

By Council Members Greenfield and Salamanca.

WHEREAS, the City Planning Commission filed with the Council on October 6, 2017 its decision dated October 2, 2017 (the "Decision"), pursuant to Section 201 of the New York City Charter, regarding an application submitted by the New York City Department of Housing Preservation and Development, for an amendment of the text of the Zoning Resolution of the City of New York, modifying Appendix F for the purpose of establishing a Mandatory Inclusionary Housing area, which in conjunction with the related actions would facilitate the development of a new eight-story mixed-use building containing approximately 126 supportive housing units, in addition to 3,079 square feet of retail or community facility space, in the Brownsville neighborhood of Brooklyn, (Application No. N 170455 ZRK), Community District 16, Borough of Brooklyn (the "Application");

WHEREAS, the Application is related to applications C 170454 ZMK (L.U. No. 792), a zoning map amendment to change an R6 zoning district to an R7-2/C2-3 zoning district; C 170456 HAK (L.U. No. 794), an Urban Development Action Area Project (UDAAP) designation, project approval, and disposition of City-owned property to a developer selected by HPD; and C 170457 ZSK (L.U. No.. 795), a zoning special permit to modify bulk regulations;

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

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on October 24, 2017;

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

WHEREAS, the Council has considered the relevant environmental issues, including the negative declaration issued June 2, 2017 (CEQR No. 16HPD052K), (the “Negative Declaration”);

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment as set forth in the Negative Declaration.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in the report, N 170455 ZRQ, incorporated by reference herein, the Council approves the Decision of the City Planning Commission.

Matter underlined is new, to be added;

Matter ~~struck out~~ is to be deleted;

Matter within # # is defined in Section 12-10;

* * * indicates where unchanged text appears in the Zoning Resolution

* * *

APPENDIX F

Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas

* * *

Brooklyn

* * *

Brooklyn Community District 16


* * *

In the R7-2 District within the area shown on the following Map 3:

Map 3 – (date of adoption)

[PROPOSED MAP]




Mandatory Inclusionary Housing area see Section 23-154(d)(3)
Area 1 (date of adoption) – MIH Program Option 1 and Option 2

Portion of Community District 16, Brooklyn

* * *

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, DARLENE MEALY, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, DEBORAH L. ROSE, JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, ANDREW COHEN, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER; BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr.; Committee on Land Use, November 16, 2017.

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

Report for L.U. No. 794

Report of the Committee on Land Use in favor of approving Application No. C 170456 HAK submitted by the Department of Housing Preservation and Development (HPD) pursuant to Article 16 of the General Municipal Law for the designation of an Urban Development Action Area and an Urban Development Action Area Project for property located at 3 Livonia Avenue (Block 3566, Lot 6), and pursuant to Section 197-c of the New York City Charter for the disposition of such property to a developer to be selected by HPD, Borough of Brooklyn, Community District 16, Council District 41.

The Committee on Land Use, to which the annexed Land Use item was referred on October 17, 2017 (Minutes, page 3586) and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:**SUBJECT****BROOKLYN CB - 16****C 170456 HAK**

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

- 1) pursuant to Article 16 of the General Municipal Law of New York State for:
 - a) the designation of property located at 3 Livonia Avenue (Block 3566, Lot 6), as an Urban Development Action Area; and
 - b) an Urban Development Action Area Project for such area; and
- 2) pursuant to Section 197-c of the New York City Charter for the disposition of such property to a developer to be selected by HPD;

to facilitate an affordable housing development containing approximately 125 affordable units and approximately 3,079 square feet of community facility or retail space.

INTENT

To approve the urban development action area project, which in conjunction with the related actions would facilitate the development of a new eight-story mixed-use building containing approximately 126 supportive and affordable housing units, in addition to approximately 3,079 square feet of retail or community facility space, in the Brownsville neighborhood of Brooklyn Community District 16.

PUBLIC HEARING

DATE: October 24, 2017

Witnesses in Favor: Three

Witnesses Against: None

SUBCOMMITTEE RECOMMENDATION

DATE: November 16, 2017

The Subcommittee recommends that the Land Use Committee approve the decision of the City Planning Commission.

In Favor:

Salamanca, Mealy, Rodriguez, Cohen, Treyger.

Against:

None

Abstain:

None

COMMITTEE ACTION

DATE: November 16, 2017

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Gentile, Palma, Mealy, Mendez, Rodriguez, Koo, Lander, Levin, Rose, Williams, Richards, Cohen, Reynoso, Torres, Treyger, Grodenchik, Salamanca.

Against:

None

Abstain:

None

In connection herewith, Council Member Greenfield and Salamanca offered the following resolution:

Res. No. 1725

Resolution approving the application submitted by the New York City Department of Housing Preservation and Development (“HPD”) and the decision of the City Planning Commission, ULURP No. C 170456 HAK, approving the designation of an Urban Development Action Area, an Urban Development Action Area Project, and the disposition of city-owned property located at 3 Livonia Avenue (Block 3566, Lot 6), Borough of Brooklyn, Community District 16, to a developer selected by HPD (L.U. No. 794; C 170456 HAK).

By Council Members Greenfield and Salamanca.

WHEREAS, the City Planning Commission filed with the Council on October 6, 2017 its decision dated October 4, 2017 (the "Decision"), on the application submitted by the New York City Department of

Housing Preservation and Development (“HPD”) regarding city-owned property located at 3 Livonia Avenue (Block 3566, Lot 6) (the “Disposition Area”), approving:

- a) pursuant to Article 16 of the General Municipal Law of New York State the designation of Disposition Area as an Urban Development Action Area;
- b) pursuant to Article 16 of the General Municipal Law of New York State an Urban Development Action Area Project for the Disposition Area (the "Project"); and
- c) pursuant to Section 197-c of the New York City Charter the disposition of the Disposition Area to a developer to be selected by the New York City Department of Housing Preservation and Development;

which in conjunction with the other related actions would facilitate an affordable housing development containing approximately 125 affordable units and approximately 3,079 square feet of community facility or retail space in Community District 16, Borough of Brooklyn (ULURP No. C 170456 HAK) (the "Application");

WHEREAS, the Application is related to applications C 170454 ZMK (L.U. No. 792), a zoning map amendment to change an R6 zoning district to an R7-2/C2-3 zoning district; N 170455 ZRK (L.U. No. 793), a zoning text amendment to designate a Mandatory Inclusionary Housing (MIH) area; and C 170457 ZSK (L.U. No. 795), a zoning special permit to modify bulk regulations;

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

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

WHEREAS, by letter dated October 17, 2017 and submitted to the Council on October 19, 2017, HPD submitted its requests (the “HPD Requests”) respecting the Application including the submission of the project summary for the Project (the “Project Summary”);

WHEREAS, upon due notice, the Council held a public hearing on the Application and Decision and the HPD Requests on October 24, 2017;

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

WHEREAS, the Council has considered the relevant environmental issues, including the negative declaration (CEQR No. 16HPD052K) issued on June 2, 2017 (the “Negative Declaration”);

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment as set forth in the Negative Declaration.

Pursuant to Section 197-d of the New York City Charter, based on the environmental determination and the consideration described in the report (C 170456 HAK) and incorporated by reference herein, the Council approves the Decision of the City Planning Commission and the HPD Requests.

The Council finds that the present status of the Disposition Area tends to impair or arrest the sound growth and development of the City of New York and that a designation of the Project as an urban

development action area project is consistent with the policy and purposes stated in Section 691 of the General Municipal Law.

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

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

The Project shall be developed in a manner consistent with Project Summary submitted by HPD, copy of which is attached hereto and made a part hereof.

The Council approves the disposition of the Disposition Area under Section 197-d of the New York City Charter, to a developer to be selected by the New York City Department of Housing Preservation and Development for the development of the Project consistent with the Project Summary.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, DARLENE MEALY, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, DEBORAH L. ROSE, JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, ANDREW COHEN, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER; BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr.; Committee on Land Use, November 16, 2017.

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

Report for L.U. No. 795

Report of the Committee on Land Use in favor of approving Application No. C 170457 ZSK submitted by the Department of Housing Preservation and Development pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-903 of the Zoning Resolution to modify the requirements of Section 24-111 (Maximum floor area ratio for certain community facility uses) to permit the allowable community facility floor area ratio of Section 24-11 (Maximum Floor Area Ratio and Percentage of Lot Coverage) to apply to a non-profit institution with sleeping accommodations in connection with a proposed eight-story building on property located at 3 Livonia Avenue (Block 3566, Lot 6), in an R7-2/C2-3 District, Borough of Brooklyn, Community District 16, Council District 41.

The Committee on Land Use, to which the annexed Land Use item was referred on October 17, 2017 (Minutes, page 3587) and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:

SUBJECT

BROOKLYN CB - 16

C 170457 ZSK

City Planning Commission decision approving an application submitted by the NYC Department of Housing Preservation and Development pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-903 of the Zoning Resolution to modify the requirements of Section 24-111 (Maximum floor area ratio for certain community facility uses) to permit the allowable community facility floor area ratio of Section 24-11 (Maximum Floor Area Ratio and Percentage of Lot

Coverage) to apply to a non-profit institution with sleeping accommodations in connection with a proposed eight-story building on property located at 3 Livonia Avenue (Block 3566, Lot 6), in an R7-2/C2-3 District.

INTENT

To approve the Special Permit which in conjunction with the related actions would facilitate the development of a new eight-story mixed-use building containing approximately 126 supportive and affordable housing units, in addition to approximately 3,079 square feet of retail or community facility space, in the Brownsville neighborhood of Brooklyn Community District 16.

PUBLIC HEARING

DATE: October 24, 2017

Witnesses in Favor: Three

Witnesses Against: None

SUBCOMMITTEE RECOMMENDATION

DATE: November 16, 2017

The Subcommittee recommends that the Land Use Committee approve the decision of the City Planning Commission.

In Favor:

Salamanca, Mealy, Rodriguez, Cohen, Treyger.

Against:

None

Abstain:

None

COMMITTEE ACTION

DATE: November 16, 2017

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Gentile, Palma, Mealy, Mendez, Rodriguez, Koo, Lander, Levin, Rose, Williams, Richards, Cohen, Reynoso, Torres, Treyger, Grodenchik, Salamanca.

Against:

None

Abstain:

None

In connection herewith, Council Members Greenfield and Salamanca offered the following resolution:

Res. No. 1726

Resolution approving the decision of the City Planning Commission on ULURP No. C 170457 ZSK (L.U. No. 795), for the grant of a special permit pursuant to Section 74-903 of the Zoning Resolution to modify the requirements of Section 24-111 (Maximum floor area ratio for certain community facility uses) to permit the allowable community facility floor area ratio of ZR Section 24-11 (Maximum Floor Area Ratio and Percentage of Lot Coverage) to apply to a non-profit institution with sleeping accommodations in connection with a proposed eight-story building on property located at 3 Livonia Avenue (Block 3566, Lot 6), in an R7-2/C2-3 District, Community District 16, Borough of Brooklyn.

By Council Members Greenfield and Salamanca.

WHEREAS, the City Planning Commission filed with the Council on October 6, 2017 its decision dated October 4, 2017 (the "Decision"), on the application submitted by the New York City Department of Housing Preservation and Development, pursuant to Sections 197-c and 201 of the New York City Charter, for the grant of a special permit pursuant to Section 74-903 of the Zoning Resolution to modify the requirements of Section 24-111 (Maximum floor area ratio for certain community facility uses) to permit the allowable community facility floor area ratio of ZR Section 24-11 (Maximum Floor Area Ratio and Percentage of Lot Coverage) to apply to a non-profit institution with sleeping accommodations in connection with a proposed eight-story building on property located at 3 Livonia Avenue (Block 3566, Lot 6), in an R7-2/C2-3 District. Approval of this Special Permit, in conjunction with the related actions would facilitate the development of a new eight-story mixed-use building containing approximately 126 supportive housing units, in addition to 3,079 square feet of retail or community facility space, in the Brownsville neighborhood of Brooklyn, (ULURP No. C 170457 ZSK), Community District 16, Borough of Brooklyn (the "Application");

WHEREAS, the Application is related to applications C 170454 ZMK (L.U. No. 792), a zoning map amendment to change an R6 zoning district to an R7-2/C2-3 zoning district; N 170455 ZRK (L.U. No. 793), a zoning text amendment to designate a Mandatory Inclusionary Housing (MIH) area; and C 170456 HAK (L.U. No. 794), an Urban Development Action Area Project (UDAAP) designation, project approval, and disposition of City-owned property to a developer selected by HPD;

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

WHEREAS, the City Planning Commission has made the findings required pursuant to Section 74-903 of the Zoning Resolution of the City of New York;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on October 24, 2017;

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

WHEREAS, the Council has considered the relevant environmental issues, including the negative declaration issued June 2, 2017 (CEQR No. 16HPD052K), (the "Negative Declaration");

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment as set forth in the Negative Declaration.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in this report, C 170457 ZSK), incorporated by reference herein, the Council approves the Decision of the City Planning Commission subject to the following conditions:

1. The property that is the subject of this application (C 170457 ZSK) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following approved drawings, prepared by Robert A.M. Stern Architects, LLP, filed with this application and incorporated in this resolution:

<u>Dwg. No.</u>	<u>Title</u>	<u>Last Date Revised</u>
Z-002	Zoning Analysis	6/9/2017
A-100	Site Plan	6/9/2017
A-103	Typical Floor Plan and Sixth Floor Plan	6/9/2017
A-104	Seventh and Eighth Floor Plans	6/9/2017
A-300	N-S Building Section	6/9/2017
A-301	N-S Building Section	6/9/2017
A-302	E-W Building Section	6/9/2017
A-303	E-W Building Section	6/9/2017

2. Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plans listed above which have been filed with this application. All zoning computations are subject to verification and approval by the New York City Department of Buildings.
3. Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.
4. All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sub-lessee or occupant.
5. Upon the failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions, agreements, terms or conditions of this resolution whose provisions shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or entity. Any such failure as stated above, or any alteration in the development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, cancellation or amendment of the special permit hereby granted.
6. Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city's or such employee's or agent's failure to act in accordance with the provisions of this special permit.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, DARLENE MEALY, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, DEBORAH L. ROSE, JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, ANDREW COHEN, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER; BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr.; Committee on Land Use, November 16, 2017.

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

At this point, the Speaker (Council Member Mark-Viverito) announced that the following items had been **preconsidered** by the Committee on Land Use and had been favorably reported for adoption.

Report for L.U. 815

Report of the Committee on Land Use in favor of approving Application No. N 180108 HKQ pursuant to Section 3020 of the New York City Charter concerning the designation by the Landmarks Preservation Commission of Old Saint James Episcopal Church (now Old Saint James Parish Hall) (Block 1549, p/o, Lot 1), as a landmark, Borough of Queens, Community Board 4, Council District 25.

The Committee on Land Use, to which the annexed preconsidered Land Use item was referred on November 16, 2017, and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:

SUBJECT

QUEENS CB - 4

20185067 HKQ (N 180108 HKQ)

The proposed designation by the Landmark Preservation Commission [DL-498/LP-2593] pursuant to Section 3020 of the New York City Charter of the Old Saint James Episcopal Church (now Old Saint James Parish Hall) located at 86-02 Broadway (aka 85-08 51st Avenue), Tax Map Block 1549, Lot p/o Lot 1, as a historic landmark.

PUBLIC HEARING

DATE: November 14, 2017

Witnesses in Favor: Two

Witnesses Against: None

SUBCOMMITTEE RECOMMENDATION

DATE: November 14, 2017

The Subcommittee recommends that the Land Use Committee affirm the designation.

In Favor:

Koo, Palma, Mendez, Levin, Rose, Kallos.

Against:

None

Abstain:

None

COMMITTEE ACTION

DATE: November 15, 2017

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Gentile, Palma, Garodnick, Mealy, Rodriguez, Koo, Lander, Levin, Williams, Richards, Cohen, Kallos, Reynoso, Treyger, Grodenchik, Salamanca.

Against:

None

Abstain:

None

In connection herewith, Council Members Greenfield and Koo offered the following resolution:

Res. No. 1727

Resolution affirming the designation by the Landmarks Preservation Commission of the Old Saint James Episcopal Church (now Old Saint James Parish Hall) located at 86-02 Broadway (aka 85-08 51st Avenue) (Tax Map Block 1549, Lot 1 in part), Borough of Queens, Designation List No. 498, LP-2593 (Preconsidered L.U. No. 815; 20185067 HKQ; N 180108 HKQ).

By Council Members Greenfield and Koo:

WHEREAS, the Landmarks Preservation Commission filed with the Council on September 28, 2017 a copy of its designation report dated September 19, 2017 (the "Designation Report"), including the designation pursuant to Section 3020 of the New York City Charter and Chapter 3 of Title 25 of the Administrative Code of the City of New York of the Old Saint James Episcopal Church (now Old Saint James Parish Hall) located at 86-02 Broadway (aka 85-08 51st Avenue), Community District 4, Borough of Queens, as a historic landmark and Tax Map Block 1549, Lot 1 in part, as its landmark site (the "Designation");

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

WHEREAS, the New York City Planning Commission submitted to the Council on November 3, 2017, its report on the Designation dated November 1, 2017 (the "City Planning Commission Report");

WHEREAS, upon due notice, the Council held a public hearing on the Designation on November 14, 2017; and

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

RESOLVED:

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

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, DANIEL R. GARODNICK, DARLENE MEALY, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, MARK TREYGER; BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr.; Committee on Land Use, November 15, 2017.

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

Report of the Committee on Public Safety

Report for Int. 1267-A

Report of the Committee on Public Safety in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to prohibiting certain disclosures of intimate images.

The Committee on Public Safety, to which the annexed proposed amended local law was referred on September 14, 2016 (Minutes, page 2999), respectfully

REPORTS:

I. INTRODUCTION

On November 15, 2017 the Committee on Public Safety, chaired by Council Member Vanessa Gibson, will vote on Proposed Introductory Bill Number 1267-A (Prop. Int. No. 1267-A), a local law to amend the administrative code of the city of New York, in relation to prohibiting certain disclosures of intimate images. The Committee previously heard Introductory Bill Number 1267 (Int. No. 1267) on April 6, 2017. At that hearing, the Committee heard testimony from the New York City Police Department (NYPD), the Mayor's Office to Combat Domestic Violence (MOCDV), representatives from District Attorney's offices, advocates, and members of the public.

II. BACKGROUND

Prop. Int. No. 1267-A prohibits behavior that is commonly referred to as “revenge porn,” a term that broadly applies to the nonconsensual disclosure of sexually explicit images or videos.¹ Though the term “revenge porn” may commonly refer to behavior not addressed by Prop. Int. No. 1267-A, such as images obtained without consent (i.e. by use of a hidden camera or hacking device²) the issues surrounding the broad area of the disclosure of sexually explicit images are relevant in understanding how and why Prop Int. No. 1267-A was created.

Broadly, revenge porn is often used as a form of domestic violence, where abusers “use the threat of disclosure to keep their partner under control” and fulfill the threat once their partner leaves.³ Some advocates suggest the term “revenge porn” may be misleading, as not all perpetrators are motivated by vengeance, but instead participate in the distribution of explicit content to earn a profit, notoriety, or entertainment.⁴ Revenge porn is a national issue, as one in 25 internet users in America, or roughly 4%, have been a victim.⁵ Younger internet users, ages 18-29, are more likely than adults outside that age group to have sexual content of themselves posted without their consent.⁶ Additionally, internet users who identify as lesbian, gay, or bisexual have a higher rate than heterosexual internet users of being a victim of revenge porn.⁷ Day One, a nonprofit organization in New York that provides resources to address dating violence for youth of 24 years of age and under, testified that while young people use technology as a primary form of communication, it is also used by their abusive partners to “isolate, manipulate, shame, and silence” them.⁸ Popular social media platforms, such as Facebook, Instagram, and Tumblr, have become “weaponized,” providing a space for abuse that is then carried over into real life.⁹

According to the Cyber Civil Rights Initiative (CCRI), while 94% of Americans believe their intimate photographs are safe with their current partners,¹⁰ as many as 10% of ex-partners have threatened to expose nude photographs or sexual content of their former partners, and 60% of those who make such threats actually followed through.¹¹ In addition to sexual content, perpetrators have also posted other identifying information to revenge porn websites resulting in the further harassment of victims.¹² Of the victims CCRI surveyed, 59% reported their full name was published to websites, 49% their social network information, 26% their email address, 20% their phone number, 16% their physical home address, 14% their work address, and 2% their social security number.¹³ Fifty percent of victims surveyed by CCRI also said they have been harassed or stalked by online users who saw the content disclosed without their consent.¹⁴

According to CCRI, as many as 90% of victims are women, 93% of which said they suffered significant emotional distress because of this conduct.¹⁵ Studies suggest the mental health implications of revenge porn

¹ E.g., Editorial, *Fighting Back Against Revenge Porn*, N.Y. Times, Oct. 13, 2013, at SR10.

² Cyber Civil Rights Initiative: FAQs US Victims: What is NCP? available at <https://www.cybercivilrights.org/faqs-usvictims/>

³ Citron Danielle, Franks Mary “Criminalizing Revenge Porn” April 2014 Yale 49 Wake Forest Law Review 345 (2014 available at http://digitalcommons.law.umaryland.edu/cgi/viewcontent.cgi?article=2424&context=fac_pubs

⁴ Mudasir Kamal, William J. Newman “Revenge Pornography: Mental Health Implications and Related Legislation” Journal of American Academy of Psychiatry and the Law Online Sep 2015, 44 (3) 359-367 available at <http://jaapl.org/content/jaapl/44/3/359.full.pdf>

⁵ Lenhart, Amanda “Nonconsensual Image Sharing: One in 25 Americans Has Been A Victim of ‘Revenge Porn’” Data & Society Research Institute December 2016 available at https://datasociety.net/pubs/oh/Nonconsensual_Image_Sharing_2016.pdf

⁶ *Id.* at pg. 5

⁷ *Id.*

⁸ Testimony of Andrew Sta. Ana, Director of Legal Services, Day One available at <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=2473915&GUID=E358D9F7-5AF9-48D8-B03E-D5DF8C46BF0C&Options=&Search=>

⁹ *Id.*

¹⁰ *Supra* 5

¹¹ Cyber Civil Rights Initiative: Nonconsensual Porn infographic. Jan 3, 2014. available at <https://www.cybercivilrights.org/revenge-porn-infographic/>

¹² *Id.*

¹³ *Id.*

¹⁴ End Revenge Porn: A Campaign of the Cyber Civil Rights Initiative, Inc. : Revenge Porn Statistics December 2014 available at <https://www.cybercivilrights.org/wp-content/uploads/2014/12/RPStatistics.pdf>

¹⁵ *Id.*

are similar to the long-term negative consequences seen in victims of child pornography.¹⁶ Victims of revenge porn, like victims of child pornography, suffer from mental health effects such as depression, withdrawal, low self-esteem, and feelings of worthlessness.¹⁷ As a result of being a victim of revenge porn, victims must also undergo a “lifelong battle to preserve their integrity.”¹⁸

While the mental effects on victims are significant, the professional cost of revenge porn is significant as well. According to a 2009 study commissioned by Microsoft, nearly 80% of employers consult search engines to collect intelligence on job applicants.¹⁹ The survey found that 70% of the time, employers rejected applicants due to their findings.²⁰ A more recent study, conducted by CareerBuilder in 2014, found that more employers were utilizing social networking sites to find additional information on potential candidates.²¹ CareerBuilder found that 51% of employers who researched job candidates on social media found content that impeded their decision to hire them, the most common reason being the posting of “provocative or inappropriate photographs or information.”²² While victims can now submit removal requests to both Google and Microsoft to remove links related to revenge porn from Google Search and Bing, removing content from other sites may come at a cost.²³ Victims of revenge porn are at times unable to find employment, as recruiters typically do not ask if the content they have reviewed was posted consensually.²⁴ Victims are also fired or quit their jobs because of harassment, and the fear of being in public spaces where they could be recognized or physically stalked.²⁵

In their testimony to the Council, the NYPD noted that revenge porn is commonly used in domestic violence cases, where an abusive partner threatens the disclosure of such images in order to gain and maintain control over their victims.²⁶ Sergeant Frank Maiello, of the NYPD’s Domestic Violence Unit, provided several examples of domestic violence cases where the NYPD does not currently have tools to assist or bring charges forth because there is no current law that criminalizes the specific act.²⁷

III. CURRENT REVENGE PORN LAWS

Currently 35 states and the District of Columbia have laws that criminalize revenge porn or the nonconsensual disclosure of sexually explicit content.²⁸ The majority of these states have classified the crime as a misdemeanor, while eight states and the District of Columbia classify it as a felony.²⁹ Minnesota is currently the only state that classifies revenge porn as a qualified domestic violence-related offense that

¹⁶ Mudasir Kamal, William J. Newman “Revenge Pornography: Mental Health Implications and Related Legislation” *Journal of American Academy of Psychiatry and the Law Online* Sep 2015, 44 (3) 359-367 pg 362 available at <http://jaapl.org/content/jaapl/44/3/359.full.pdf>

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Citron Danielle, Franks Mary “Criminalizing Revenge Porn” April 2014 *Yale 49 Wake Forest Law Review* 345 (2014) available at http://digitalcommons.law.umaryland.edu/cgi/viewcontent.cgi?article=2424&context=fac_pubs

²⁰ *Id.* at 8

²¹ “Number of Employers Passing on Applicants Due to Social Media Posts Continue to Rise” CareerBuilder June 26, 2014 available at <http://www.careerbuilder.com/share/aboutus/pressreleasesdetail.aspx?sd=6%2F26%2F2014&id=pr829&ed=12%2F31%2F2014>

²² *Id.*

²³ Beauchere, Jacqueline “Revenge Porn: putting victims back in control” *Microsoft* July 22, 2015 available at

<https://blogs.microsoft.com/on-the-issues/2015/07/22/revenge-porn-putting-victims-back-in-control/#sm.000rcy5v3owod1c10e910a9kyt9rz>;

Singhal, Amit “Revenge Porn and Search” *Google Public Policy Blog* June 19, 2015 available at <https://publicpolicy.googleblog.com/2015/06/revenge-porn-and-search.html>

²⁴ Citron Danielle, Franks Mary “Criminalizing Revenge Porn” April 2014 *Yale 49 Wake Forest Law Review* 345 (2014) available at http://digitalcommons.law.umaryland.edu/cgi/viewcontent.cgi?article=2424&context=fac_pubs pg. 8

²⁵ Bloom, Sarah “No Vengeance for ‘Revenge Porn’ Victims: Unraveling Why this Latest Female-Centric, Intimate Partner Offense is Still Legal, and Why We Should Criminalize It” *Fordham Law Journal* Volume 42, Number 1 2016 Article 2 available at <http://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=2555&context=ulj>

²⁶ See Testimony of Oleg Chernyavsky, Director of Legislative Affairs, New York City Police Department (April 6, 2017) available at <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=2473915&GUID=E358D9F7-5AF9-48D8-B03E-D5DF8C46BF0C&Options=&Search=>

²⁷ *Id.*

²⁸ Cyber Civil Rights Initiative: 35 States + DC Have Revenge Porn Laws available at <https://www.cybercivilrights.org/revenge-porn-laws/>

²⁹ *Id.*

enhances penalties for convictions for domestic assault, stalking, and violation of a harassment restraining order.³⁰

On August 1, 2014, Governor Andrew Cuomo signed into law S1982C/A2053C, a law related to unlawful surveillance in the second degree, and dissemination of unlawful surveillance image in the first and second degrees.³¹ The law amended the New York Criminal Procedure Law sections 250.45, 250.55 and 250.66 in an attempt to close a loophole within the statute pertaining to unlawful surveillance. Prior to these state law amendments, a victim's sexual or intimate parts had to be shown in the content distributed in order to fall under the definition of the then pre-existing law.³² These Penal Law amendments provide that a person can be "charged with unlawful surveillance in the second degree if an individual uses a device to view, broadcast or record a person engaged in sexual conduct without their consent" so as long as someone's intimate parts are exposed.³³ However, the state law applies only in cases where the depicted person does not know or did not consent to being photographed or recorded.³⁴ The amendment does not apply in cases where a person consented to the original image captured, or produced it themselves, but did not consent to its distribution.

IV. ENFORCEMENT OF REVENGE PORN

According to the NYPD, officers regularly receive complaints from individuals indicating that they have been the victim of the nonconsensual disclosure of sexually explicit images or videos, though gaps in current laws provide challenges to track complaints.³⁵ In situations where the original image or video was taken consensually, but later disclosed non-consensually, officers are unable to charge or arrest individuals under the State Penal Law.³⁶ While the State Penal Law does not currently provide criminal charges in cases where an image was taken consensually and later disclosed non-consensually, the police department may issue other relatable charges, especially when an additional crime may have occurred.³⁷ For example, the police department may charge a person with stalking, if an image that is taken lawfully is "disseminated in a repeated manner that's meant to harass."³⁸ According to the NYPD, in situations where an image is taken lawfully but disseminated without an individual's consent, often the Department cannot charge the perpetrator with any offense.³⁹

Similarly, while District Attorneys in New York investigate numerous cases involving non-consensual dissemination or threats to disseminate images, the lack of criminal statutes that address such conduct limits their ability to hold those accountable.⁴⁰ According to representatives from the Queens District Attorney's Office, prosecutors are "powerless to stop continued [non-consensual] dissemination" due to gaps in existing criminal statutes in New York.⁴¹ Prosecutors in Queens County testified that they have sought input from others throughout the state, country, and have worked with other District Attorney's offices across the city to address such cases.⁴² In rare instances, they have been able to charge the crime of coercion under Penal Law Section 135.60(9), though in most cases the "elements of the charge do not fit the facts and the resulting harm".⁴³

³⁰ See S.F No. 2713 available at <https://www.revisor.mn.gov/laws/?year=2016&type=0&doctype=Chapter&id=126>

³¹ Office of the New York State Governor "Governor Cuomo Signs Amendment to Close Loophole in Privacy Law" August 1, 2014 available at <https://www.governor.ny.gov/news/governor-cuomo-signs-amendment-close-loophole-privacy-law>

³² See S1982C Sponsor Memo available at <https://www.nysenate.gov/legislation/bills/2013/S1982/amendment/C>

³³ Penal Law §250.45(4).

³⁴ *Id.*

³⁵ See Testimony of Oleg Chernyavsky, Director of Legislative Affairs, New York City Police Department (April 6, 2017) available at <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=2473915&GUID=E358D9F7-5AF9-48D8-B03E-D5DF8C46BF0C&Options=&Search=>

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.* at 24-25

³⁹ *Id.*

⁴⁰ See Testimony of Eric C. Rosenbaum and Kateri A. Gasper, Queens County District Attorney's Office available at <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=2473915&GUID=E358D9F7-5AF9-48D8-B03E-D5DF8C46BF0C&Options=&Search=>

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

When prosecutors have attempted to use Penal Law provisions to prosecute revenge porn cases, New York state courts have often struck them down. For example, in 2014, a New York City Criminal Court found charges of aggravated harassment, dissemination of unlawful surveillance, and public display of offensive sexual material to be legally insufficient in a case where a man allegedly posted naked photographs of his ex-girlfriend, which she previously shared with him, on his Twitter account, and sent the photos to her employer and her sister.⁴⁴ While there is currently some recourse for victims in the civil arena, many victims cannot afford to pay attorney costs and litigation fees associated with civil cases.⁴⁵

Several organizations, in their testimony before the Council, raised the importance of providing a civil remedy for revenge porn cases. According to Day One, civil remedies allow victims to address the issue without a criminal penalty, which is often what their clients seek.⁴⁶ Several advocates and attorneys suggested adopting language from proposed New York State bill A1641A/S2725A, sponsored by Assemblyman Edward Braunstein and Senator Joseph A. Griffo, which establishes the crime of non-consensual dissemination of sexually explicit images and adds a civil cause of action to the penal law.⁴⁷ The civil cause of action in A1641A/S2725A does not require a criminal charge to be brought or criminal conviction obtained, and in addition to injunctive relief, victims are entitled to “actual damages, punitive damages, and reasonable court costs and attorney fees”.⁴⁸ More importantly, as advocates and attorneys explained, A1641A/S2725A allows victims’ personal information to be redacted, meaning they can proceed under a pseudonym.⁴⁹ The NYPD, District Attorney’s, attorneys, and advocates agreed in their testimony to the Council that enacting a law that explicitly prohibits the nonconsensual distribution of intimate images of another person would profoundly improve enforcement of such acts and contribute to their prevention. Many of the concerns and recommendations raised were included in the amendments to Int. No. 1267.

V. ANALYSIS OF PROP. INT. NO. 1267-A

Broadly speaking, Prop. Int. No. 1267-A would establish both criminal and civil penalties for disclosing or threatening to disclose an intimate image of a person without their consent, with the intent to cause that person economic, physical, or substantial emotional harm. The misdemeanor would be punishable by up to a year of incarceration, a fine of up to \$1000, or both. The civil cause of action would permit monetary and injunctive relief, allowing a victim to legally restrain a partner who threatened to disclose intimate images from doing so. Details of this prohibition are discussed *infra*. Notably, this prohibition is intended to apply to intimate images taken with the knowledge and consent of the parties depicted therein, as the Penal Law already addresses intimate images taken without a person’s knowledge or consent.⁵⁰

A. Defining Liable Individuals

The prohibition in Prop. Int. No. 1267-A only applies to “covered recipients.” A covered recipient is defined as any individual who receives an intimate image directly from a person or who films such an image himself or herself. Therefore, the prohibition does not cover an individual who receives or accesses an intimate image indirectly. For example, the prohibition would not cover an individual who was sent an intimate image from a friend who received that image from the depicted individual.

The prohibition in Prop. Int. No. 1267-A also does not apply to a person who discloses an intimate image in the course of reporting unlawful activities or in the course of a legal proceeding, or to law enforcement personnel who disclose an intimate image as part of their lawful duties. It also does not apply to providers of interactive computer services, as defined in federal law.

⁴⁴ *People v. Barber*, 42 Misc.3d 1225(A) (New York City Criminal Court, New York County, 2014)

⁴⁵ Goldberg, Carrie “N.Y Has Power to Stop Revenge Porn” Daily News January 1, 2017 available at <http://www.nydailynews.com/opinion/n-y-power-stop-revenge-porn-article-1.2929091>

⁴⁶ *Supra* 8

⁴⁷ Council of the City of New York, Transcript of the April 6, 2017 *Hearing of the Committee on Public Safety* Testimony of Carrie Goldberg (April 6, 2017), available at <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=2473915&GUID=E358D9F7-5AF9-48D8-B03E-D5DF8C46BF0C&Options=&Search=>

⁴⁸ A1641A/S2725A available at <https://www.nysenate.gov/legislation/bills/2017/a1641/amendment/a>

⁴⁹ *Id.*

⁵⁰ See New York Penal Law, Article 250

B. Defining a “Depicted Individual”

The prohibition in Prop. Int. No. 1267-A would only apply to intimate images of a “depicted individual.” A “depicted individual” is defined as someone whose intimate body parts are exposed or who is engaged in sexual activities. The term “sexual activity” is defined by referring to similar definitions in the New York State Penal Law, and also includes elements that would commonly be included in revenge porn such the touching of sexual body parts for the purpose of gratifying sexual desire, sexual penetration with any object, or the transmission or appearance of semen upon any part of the body. The term “intimate body parts” is similar to the definition of “sexual or other intimate body parts” in the provision of the New York State Penal Law that prohibits the nonconsensual recording of intimate images.⁵¹ However, the definition in Prop. Int. No. 1267-A does not include the buttocks, only includes the female nipple and not the portions of the female breast below the top of the nipple, and does not include “parts which are covered only by an undergarment.”⁵² These elements were not included because Prop. Int. No. 1267-A is intended to address only images that are clearly explicit in nature, and not images about which there could be a legitimate dispute as to their explicit nature. Also, the definition of “intimate body parts” in Prop. Int. No. 1267-A only includes female nipples for depicted individuals over the age of 11, to avoid including pictures of younger children that would not typically be subject to revenge porn. The age limit of 11 years old matches the limit in the New York State Penal Law for rape in the first degree.⁵³

A “depicted individual” also includes a person depicted immediately before or after sexual activity, when they are depicted with the intimate body parts of another individual. This element was included to address situations in which a victim’s face or other non-intimate but identifiable body part would be pictured next to the intimate body part of another individual.

C. Defining an “Intimate Image”

The prohibition in Prop. Int. No. 1267-A only applies to the distribution of “intimate images.” An “intimate image” includes photographs, film, videotapes, and any other reproduction of an image. An image is “intimate” only if it has been disclosed or threatened to be disclosed in a manner inconsistent with the intention of the depicted individual. This element was included to ensure that the nature of the image was private or intimate in nature. For example, an image recorded for commercial purposes or one in which the depicted person recorded with the intent of sharing would not qualify as an “intimate image.” The definition of intimate image also contains an explicitly excluded category of images taken in a public place, as that term is defined in the Penal Law. This element was also included to ensure that the nature of the image was private or intimate, as a person who creates an image in a public place assumes the risk of public exposure regardless of their intent. However, the definition does contain a limited exception to this rule for situations in which a depicted person reasonably believed that no person other than the person recording the image could view them. This was included to address situations in which the broad definition of “public place” would cover locations within these spaces in which a reasonable person would expect privacy, or to cover unique situations where a space that would normally be publicly accessible would not be so accessible. For example, a vehicle is a “public place” under the Penal Law,⁵⁴ but a person parked in a remote location late at night might reasonably expect privacy, at least for the duration of time required to take a single photograph. Similarly, a park is typically a public place, but certain spaces within parks might give a person a reasonable expectation of privacy – at least for the duration of time required to take a single photograph - consistent with the intent of the Council to protect legitimately intimate images.

Whether an image is “intimate” depends on the intent of the depicted person at the time the “covered recipient” gained possession or access to such image. A covered recipient may gain possession of an image either by recording the image or by being given the image directly from a depicted individual. When a depicted individual consensually records an image with a covered recipient, their intent regarding its distribution at the time of such recording is determinative. When a depicted individual sends an image to a covered recipient,

⁵¹ New York State Penal Law § 250.40(3)

⁵² *Id.*

⁵³ New York State Penal Law § 130.35

⁵⁴ *E.g., People v. Jackson*, 18 N.Y.3d 738 (2012)

their intent regarding its distribution at the time the image was sent is determinative. Thus, a depicted individual may send a single image to multiple recipients at multiple times, and that individual's intent at each such time would determine whether each image was "intimate." For example, a person may send an image to a friend at one time with the intent that it remain private, but may later share that same image for commercial purposes with no such intent. In the first scenario, the friend would be liable if they distributed the image, but in the second scenario the image would not be "intimate" and this law would not apply to its distribution.

This bill defines "intimacy" using the intent of the depicted individual, and not on a more objective standard such as one that relies on the person's "reasonable expectation of privacy," a standard used in similar statutes in other states.⁵⁵ A factfinder could reasonably conclude that the victim of revenge porn should have reasonably expected an intimate partner to publish intimate images with malicious intent where the partner had a history of malicious behavior towards the victim, particularly if the partner had threatened the victim in the past or had committed similar malicious acts against other individuals. The testimony received by the Council by advocates in this field indicated that such problematic relationships are common in revenge porn cases. The Council intends this law to apply to such victims, and drafted this bill to ensure that the subjective standard of the victim's intent would govern the determination of intimacy.

D. The Consent Exception

The prohibition in Prop. Int. No. 1267-A only applies to intimate images distributed without the depicted individual's consent. The term "consent" is defined as permission "knowingly, intelligently, and voluntarily given for the particular disclosure at issue." This definition explicitly covers only consent to a particular disclosure, and thus a person who consents to a limited disclosure would not consent to a full public disclosure. However, consent to full public disclosure would by its nature cover all disclosures, thus encompassing the "particular disclosure at issue."

The terms "knowing, voluntary, and intelligent" are used in a variety of legal contexts, and in this case were included to ensure that consent to distribute an intimate image was not obtained through force, threat, coercion, or any similar influence on an individual that might manifest in what appears to be consent but what was in fact inconsistent with that person's intent. This is similar to the requirement that guilty pleas in criminal cases be made "knowingly, intelligently, and voluntarily,"⁵⁶ or that statements to police by criminal defendants be made "knowingly, intelligently, and voluntarily" in order to be admissible in a criminal proceeding.⁵⁷

A depicted individual's intent regarding the private or public nature of an image exists at only one point in time,⁵⁸ whereas an individual's consent to distribute an image may occur at any point after the creation of such an image. Both the intimacy of an image and the lack of consent to distribute such image must exist in order to establish a violation under Prop. Int. No. 1267-A. Thus, a person may legally share an "intimate" image with the consent of the depicted individual. For example, a depicted individual may share an image with another person with the intent that this image remain private, but at a later point the depicted individual may give that person consent to share it. Such an image remains technically "intimate" under Prop. Int. No. 1267-A, but its distribution is legal based on the depicted individual's consent to so distribute.

E. The Intent Element

Prop. Int. No. 1267-A prohibits the distribution of intimate images only when the images are distributed with the intent to cause the depicted individual "economic, physical, or substantial emotional harm." The term "substantial emotional harm" is designed to mirror the term "substantial emotional distress" that appears in a federal statute designed to prohibit somewhat similar behavior, and which has been upheld repeatedly upon being challenged as unconstitutionally vague.⁵⁹ This element was included to ensure that this prohibition applies only to individuals who act with malicious intent. For example, the prohibition would not apply to

⁵⁵ E.g., CT Gen Stat § 53a-189a; Kansas Statutes § 21-6101

⁵⁶ E.g., *North Carolina v. Alford*, 400 U.S. 25 (1970); *People v. Louree*, 8 N.Y.3d 541 (2007)

⁵⁷ E.g., *Miranda v. Arizona*, 384 U.S. 436 (1966)

⁵⁸ See Section V(C), *supra*

⁵⁹ E.g., *United States v. Osinger*, 753 F.3d 939 (9th Cir. 2014); *United States v. Shrader*, 675 F.3d 300, 311 (4th Cir. 2012); *Veile v. Martinson*, 258 F.3d 1180, 1189 (10th Cir. 2001)

disclosures made with an attempt to titillate, brag, or profit. Instead, the prohibition would typically apply to a former or current intimate partner of a depicted individual who publicly discloses an intimate image to harm that individual, or threatens to do so.

The relevant intent is the intent behind the disclosure of an intimate image, and not the intent behind a threat to disclose such an image. A person may threaten to disclose an intimate image with the intent to gain an advantage in a custody dispute, for example, or for myriad other reasons, but this intent is not relevant to Prop. Int. No. 1267-A. Instead, the relevant intent is that which applies to the disclosure itself. If the intent of this disclosure is to cause harm, then this intent element is establishment. Thus, a person who threatens to disclose an intimate image with the intent to gain advantage in a custody dispute is liable under this legislation, as the threat would be to cause harm to the person by disclosing the image if they do not assist this person in the custody dispute.

F. A Depicted Individual Must Be Identifiable

Prop. Int. No. 1267-A also requires that a depicted individual be identifiable in the intimate image. A person who fraudulently claims that an individual is depicted in an intimate image may do harm to that individual, but this bill is not intended to address such images, nor is it intended to address edited images in which a person falsely appears to be doing something they have never done. Instead, this bill is intended to address the violation of trust that occurs when a legitimate and intimate image of an individual is used against them in a malicious fashion. For example, an image in which a person's face is superimposed over another person's body in a sexually explicit fashion – even in a convincing fashion – would not be covered by this bill.

Prop. Int. No. 1267-A addresses both disclosures of intimate images, and the threat to do so. When an intimate image has been disclosed, whether a depicted individual is identifiable can be determined by examining the intimate image. However, where an intimate image is only threatened to be disclosed, no such examination could occur. A depicted individual might not even be aware which intimate image a covered recipient intends to disclose. Therefore, the bill prohibits the threat to disclose an intimate image as long as the covered recipient states or implies that the depicted individual would be identifiable.

G. Threats To Disclose

Prop. Int. No. 1267-A prohibits not only the disclosure of intimate images, but also the threat to do so. The law “is well established that prohibitions of pure speech must be limited to communications that qualify as fighting words, true threats, incitement, obscenity, child pornography, fraud, defamation or statements integral to criminal conduct.”⁶⁰ As the United States Supreme Court has held, so-called “true threats” encompass those statements where the speaker means to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals.⁶¹ A statement that may colloquially be deemed a “threat” is only a “true threat” if it is clear and unambiguous.⁶² The bulk of the law on the doctrine of “true threats” addresses threats of physical violence,⁶³ however courts have applied the “true threat” doctrine to other types of injury, such as eviction,⁶⁴ or threats to deport a person and cause their family economic harm.⁶⁵ The Council intends that the “true threat” doctrine apply to Prop. Int. No. 1267-A. Therefore, the threats proscribed in this bill would not encompass only vague or flippant threats that might be made throughout the course of a dispute between intimate partners, but instead to legitimate and clear threats to harm a person by publicly disclosing an intimate image.

⁶⁰ *People v. Marquan M.*, 24 N.Y.3d 1, 7 (2014) (emphasis added)

⁶¹ *Virginia v. Black*, 538 U.S. 343, 359, 123 S. Ct. 1536, 1548, 155 L. Ed. 2d 535 (2003)

⁶² *E.g., People v. Orr*, 47 Misc. 3d 1213(A), 15 N.Y.S.3d 713 (N.Y.Crim.Ct. 2015)

⁶³ *E.g. Ids.*

⁶⁴ *People v. Williams*, 46 Misc. 3d 1208(A), 7 N.Y.S.3d 244 (N.Y.Crim.Ct. 2015) (“Defendant’s communication clearly intended the intent to inflict harm, that harm being eviction.”)

⁶⁵ *United States v. Calimlim*, 538 F.3d 706, 710 (7th Cir. 2008)

H. Constitutional Concerns

The Council has taken great care to ensure that Prop. Int. No. 1267-A does not run afoul of the First Amendment of the United States Constitution. A comprehensive evaluation of all the constitutional issues raised by this bill is beyond the scope of this report, but broadly speaking, the First Amendment does not protect speech in “historic and traditional categories long familiar to the bar, including obscenity, defamation, fraud, incitement, and speech integral to criminal conduct.”⁶⁶ The conduct targeted by this statute falls within these categories, but to the extent that the statute may inadvertently cover speech made for political, journalistic, artistic, or other forms of traditionally protected speech, the bill contains an exception for any “matter of legitimate public concern” or speech that is “otherwise protected by the first amendment of the United States constitution.”

I. Other Issues

Prop. Int. No. 1267-A includes a civil cause of action as well as a criminal penalty. The civil cause of action was included to afford victims a wide array of options to address revenge porn or the threat of revenge porn. The civil cause of action includes the possibility of injunctive relief, permitting those for whom revenge porn has been threatened to potentially obtain a court order preventing disclosure. There are myriad differences between civil and criminal enforcement, and the statute is designed to permit flexibility in choosing between remedies, and contains a specific provision indicating that the presence of a civil action does not necessitate a criminal action be commenced or a criminal conviction obtained.

Prop. Int. No. 1267-A prohibits the “disclosure” of intimate images, and the term “disclosure” is defined broadly with reference to two sections of the Penal Law that address a wide array of distribution methods.

The bill goes into effect immediately. However, in order to allow law enforcement entities sufficient time to train personnel on this new law, the criminal penalties do not go into effect for 60 days after this bill becomes law.

VI. AMENDMENTS TO INT. NO. 1267

Int. No. 1267 has been amended since it was introduced. The bill now prohibits threats to disclose as well as disclosures themselves. This element was added after the Council heard testimony that the threat to commit revenge porn is often used as a means of control in problematic relationships and is a common component of relationships that include domestic violence. As noted *supra*, domestic abusers often threaten to publicly disclose intimate images if their intimate partner terminates their relationship. This testimony also prompted the Council to insert the civil cause of action, which did not feature in the original version of the bill.

The original version of this bill included a definition of “matters of public interest” in order to ensure that the bill did not abridge any constitutional rights. The current version of the bill contains a similar provision excluding matters of “legitimate public concern” but does not define that term. This is because what constitutes a matter of legitimate public concern evolves as courts continue to evolve in analyzing constitutional issues, and the bill is intended to maintain flexibility in this regard instead of codifying one particular notion of “public interest” that may not apply in the future.

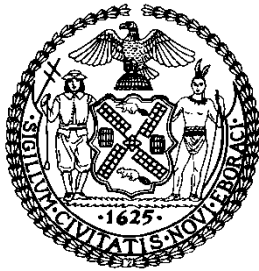
The original version of this bill prohibited any person from distributing an intimate image, whereas the current version only prohibits a “covered recipient,” as described in Section V(A), *supra*. Given the potential of images “going viral” or distributed widely in a rapid fashion on the internet or social networking sites, prohibiting “any person” from distributing the intimate image was too broad. It could potentially hold an individual liable or criminally responsible for sharing an image that he or she was unaware of its source. Therefore, the current version of the bill only addresses “covered recipients.”

Prop. Int. No. 1267-A also features a number of smaller changes from the original bill. The definition of “intimate image” now includes a reference to the intent of the depicted individual regarding its distribution, as well as an exclusion for images taken in a public place, as described in Section V(B), *supra*. The term “disseminate” has been changed to the term “disclosed” and now refers to relevant sections of the Penal Law

⁶⁶ *United States v. Stevens*, 559 U.S. 460 (2010) (internal citations omitted)

instead of independently defining the term. The definition of sexual activity that appears in Prop. Int. No. 1267-A was not included in the original version of the bill, but that version did contain a definition of types of sexual activity. Those terms were changed for the reasons described in Section V(B), *supra*. The original version of the bill prohibited disseminating intimate images “unless” the person depicted “agrees” to the dissemination, whereas the current version contains a more specific and clear requirement that an unlawful distribution must be without the depicted person’s “consent,” as described in Section V(D), *supra*. Both versions of the bill require that the perpetrator intend to cause “economic, emotional, or physical harm” but the new version of the bill requires “substantial emotional harm.” The term “substantial” was inserted to match language used in similar federal legislation, as described in Section V(E), *supra*. While the original version of this bill required a depicted person to be “identifiable,” the bill now includes more language on this issue to ensure that a person can be identifiable either directly or indirectly depending on the circumstances of the disclosure or threat to disclose. The bill now contains exceptions applying to persons who disclose an intimate image in the course of reporting unlawful activities or in the course of a legal proceeding, to law enforcement personnel who disclose an intimate image as part of their lawful duties, and to providers of interactive computer services, none of which featured in the original version of the bill. Finally, the effective date was modified for reasons described *supra*.

(The following is from the text of the Fiscal Impact Statement for Int. No. 1267-A:)



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

PROPOSED INTRO. NO. 1267-A

COMMITTEE: PUBLIC SAFETY

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to prohibiting certain disclosures of intimate images.

SPONSORS: By Council Members Lancman, Garodnick, Richards, Chin, Dromm, Cumbo, Cornegy, Johnson, Crowley, Williams, Menchaca, Salamanca, Maisel, Gibson, Levin, Rodriguez, Rosenthal, Treyger, Cohen, and Espinal Jr.

SUMMARY OF LEGISLATION: Proposed Int. No. 1267-A would create a misdemeanor and a civil cause of action for the non-consensual disclosure of a sexually explicit image. Specifically, an individual may be criminally responsible or civilly liable for the disclosure or threat to disclose an intimate image of a person without their consent, with the intent to cause that person economic, physical, or substantial emotional harm. The misdemeanor would be punishable by up to a year of incarceration, a fine of up to \$1,000, or both. The civil cause of action would permit both monetary and injunctive and declaratory relief, allowing a victim to possibly legally restrain a partner from disclosing such intimate images. This prohibition would not apply to any person reporting unlawful activity, acting in the course of a legal proceeding, to law enforcement personnel in fulfilling their lawful duties, or to matters of legitimate public concern.

Effective Date: This local law would take effect immediately, provided that the portion of the local law establishing criminal penalties would go into effect 60 days after it becomes law.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	Full Fiscal Impact FY19
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: Although the legislation contemplates the imposition of civil penalties, it is anticipated that there will be full compliance with the local law and therefore there would be no impact on revenues resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: It is anticipated that there would be no impact on expenditures resulting from the enactment of this legislation because the Administration would use existing resources to implement the provisions of the legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCES OF INFORMATION: New York City Police Department
New York City Council Finance Division

ESTIMATE PREPARED BY: Steve Riester, Senior Financial Analyst

ESTIMATE REVIEWED BY: Rebecca Chasan, Counsel, Finance Division
Eisha Wright, Unit Head, Finance Division
Regina Poreda Ryan Deputy Director, Finance Division

LEGISLATIVE HISTORY: This legislation was introduced to the Council as Intro. No. 1267 on September 14, 2016 and was referred to the Committee on Public Safety (Committee). The Committee considered the legislation at a hearing on April 6, 2017, and the legislation was laid over. The legislation was subsequently amended and the amended legislation, Proposed Intro. No. 1267-A, will be considered by the Committee on November 15, 2017. Upon a successful vote by the Committee, Proposed Intro. No. 1267-A will be submitted to the full Council for a vote on November 16, 2017.

DATE PREPARED: November 13, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1267-A:)

Int. No. 1267-A

By Council Members Lancman, Garodnick, Richards, Chin, Dromm, Cumbo, Cornegy, Johnson, Crowley, Williams, Menchaca, Salamanca, Maisel, Gibson, Levin, Rodriguez, Rosenthal, Treyger, Cohen and Espinal.

A Local Law to amend the administrative code of the city of New York, in relation to prohibiting certain disclosures of intimate images

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 10 of the administrative code of the city of New York is amended by adding a new section 10-177 to read as follows:

§ 10-177 Unlawful disclosure of an intimate image.

a. Definitions. As used in this section, the following terms have the following meanings:

Consent. The term “consent” means permission that is knowingly, intelligently and voluntarily given for the particular disclosure at issue.

Covered recipient. The term “covered recipient” means an individual who gains possession of, or access to, an intimate image from a depicted individual, including through the recording of the intimate image.

Depicted individual. The term “depicted individual” means an individual depicted in a photograph, film, videotape, recording or any other reproduction of an image that portrays such individual (i) with fully or partially exposed intimate body parts, (ii) with another individual whose intimate body parts are exposed, as recorded immediately before or after the occurrence of sexual activity between those individuals, or (iii) engaged in sexual activity.

Disclose. The term “disclose” means to disseminate as defined in subdivision 5 of section 250.40 of the penal law, or to publish as defined in subdivision 6 of section 250.40 of the penal law.

Intimate body parts. The term “intimate body parts” means the genitals, pubic area or anus of any person, or the female nipple or areola of a person who is 11 years old or older.

Intimate image. The term “intimate image” means a photograph, film, videotape, recording or any other reproduction of an image of a depicted individual that has been disclosed or threatened to be disclosed in a manner in which, or to a person or audience to whom, the depicted individual intended it would not be disclosed, at the time at which the covered recipient gained possession of, or access to, the intimate image. An intimate image does not include any image taken in a public place as defined in section 240.00 of the penal law, except if, at the time the image was recorded, an individual in the depicted individual’s position would reasonably have believed that no one other than the covered recipient could view the applicable intimate body parts or sexual activity while such body parts were exposed or such activity was occurring.

Sexual activity. The term “sexual activity” means sexual intercourse as defined in subdivision 1 of section 130.00 of the penal law, oral sexual conduct or anal sexual conduct as those terms are defined in subdivision 2 of section 130.00 of the penal law, touching of the sexual or other intimate parts of a person for the purpose of gratifying sexual desire, sexual penetration with any object or the transmission or appearance of semen upon any part of the depicted individual’s body.

b. Unlawful disclosure of an intimate image.

1. It is unlawful for a covered recipient to disclose an intimate image, without the depicted individual’s consent, with the intent to cause economic, physical or substantial emotional harm to such depicted individual, where such depicted individual is or would be identifiable to another individual either from the intimate image or from the circumstances under which such image is disclosed.

2. It is unlawful for a covered recipient to make a threat to violate paragraph 1 of this subdivision, provided that for the purposes of this paragraph a depicted individual shall be considered to be identifiable where the covered recipient states or implies that such person would be so identifiable.

c. Criminal penalty. Any individual who violates subdivision b of this section shall be guilty of a misdemeanor punishable by up to one year in jail, or a fine of up to \$1,000, or both.

d. Civil cause of action.

1. Any individual who suffers harm from a violation of subdivision b of this section shall have a civil cause of action in any court of competent jurisdiction against the individual who violated that subdivision.

2. The defendant may be held liable to the plaintiff for any or all of the following relief:

(a) Compensatory and punitive damages;

(b) Injunctive and declaratory relief;

(c) Attorneys’ fees and costs; and

(d) Such other relief as a court may deem appropriate.

3. This subdivision shall not be construed to require that a criminal charge be brought, or a criminal conviction be obtained, as a condition of bringing a civil action or receiving a civil judgment pursuant to this subdivision.

e. Provisos. The prohibitions contained in subdivision b do not apply if:

1. Such disclosure or threat of disclosure is made in the course of reporting unlawful activity, in the course of a legal proceeding or by law enforcement personnel in the conduct of their authorized duties;

2. Such disclosure is made by a provider of an interactive computer service, as defined in paragraph (2) of subsection (f) of section 230 of title 47 of the United States code, with regard to content provided by another information content provider, as defined in paragraph (3) of such subsection; or

3. Such disclosure or threat of disclosure is made in relation to a matter of legitimate public concern or is otherwise protected by the first amendment of the United States constitution.

§ 2. This local law takes effect immediately, provided that subdivision c of section 10-177 of the administrative code of the city of New York, as added by this local law, takes effect 60 days after it becomes law.

VANESSA L. GIBSON, Chair; VINCENT J. GENTILE, JAMES VACCA, JUMAANE D. WILLIAMS, ROBERT E. CORNEGY, Jr., RAFAEL ESPINAL, Jr., RORY I. LANCMAN, STEVEN MATTEO; Committee on Public Safety, November 15, 2017. *Others Attending: The Public Advocate (Ms. James).*

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

Report of the Committee on Technology

Report for Int. No. 1528-A

Report of the Committee on Technology in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to names of public datasets requested under the freedom of information law.

The Committee on Technology, to which the annexed proposed amended local law was referred on March 16, 2017 (Minutes, page 834), respectfully

REPORTS:

I. INTRODUCTION

On November 15, 2017, the Committee on Technology, chaired by Council Member James Vacca, will hold a hearing for the purposes of conducting a vote on Proposed Int. No. 1528-A and Proposed Int. No. 1707-A. More information on Proposed Int. No. 1528-A can be accessed online at <https://goo.gl/CZQTPt> and more information on Proposed Int. No. 1707-A can be accessed at <https://goo.gl/2W9BEm>.

II. BACKGROUND

Proposed Int. No. 1528-A

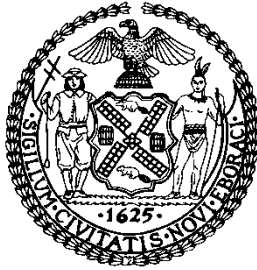
Proposed Int. No. 1528-A would require updates to the agency compliance plan to include the names of public datasets provided in response to Freedom of Information Law requests when such datasets were not included on the Open Data Portal.

Proposed Int. No. 1707-A

Proposed Int. No. 1707-A would extend the time agencies have to complete their open data compliance plan; it would codify agency's existing practice of designating an employee to be the agency's open data

coordinator; and it requires the Department of Information Technology and Telecommunications to collect, analyze, and publish site analytics of the open data portal; and it requires the creation of a master list to track all public data sets scheduled for publication.

(The following is the text of the Fiscal Impact Statement for Int. No. 1528-A:)



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

**PROPOSED INTRO. NO. 1528-A
COMMITTEE: Technology**

TITLE: A Local Law to amend the administrative code of the City of New York, in relation to names of public datasets requested under the freedom of information law

SPONSORS: Council Members Vacca and Kallos

SUMMARY OF LEGISLATION: This bill would require updates to the agency open data compliance plan to include the names of public datasets provided in response to Freedom of Information Law (FOIL) requests, when such datasets were not included on the Open Data Portal.

EFFECTIVE DATE: This local law takes effect immediately.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2018

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	Full Fiscal Impact FY18
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: It is anticipated that there would be no impact on revenues resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: It is anticipated that there would not be an impact on expenditures resulting from the enactment of this legislation, as agencies are expected to use existing resources to comply with the provisions of this law.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCES OF INFORMATION: New York City Council Finance Division
Mayor's Office of Legislative Affairs
New York City Department of Information Technology and Telecommunications

ESTIMATE PREPARED BY: Sebastian Bacchi, Financial Analyst

ESTIMATE REVIEWED BY: Nathaniel Toth, Deputy Director
John Russell, Unit Head
Eric Bernstein, Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the Council as Intro. No. 1528 on March 16, 2017 and was referred to the Committee on Technology (Committee). The Committee heard the legislation on September 20, 2017, and the legislation was laid over. The legislation was subsequently amended, and the amended legislation, Proposed Intro. No. 1528-A will be considered by the Committee on November 15, 2017. Upon a successful vote by the Committee, Proposed Intro. No. 1528-A will be submitted to the full Council for a vote on November 16, 2017.

DATE PREPARED: November 13, 2017.

(For text of Int. Nos. 1707-A and its Fiscal Impact Statements, please see the Report of the Committee on Technology for Int. Nos. 1707-A, respectively, printed in these Minutes; for text of Int. No. 1528-A, please see below)

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1528-A:)

Int. No. 1528-A

By Council Members Vacca, Kallos, Menchaca and Cohen.

A Local Law to amend the administrative code of the city of New York, in relation to names of public datasets requested under the freedom of information law

Be it enacted by the Council as follows:

Section 1. Subdivision f of Section 23-502 of the administrative code of the city of New York, as added by local law number 7 for the year 2016, is amended to read as follows:

f. Agencies shall review responses to freedom of information law requests that include the release of data to determine if such responses consist of or include public data sets that have not yet been included on the single web portal or the inclusion of which on the single web portal is not provided for in the compliance plan prepared pursuant to section 23-506. Each agency shall disclose in the update to such compliance plan the total number, since the last update, of such agency's freedom of information law responses that included the release of data, the total number of such responses determined to consist of or include a public data set that had not yet been included on the single web portal *and the name of such public data set, where applicable*, and the total number of such responses that resulted in voluntarily disclosed information being made accessible through the single web portal.

§ 2. This local law takes effect immediately.

JAMES VACCA, *Chairperson*; ANNABEL PALMA, DAVID G. GREENFIELD, BARRY S. GRODENCHIK, JOSEPH C. BORELLI; Committee on Technology, November 15, 2017.

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

Report for Int. No. 1707-A

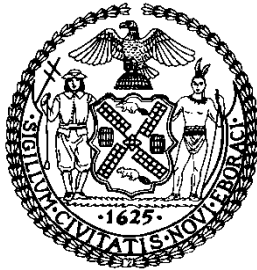
Report of the Committee on Technology in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to amending open data standards.

The Committee on Technology, to which the annexed proposed amended local law was referred on September 7, 2017 (Minutes, page 3161), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Technology for Int. No. 1707-A printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 1707-A:



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

PROPOSED INTRO. NO. 1707-A

COMMITTEE: Technology

TITLE: A Local Law to amend the administrative code of the City of New York, in relation to amending open data standards. **SPONSORS:** Council Members Vacca, Rosenthal, and Kallos (by request of the Manhattan Borough President)

SUMMARY OF LEGISLATION: This bill would make several changes to the Open Data Law. These changes include: 1) an elimination of the restrictions on the use of data published on the Open Data Portal; 2) a requirement that the Department of Information Technology and Telecommunications (DoITT) review the technical standards manual and report to the Mayor and the Council on this review; 3) an extension of the deadline by which DoITT must submit its annual compliance plan from July to September; 4) a codification of each agency's existing practice of designating an employee to be the open data coordinator; 5) a requirement that DoITT collect, analyze, and publish site analytics to the open data portal; and 6) a requirement that DoITT provide and update in real-time (no later than September 15, 2018) certain information on each data set classified as a public data set, including their scheduled publication data and status of compliance with the Open Data Law.

EFFECTIVE DATE: This local law takes effect immediately.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2018

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	Full Fiscal Impact FY18
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: It is anticipated that there would be no impact on revenues resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: It is anticipated that there would not be an impact on expenditures resulting from the enactment of this legislation, as DoITT is expected to utilize existing resources to comply with the provisions of this law.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCES OF INFORMATION: New York City Council Finance Division
Mayor's Office of Legislative Affairs
New York City Department of Information Technology and Telecommunications

ESTIMATE PREPARED BY: Sebastian Bacchi, Financial Analyst

ESTIMATE REVIEWED BY: Nathaniel Toth, Deputy Director
John Russell, Unit Head
Eric Bernstein, Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the Council as Intro. No. 1707 on August 24, 2017 and was referred to the Committee on Technology (Committee). The Committee heard the legislation on September 20, 2017, and the legislation was laid over. The legislation was subsequently amended, and the amended legislation, Proposed Intro. No. 1707-A will be considered by the Committee on November 15, 2017. Upon a successful vote by the Committee, Proposed Intro. No. 1707-A will be submitted to the full Council for a vote on November 16, 2017.

DATE PREPARED: November 13, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1707-A:)

Int. No. 1707-A

By Council Members Vacca, Rosenthal, Kallos, Menchaca and Cohen (by request of the Manhattan Borough President)

A Local Law to amend the administrative code of the city of New York, in relation to amending open data standards

Be it enacted by the Council as follows:

Section 1. Subdivision d of section 23-502 of the administrative code of the city of New York, as added by local law number 11 for the year 2012, is amended to read as follows:

d. Such public data sets shall be made available without any [registration requirement, license requirement or] restrictions on their use provided that the department may require a third party providing to the public any public data set, or application utilizing such data set, to explicitly identify the source and version of the public data set, and a description of any modifications made to such public data set. [Registration requirements, license requirements, or restrictions] *Restrictions* as used in this section shall not include measures required to ensure access to public data sets, to protect the single web site housing public data sets from unlawful abuse or attempts to damage or impair use of the web site, or to analyze the types of data being used to improve service delivery.

§ 2. Section 23-505 of the administrative code of the city of New York, as amended by local law number 108 for the year 2015, is amended to add a new subdivision e to read as follows:

e. Every two years, the department shall review the technical standards manual and electronically submit to the mayor and the speaker of the council a report of this review, including any updates pursuant to the compliance plan required under 23-506. The department shall establish a method through which the public may comment on the technical standards manual.

§ 3. Subdivision c of section 23-506 of the administrative code of the city of New York, as added by local law number 11 for the year 2012, is amended to read as follows:

c. No later than [July] *September* fifteen, [2014] 2018, and every [July] *September* fifteen thereafter, the department shall submit and post on the web portal an update of the compliance plan to the mayor and the council until all public data sets have been made available through a single web portal in compliance with this chapter. Such update shall include the specific measures undertaken to make public data sets available on the single web portal since the immediately preceding update, specific measures that will be undertaken prior to the next update, an update to the list of public data sets, if necessary, any changes to the prioritization of public data sets and an update to the timeline for the inclusion of data sets on the single web portal, if necessary. If a public data set cannot be made available on the single web portal on or before December 31, 2018, the update shall state the reasons why it cannot and, to the extent practicable, the date by which the agency believes that such public data set will be available on the single web portal.

§ 4. The administrative code of the city of New York is amended by adding a new section 23-507 to read as follows:

§ 23-507 Agency open data coordinator. The head of each agency shall designate an employee of such agency to serve as the open data coordinator for such agency. Such coordinator shall be responsible for ensuring that such agency complies with the requirements of this chapter and for receiving and responding to feedback from the public regarding such agency's public data sets.

§ 5. The administrative code of the city of New York is amended by adding a new section 23-508 to read as follows:

§ 23-508 Web portal site analytics. The department shall collect, analyze and publish data on how users interact with the portal established pursuant to section 23-502. Such data shall include, but need not be limited to, number of page views, number of unique users and the location from which a user accesses such portal. Location shall not refer to any user's internet protocol address and it shall not include the user's personally identifying information.

§ 6. The administrative code of the city of New York is amended by adding a new section 23-509 to read as follows:

§ 23-509 Status of all public data sets. No later than September fifteen, 2018, the department shall provide, and update in real-time, the following information on each data set classified as a public data set on or after March 7, 2012:

- (1) Each scheduled publication date;*
- (2) If such data set has been published, the date of such publication, the date of the most recent update to such data set, and the current location of the data set;*
- (3) Status of compliance with subdivision c of section 23-502 of this chapter;*
- (4) Status of compliance with subdivision c and subdivision d of section 23-505 of this chapter;*
- (5) Whether the data set is automated; and*
- (6) Whether the data set feasibly can be automated.*

§ 7. This local law takes effect immediately.

JAMES VACCA, *Chairperson*; ANNABEL PALMA, DAVID G. GREENFIELD, BARRY S. GRODENCHIK, JOSEPH C. BORELLI; Committee on Technology, November 15, 2017.

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

Report of the Committee on Transportation

Report for Int. No. 1116-A

Report of the Committee on Transportation in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to mapping motor vehicle related injuries and fatalities.

The Committee on Transportation, to which the annexed proposed amended local law was referred on March 9, 2016 (Minutes, page 640), respectfully

REPORTS:

INTRODUCTION

On November 15, 2017, the Committee on Transportation, chaired by Council Member Ydanis Rodriguez, will hold a hearing on Proposed Int. No. 1116-A, a Local Law in relation to mapping motor vehicle related injuries and fatalities, Proposed Int. No. 1257-A, a Local Law in relation to requiring an annual school safety implementation report, and providing for the repeal of such report, and Proposed Int. No. 1463-A, a Local Law in relation to establishing a program to provide public notification of hit-and-run incidents, which may be known as the Jean Paul "DJ Jinx Paul" Guerrero Hit and Run Alert System Act. This is the second hearing on these items. A hearing was held on Int. No. 1116 and Int. No. 1257 on January 26, 2017 and a hearing was held on Int. No. 1463 on May 2, 2017. At those hearings, the Committee heard testimony from the New York City Department of Transportation ("DOT"), the New York City Police Department ("NYPD") and other interested stakeholders.

BACKGROUND

In January 2014, Mayor Bill de Blasio announced that his Administration would commit to a "Vision Zero" initiative aimed at eliminating traffic fatalities by 2024, especially those involving pedestrians and cyclists, from the City's streets¹ Vision Zero seeks to achieve its goals in a number of ways, including street redesigns and roadway enhancements, more effective enforcement strategies, regulatory and legislative changes, robust public education and awareness, and safety improvements to the City's vehicle fleet.²

Vision Zero is made possible by the coordination of multiple City agencies who meet regularly as part of the Vision Zero Task Force to implement the goals set forth in the Vision Zero Action Plan and other initiatives as they develop. The Task Force includes DOT, NYPD, the Taxi and Limousine Commission (TLC), the Department of Citywide Administrative Services (DCAS), the Department of Health and Mental Hygiene (DOHMH), the Law Department, the Department for the Aging (DFTA), and the Office of Management and Budget (OMB).³ The Vision Zero Action Plan lays out goals for each agency; notably, DOT is responsible for street design and the NYPD is responsible for enforcement.

¹ N.Y.C. Vision Zero Action Plan of 2014, *available at*: <http://www.nyc.gov/html/visionzero/assets/downloads/pdf/nyc-vision-zero-action-plan.pdf>

² *Id.*

³ N.Y.C. Mayor's Management Report 2016 *available at*: http://www1.nyc.gov/assets/operations/downloads/pdf/mmr2016/2016_mmr.pdf

Pedestrians account for 56 percent of all traffic fatalities, with children and seniors being the most vulnerable populations.⁴ New Yorkers over 65 years of age make up 13 percent of the population and account for 33 percent of traffic fatalities.⁵ Children under the age of 14 are most likely to die from an injury sustained after being struck by a vehicle.⁶ In fact, 53 percent of collisions are the result of driver error, including inattention, failure to yield, and speeding, and 30 percent are the result of pedestrian error. The City has focused on reducing excessive speeding, specifically related to drunk and reckless driving.

Traffic fatalities include pedestrian, bicyclists, motor vehicle operators and passengers. The chart below was released by Mayor de Blasio's Office in January, 2017. While overall traffic fatalities are decreasing from year to year, the number of pedestrian fatalities increased from 139 in 2015 to 144 in 2016. The number of cyclist deaths increased from 14 in 2015 to 18 in 2016.

NYC TRAFFIC FATALITIES (2013-16)

	Peds	Cyclists	Motorcyclists	Motor Vehicle Occupants	Total
2016	144	18	19	48	229
2015	139	14	22	59	234
2014	140	20	37	61	258
2013	184	12	42	61	299

Mayor's Press Office 2016 Press Release⁷

Although injury statistics can better reveal trends because they provide a larger sample size that is less prone to randomness, according to the City, reliable injury figures take more than a year to process due to coordination with State agencies. However, preliminary data shows that nearly 14,000 pedestrians and cyclists were injured in 2016, a decrease from the 14,800 pedestrian and cyclist injuries in 2015.⁸ The number of pedestrian and cyclist injuries has decreased over the years, as there were 15,000 pedestrians and cyclists injured in crashes in 2014, and over 16,000 pedestrians and cyclists injured in 2013.⁹ In 2016, approximately 40,000 motorists were injured in traffic crashes, compared to 38,000 in 2015, and 36,000 in 2014.

The Mayor's Management Report from Fiscal Year 2016 discusses the various improvements DOT has made in an effort to make streets safer. The report mentions the focus the agency has on implementing designs that simplify complex intersections, discourage speeding, provide bicycle lanes, make pedestrians and cyclists more visible, and shorten pedestrian crossing distances at high-crash Vision Zero priority locations.¹⁰

DOT:

- Completed 57 street improvement projects at high crash locations;¹¹
- Completed the construction of 395 speed humps;
- Activated 648 leading pedestrian signals; and
- Installed 47 accessible pedestrian signals (APS)

The Administration's Vision Zero Two Year Report examined the progress the City made toward achieving its street safety goals during the second year of the initiative. The report summarizes data from 2015.¹² The report discusses the Administration's continued efforts in street redesign; the City built 58 miles of

⁴ Action Plan, supra note 1.

⁵ *Id.*

⁶ *Id.*

⁷ Mayor de Blasio Announces 2016 Saw Fewest Fatalities Ever on New York City Streets. January 11, 2017 Available at: <http://www1.nyc.gov/office-of-the-mayor/news/013-17/vision-zero-mayor-de-blasio-2016-saw-fewest-fatalities-ever-new-york-city-streets#/0>

⁸ Vision Zero View Pedestrian and Cyclist Injury Data, last accessed January 20, 2017.

⁹ Vision Zero View, Pedestrian and Cyclist Injuries, accessed on January 20, 2017

¹⁰ N.Y.C 2016 Mayor's Management Report, supra note 3 at 20

¹¹ *Id.* at 20

¹² Vision Zero Year Two Report, supra note 7

bike network improvements and enhancements, including 12.4 miles of protected bike lanes. Bike lanes encourage new bike riders and when there are more cyclists on the road it can enhance their safety.

In 2015, DOT and NYPD released five Borough Pedestrian Safety Action Plans that analyzed data about pedestrian fatalities and serious injuries within each borough in order to identify dangerous intersections and areas. These plans identify “priority corridors” and “priority intersections” in each borough—intersections and corridors with the highest rates of severe pedestrian injuries and fatalities.¹³ To compile the Action Plans, DOT and NYPD conducted 28 town hall meetings and workshops and took suggestions through the online Vision Zero Public Input Map.¹⁴ This accelerated the process by which DOT was able to implement street redesigns, because they could target their projects according to data in the Borough Action Plans.

In 2015, DOT completed 60 corridor and intersection safety projects and priority locations and 80 safety projects citywide, which was a 67% increase in the pace of project completion over the five years prior to Vision Zero. DOT completed the first phase of one of its largest projects in the shortest amount of time when it added protected bike lanes to calm traffic along Queens Boulevard.¹⁵

The report discusses further street safety improvements including the use of Leading Pedestrian Intervals (LPIs), which was one of the key initiatives identified in the Borough Pedestrian Safety Action Plans.¹⁶ LPIs give the pedestrian a head start while crossing the street before vehicles are able to make turns across the crosswalk. DOT set a goal of installing LPIs at every feasible school crosswalk on a priority corridor and at every feasible Priority Intersection by the end of 2017. In 2015, DOT installed 417 LPIs for a citywide total of 700.¹⁷

Reporting and Enforcement

On the enforcement side, NYPD reports an increased focus on traffic violations such as speeding and failure to yield, which contribute to pedestrian fatalities. In 2015, the NYPD’s specialized Collision Investigation Squad (CIS), which is responsible for investigating collisions that result in a fatality or critical injury, responded to 430 crash scenes, leading to 96 findings of criminality.¹⁸

In fiscal year 2016, the NYPD issued 139,043 speeding summonses and 40,657 failure to yield to pedestrian summonses.¹⁹ This is an increase in 10 percent and 12 percent respectively.²⁰ In August 2014, the NYPD began enforcing the Right of Way Law, which creates criminal and civil penalties for careless motorists who fail to yield to pedestrians and cyclists with the right-of-way, including making it a misdemeanor in cases of physical injury.²¹ In fiscal year 2016, the NYPD issued 927 violations to drivers who struck a pedestrian or cyclist who had the right of way, and made 45 arrests for these violations.²² The NYPD purchased 90 additional LIDAR speed detection guns, bringing the total to 481, to enforce speeding violations.²³ As of December 31, 2016, DOT should have completed its target of purchasing all 505 LIDAR guns. DOT also completed the installation and activation of speed cameras in the maximum number of school zones allowed by state law in September 2015; speeding violations at locations with fixed speed cameras have tended to decline by about 50 percent.²⁴

In November 2016, the NYPD made its collision-tracking program known as TrafficStat available to the public.²⁵ A user can search traffic data by patrol borough or precinct by comparing the current week, month and year to last year’s traffic data. Users can search for collisions, injuries, fatalities and can also narrow their

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ N.Y.C Mayor’s Management Report (MMR) 2016, *supra note 3 at 20*

²⁰ *Id.*

²¹ Local Law 29 of 2014

²² N.Y.C MMR, *supra note 3 at 20*

²³ *Id.*

²⁴ *Id.*

²⁵ “City Hall Puts NYPD’s TrafficStat Crash Mapping Tool Online” Streetsblog NYC, November 29, 2016, available at: <http://nyc.streetsblog.org/2016/11/29/city-hall-puts-nypds-trafficstat-crash-mapping-tool-online/>

search by filtering for time of day, hour or even collision type that provides the user with statistics on the cause of the collision, such as “following too closely” or “failing to yield”. Prior to TrafficStat, the online Vision Zero View was primary source of public crash data, but it has limitations related to specific data and recent figures. NYC Open Data includes certain specific data, but it does not include a map function.²⁶

Street Safety Near Schools

DOT, through its School Safety Engineering Program (SSEP),²⁷ studied the crash history of areas surrounding 1,471 elementary and middle schools in the city. Of the 1,471 schools, DOT selected 135 to receive priority short-term traffic safety improvements such as new vehicle and pedestrian traffic signals, speed bumps, speed boards (speed detecting radar device attached to an LED sign that tells motorists how fast they are currently driving), new parking regulations, and high visibility crosswalks.²⁸

Upon the completion of the short-term improvements, DOT identified a second round of 135 priority schools and began working with the New York City Department of Design and Construction (DDC) to design and implement long-term traffic safety improvements.²⁹ These improvements include new roadway construction, curb extensions, median construction, and sidewalk and curb realignment at an additional 61 elementary and middle schools.³⁰

Hit-and-Runs

Incidents of drivers leaving the scene of a traffic collision, also referred to as a “hit- and-run,” has been an ongoing public safety issue despite efforts made by New York State and New York City to deter them. The NYPD’s Collision Investigation Squad investigates traffic crashes that result in death or critical injury. According to the NYPD, there were 11 hit-and-run incidents in the first quarter of 2017, 6 of which led to an arrest.³¹ Furthermore, from late December 2016 through the early days of 2017, there was an alarming streak of traffic fatalities. According to press accounts, drivers killed seven pedestrians in 8 days and in four of these instances, the driver left the scene.³²

In Fiscal Year 2016, there was a total of 44,865 hit-and-runs and 510 arrests (see chart below).³³ Thirty-eight of these incidents resulted in the death of a pedestrian but only 13 arrests were made, and 22 incidents resulted in serious injuries but only 14 arrests were made.³⁴

²⁶ Id.

²⁷ See *Id.* (The School Safety Engineering Program was the name NYC DOT used prior to adopting Safe Routes to School. The two programs are substantially similar.)

²⁸ See *Id.*

²⁹ See *Id.*

³⁰ See *Id.*; There may be some overlap between the 61 schools here and the 135 priority school discussed above

³¹ NYPD, First Quarter Report of 2017.Steps Taken to Investigate Collisions Involving Critical Injury Where Driver Left Scene Without Reporting,” available at: http://www.nyc.gov/html/nypd/downloads/pdf/traffic_data/1-qtr-2017-leaving-the-scene.pdf. Pursuant to N.Y.C.L.L 5 of 2014.

³² Aaron, Brad. Streetsblog USA, “Brutal Holiday Season on NYC Streets –Drivers Killed 7 Pedestrians in 8 Days” (January 3, 2017), available at: <http://nyc.streetsblog.org/2017/01/03/brutal-holiday-season-on-nyc-streets-drivers-killed-6-pedestrians-in-8-days/>

³³ NYPD. Fiscal Year 2016 Annual Report Leaving the Scene. Pursuant to N.Y.C . LL 5 of 2016, available at: http://www.nyc.gov/html/nypd/downloads/pdf/traffic_data/leaving_scene-fy-2016nycc.pdf

³⁴ Id.

Total Hit-and-Run Incidents (Fiscal Year 2016)

	Complaints	Arrests	N.O.V.
Death	38	13	0
Serious Injury	22	14	0
Personal Injury	5006	423	0
Property Damage Only	39799	58	0

According to the AAA Foundation for Traffic Safety, there is little research conducted on why drivers leave the scene of an incident, but since so few drivers are caught, collecting data is difficult.³⁵ Transportation Alternatives indicated in a report released in 2016 that when drivers believe they are likely to face consequences for unsafe actions they change their behavior.³⁶

City and State Legislation on Hit-and-Runs

Under New York State law, any driver who knows or should know that they have caused property damage or personal injury with their vehicle is required to remain at the scene in order to provide the property's owner or the injured party with their insurance and personal contact information.³⁷ In the case of property damage, if the owner is not present at the time of the incident, the driver must go to the nearest police station or officer as soon as they are physically able to report the incident and provide them with all required information.³⁸ If a person was injured, a driver must also report the incident to law enforcement and provide such information to a police officer.³⁹ Failure to remain on the scene and report in the event of property damage is deemed a traffic infraction under State law, punishable by a fine of up to \$250 and up to 15 days imprisonment.⁴⁰ Hit-and-runs causing personal injury can result in criminal charges ranging from a class A misdemeanor and a fine of up to \$1,000, to a class E felony and a fine of up to \$2,500.⁴¹ However, if the incident causes death, a driver leaving the scene can be charged with a class D felony, which is punishable by up to seven years imprisonment and a fine of up to \$5,000.⁴² Drivers convicted of leaving the scene of an incident where a personal injury occurred will have their license revoked.⁴³ Moreover, as the criminal penalties for leaving the scene of an incident are lower than that of penalties for driving while intoxicated or impaired, they may provide an incentive for some drivers to flee following an incident.⁴⁴ For example, a driver who leaves the scene after causing personal injury likely only faces a class A misdemeanor with a maximum penalty of one year imprisonment, but if they remained on the scene and were found to be intoxicated or impaired, could be charged with a class E felony and face four years imprisonment.⁴⁵ Additionally, a driver convicted of vehicular manslaughter faces a class D

³⁵ Cohn, Meredith. Baltimore Sun. "Hit-and-Run Drivers not uncommon, but not well understood." (February 6, 2015), available at: <http://www.baltimoresun.com/health/bs-hs-hit-and-run-20150205-story.html>

³⁶ Transportation Alternatives Report: "Death, Danger, and Ignoring the Data: How the NYPD is Getting Vision Zero Wrong." (July 2016), available at:

https://www.transalt.org/sites/default/files/news/reports/2016/Death_Danger_and_Ignoring_the_Data_How_the_NYPD_is_Getting_Vision_Zero_Wrong_2.pdf

³⁷ N.Y. Vehicle and Traffic Law §§ 600(1) and (2)

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.* at § 600(1)(b).

⁴¹ *Id.* at § 600(2)(c).

⁴² *Id.*

⁴³ *Id.* § 510.

⁴⁴ N.Y. Vehicle and Traffic Law § 1192

⁴⁵ N.Y. Vehicle and Traffic Law § 1193.

or C felony, while the maximum penalty for leaving the scene of an incident resulting in a death is only a class D felony.⁴⁶

The State Legislature attempted to remedy some of these concerns in 2005 by making it a class D felony for a person to leave the scene of a crash resulting in a death. The State Legislature also increased the penalty for those who leave the scene when personal injury results from a B misdemeanor to an A misdemeanor, but did not amend the burden of proof required in prosecuting such cases.⁴⁷

This session, the Council has passed several pieces of legislation directly related to hit-and-runs. In January 2014, the Council overrode the veto of former Mayor Michael Bloomberg, when the Council passed Local Law 5 of 2014, which required that the NYPD report quarterly on hit-and-runs beginning in the third quarter of 2015.⁴⁸ Each report must contain the number of hit-and-run incidents resulting in critical injury, the number of such cases closed, and the number of incidents closed without an arrest being made.⁴⁹ Additionally, the NYPD is required to provide the Speaker of the Council with a brief summary of steps taken to investigate hit-and-runs.⁵⁰ The City Council further expanded upon Local Law 5 of 2014, when the Council passed and the Mayor signed Local Law 5 of 2016, which requires that NYPD include in their quarterly report the number of notices of violation issued pursuant to section 19-191 of the Administrative Code (which relates to the civil penalties discussed below) as a result of such incidents. The law requires the NYPD to annually report on the number of complaints for leaving the scene of an incident that involved property damage, personal injury, or death and the number of arrests for incidents resulting in death and injury.

In September of 2014, the Council also passed legislation imposing civil penalties on hit-and-run drivers, in addition to criminal penalties imposed under State law.⁵¹ As the burden of proof required in an administrative proceeding in order to impose a civil penalty—generally, a preponderance of evidence—is a lesser standard than is required in a criminal matter, it is arguably less difficult to impose warranted penalties under this law than to successfully bring charges under State law. More recently, the Council passed and the Mayor signed, Local Law of 4 of 2016 increasing the civil penalties for leaving the scene of incident for repeat offenders.⁵² The law requires that repeat offenders be subject to pay a civil penalty of up to \$1,000 if property damage results from the incident; \$2,000-\$5,000 if a person is injured; \$10,000-\$15,000 if there is a serious injury; and \$15,000-\$20,000 if death results.⁵³ Local Law 4 of 2016 also raised the maximum penalty for a first offense involving property damage to \$1,000 and the penalty for a first offense resulting in death from \$5,000-\$10,000 to \$10,000-\$15,000.⁵⁴ As of the end of Fiscal Year 2016, zero notices of violation (N.O.V.) imposing these civil penalties had been issued.

Hit-and-Run Alert Systems

Several U.S. cities and states have passed legislation creating hit-and-run alert systems and rewards. Denver and Aurora, Colorado both created citywide hit-and-run alerts in 2012. According to local news reports, in the two years after the alert systems were initiated, 17 alerts resulted in 13 arrests.⁵⁵ Following the success of the alert system in Aurora and Denver, in December 2014, the State of Colorado became the first state to pass a statewide alert system, called the Medina Alert named after a 21-year old hit-and-run victim,

⁴⁶ N.Y. Penal Law §§ 125.12 and 125.13.

⁴⁷ L.2005, c. 49, § 1, eff. May 24, 2005.

⁴⁸ N.Y.C. Local Law 5 of 2014, available at: <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=1444192&GUID=3C1FC4B3-5683-4D7E-B175-4670E2A589C9&Options=Advanced&Search=>.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ N.Y.C. Local Law 50 of 2014, available at: <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=1805832&GUID=58457ECB-6873-414B-B947-3D745E0CA78B&Options=Advanced&Search=>.

⁵² N.Y.C. Local Law 4 of 2016, available at: <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=2103613&GUID=80B60905-B7DD-4B9F-906C-0EE05563E4E2&Options=Advanced&Search=>.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ Associated Press. Denver Post. “*Roadside Hit and Run Alerts become Law in Colorado*” (March 25, 2014), available at: <http://www.denverpost.com/2014/03/25/roadside-hit-and-run-alerts-become-law-in-colorado/>

Jose Medina.⁵⁶ Los Angeles also created a citywide hit-and-run alert system referred to as the “Yellow-Alert” system.⁵⁷ Following Los Angeles, in September of 2015, the State of California created a statewide “Yellow-Alert” that displays the make, model and license plate number of cars that left the scene of a collision on digital freeway and road signs.⁵⁸

In February of 2017, New York State Senator Marisol Alcantara and Assembly Member Carmen De La Rosa introduced legislation that would create a similar statewide “Yellow Alert” hit-and-run notification system in New York.⁵⁹

ANALYSIS OF PROPOSED INT. NO. 1116-A

Section one of Proposed Int. No. 1116-A would add a new section 19-198 to Subchapter 3 of Chapter 1 of Title 19 of the Code, which would codify, with some modifications, the existing Vision Zero View portal, requiring the Commissioner of Transportation to publish on the DOT’s website a map showing the approximate locations of motor vehicle related injuries and fatalities in the City such that the data can be disaggregated by year, month, and time of day of the occurrence, if known. The map would also display the speed limit of each street in the City. The Commissioner would also be required to publish summaries of recent design improvement made to city streets for the purpose of enhancing motorist, passenger, cyclist or pedestrian safety.

Section two of the bill states that the local law would take effect on July 31, 2018.

ANALYSIS OF PROPOSED INT. NO. 1257-A

Section one of Proposed Int. No. 1257-A would add a new section 19-199 to Subchapter 3 of Chapter 1 of Title 19 of the Code, requiring the DOT to develop, by March 30, 2018 and every two years thereafter until March 30, 2024, strategies for enhancing safety within a half-mile radius of a minimum of 50 schools, including traffic calming treatments and traffic control signals and to post on its website and submit to the Speaker of the Council and the Mayor, a report describing the said strategies and their implementation status. The DOT would be required to select and prioritize strategies and criteria relating to locations in each borough that have the highest density of pedestrian fatalities and severe injuries.

Section two of the bill states that the local law would take effect immediately and would be deemed repealed after the posting and submission of the report due on March 30, 2024.

ANALYSIS OF PROPOSED INT. NO. 1463-A

Section one of Proposed Int. No. 1463-A would add a new Chapter 9, containing new sections 10-901 and 10-902, to Title 10 of the Code and would create a Hit-and-Run Alert notification program to notify the public of hit-and-run incidents for the purpose of assisting law enforcement with identifying a perpetrator who has fled the scene of an incident.

Section 10-901, entitled “Definitions” defines the terms “administering agency,” “hit-and-run,” and “serious physical injury.”

Section 10-902, entitled “Hit-and-run alert system” would require the administering agency to establish a hit-and-run alert system that would provide rapid notification to the public when a hit-and-run involving serious physical injury or death occurs. The administering agency would also be required to develop a protocol

⁵⁶ Colorado Bureau of Investigation: Department of Public Safety. Media Alert, *available at*: <https://www.colorado.gov/pacific/cbi/medina-alert>

⁵⁷ Trihn, Jean. LAist. “*Hit-and-Run Drivers Will Soon Be on Blast with New Yellow Alerts*” (September 29, 2015), *available at*: http://laist.com/2015/09/29/yellow_alert_hit_and_runs.php?_ga=1.257066827.1329423098.1462285814 and Linton, Joe. L.A. Streetsblog. “*L.A. City Council Gets Tough on Hit-and-Run Crimes: New Rewards and Alerts*” (February 10, 2015), *available at*: <http://la.streetsblog.org/2015/02/10/la-city-council-gets-tough-on-hit-and-run-crimes-new-rewards-and-alerts/>.

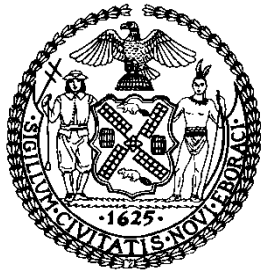
⁵⁸ California State Assembly Bill No.8 of 2015.

⁵⁹ N.Y.S Assembly Bill No. A.5261-A and N.Y.S Senate Bill No. S.4257-A. Available at: http://nyassembly.gov/leg/?default_fld=&leg_video=&bn=A05261&term=2017&Summary=Y

for notifying medical facilities, media and other community organizations when a hit-and-run alert is issued. Finally, the administering agency would be required to issue the hit-and-run alert within 24 hours of the determination that a hit-and-run involving serious physical injury or death has occurred, provided that the perpetrator involved in such incident has not been located and that sufficient information about the perpetrator of the hit-and-run incident or the subject motor vehicle is available to the administering agency and it may use its discretion to refrain from issuing such an alert if it would be inappropriate to do so in the circumstances or would compromise a law enforcement investigation. The hit-and-run alert would be issued by any appropriate means, including email notification, text messages, telephone calls, television or radio broadcasts and would be repeated within the discretion of the administering agency until the perpetrator involved has been located or until the administering agency determines it is no longer appropriate to issue such an alert.

Section two of the bill states that the local law would take effect ninety days after it becomes law.

(The following is the text of the Fiscal Impact Statement for Int. No. 1116-A:)



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT
PROPOSED INTRO. NO: Int. 1116-A
COMMITTEE: Transportation**

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to mapping motor vehicle related injuries and fatalities

SPONSORS: Council Members Van Bramer, Rodriguez, Constantinides, Cohen, Chin, Menchaca, Kallos and Borelli

SUMMARY OF LEGISLATION: Proposed Intro. 1116-A would codify the Vision Zero Portal in the Administrative Code and require the Department of Transportation (DOT) to publish on its website a map showing the approximate locations of motor vehicle related injuries and fatalities in the city in a manner that allows users to disaggregate crash data by year, month, and time of day of occurrence. Additionally, this bill would require the DOT to publish summaries of recent design improvements made by the Department to city streets for the purpose of enhancing motorist, passenger, cyclist or pedestrian safety. The Department would be required to update all such published information under this legislation at least once a month.

EFFECTIVE DATE: This local law would take effect on July 31, 2018, except that the Commissioner of Transportation, in consultation with the Police Commissioner, shall take any measures necessary for the implementation of this local law before its effective date.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2020

FISCAL IMPACT STATEMENT:

	Effective FY19	FY Succeeding Effective FY20	Full Fiscal Impact FY20
Revenues	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: It is anticipated that there would be no impact on revenues resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: It is estimated that this legislation would have no impact on expenditures since existing resources would be used by the Department to comply with this local law.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division
Mayor's Office of Legislative Affairs

ESTIMATE PREPARED BY: John Basile, Financial Analyst

ESTIMATE REVIEWED BY: Nathan Toth, Deputy Director
Chima Obichere, Unit Head
Eric Bernstein, Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the full Council as Intro. No. 1116 on March 9, 2016 and was referred to the Committee on Transportation (Committee). A joint hearing was held by the Committee on Transportation with the Committee on Public Safety on January 26, 2017, and the legislation was laid over. The legislation was subsequently amended and the amended version, Proposed Intro. No. 1116-A, will be considered by the Committee on November 15, 2017. Upon a successful vote by the Committee, Proposed Intro. No. 1116-A will be submitted to the full Council for a vote on November 16, 2017.

DATE PREPARED: November 13, 2017.

(For text of Int. Nos. 1257-A and 1463-A and their Fiscal Impact Statements, please see the Report of the Committee on Transportation for Int. Nos. 1257-A and 1463-A, respectively, printed in these Minutes; for text of Int. No. 1116-A, please see below)

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1116-A:)

Int. No. 1116-A

By Council Members Van Bramer, Rodriguez, Constantinides, Cohen, Chin, Menchaca, Kallos, Vacca, Garodnick, Richards and Borelli.

A Local Law to amend the administrative code of the city of New York, in relation to mapping motor vehicle related injuries and fatalities

Be it enacted by the Council as follows:

Section 1. Subchapter 3 of chapter 1 of title 19 of the administrative code of the city of New York is amended by adding a new section 19-198 to read as follows:

§ 19-198 *Reporting on motor vehicle related injuries and fatalities.* a. For purposes of this section, the following terms have the following meanings:

Fatality. The term "fatality" means a personal injury categorized as a "K" fatality by the New York state department of motor vehicles.

Injury. The term "injury" means a personal injury categorized as an "A", "B" or "C" injury by the New York state department of motor vehicles.

b. The commissioner shall publish on the department's website a map showing the approximate locations of motor vehicle related injuries and fatalities in the city. Such map shall allow users to disaggregate crashes that resulted in an injury or fatality by year, month and time of day of occurrence if known. Times of day shall be aggregated into eight three-hour windows, commencing with a window from midnight to 3:00 a.m. and concluding with a window from 9:00 p.m. to midnight. Such map shall display the speed limit of each street in the city.

c. The commissioner shall publish on the department's website summaries of recent design improvements that the department has made to the streets of the city for the purpose of enhancing motorist, passenger, cyclist or pedestrian safety.

d. The commissioner shall update all information published pursuant to this section not less than once a month.

§ 2. This local law takes effect July 31, 2018, except that the commissioner of transportation, in consultation with the police commissioner, shall take any measures necessary for the implementation of this local law before its effective date.

YDANIS A. RODRIGUEZ, *Chairperson*; DANIEL R. GARODNICK, JAMES VACCA, MARGARET S. CHIN, STEPHEN T. LEVIN, JAMES G. VAN BRAMER, DAVID G. GREENFIELD, COSTA G. CONSTANTINIDES, CARLOS MENCHACA, DONOVAN J. RICHARDS; Committee on Transportation, November 15, 2017.

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

Report for Int. No. 1257-A

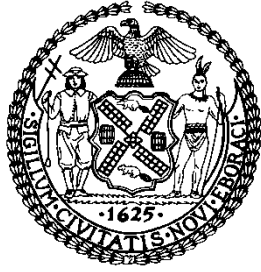
Report of the Committee on Transportation in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to requiring an annual school safety implementation report, and providing for the repeal of such report.

The Committee on Transportation, to which the annexed proposed amended local law was referred on August 16, 2016 (Minutes, page 2776), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Transportation for Int. No. 1116-A printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 1257-A:



THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT
PROPOSED INTRO. NO: Int. 1257-A
COMMITTEE: Transportation

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to requiring an annual school safety implementation report, and providing for the repeal of such report

SPONSORS: Council Members Van Bramer, Cohen, Richards, Chin, Vallone, Menchaca, Salamanca, Gibson, Deutsch, Koo, Mealy, Koslowitz, Kallos, Ulrich and Borelli

SUMMARY OF LEGISLATION: Proposed Intro. No. 1257-A would require that, by March 30, 2018 and every two years thereafter until March 30, 2024, the Department of Transportation (the Department) develop strategies for enhancing pedestrian and traffic safety within a half mile radius of a minimum of 50 City schools and, where practicable, more than 50 schools. These strategies include traffic calming treatments and traffic control signals. Additionally, the Department would be required to provide a report on a biennial basis describing such strategies, including information on whether the safety strategies have been implemented and their implementation status, as applicable.

EFFECTIVE DATE: This local law would take effect immediately, and is deemed repealed after the posting and submission of the report due March 30, 2024 as required by the local law.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	Full Fiscal Impact FY19
Revenues	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: It is anticipated that there would be no impact on revenues resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: It is estimated that this legislation would have no impact on expenditures since existing resources would be used by the Department to comply with this local law.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division
 Mayor’s Office of Legislative Affairs

ESTIMATE PREPARED BY: John Basile, Financial Analyst

ESTIMATE REVIEWED BY: Nathan Toth, Deputy Director
 Chima Obichere, Unit Head
 Eric Bernstein, Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the full Council as Intro. No. 1257 on August 16, 2016 and was referred to the Committee on Transportation (Committee). A joint hearing was held by the Committee with the Committee on Public Safety on January 26, 2017, and the legislation was laid over. The legislation was subsequently amended and the amended version, Proposed Intro. No. 1257-A, will be considered by the Committee on November 15, 2017. Upon a successful vote by the Committee, Proposed Intro. No. 1257-A will be submitted to the full Council for a vote on November 16, 2017.

DATE PREPARED: November 9, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1257-A:)

Int. No. 1257-A

By Council Members Van Bramer, Cohen, Richards, Chin, Vallone, Menchaca, Salamanca, Gibson, Deutsch, Koo, Mealy, Koslowitz, Kallos, Garodnick, Constantinides, Miller, Ulrich and Borelli.

A Local Law to amend the administrative code of the city of New York, in relation to requiring an annual school safety implementation report, and providing for the repeal of such report

Be it enacted by the Council as follows:

Section 1. Subchapter 3 of chapter 1 of title 19 of the administrative code of the city of New York is amended by adding a new section 19-199 to read as follows:

§ 19-199 School safety implementation report. a. Definitions. As used in this section, the following terms have the following meanings:

School. The term “school” means any buildings, grounds, facilities, property or portion thereof in which educational instruction is provided on a full-time basis to at least 250 students at or below the twelfth grade level.

Traffic-calming treatment. The term “traffic-calming treatment” means any treatment, including, but not limited to, street redesigns, speed humps, and raised crosswalks, installed on a street and intended to slow, reduce or alter motor vehicle traffic to enhance safety for pedestrians and bicyclists.

Traffic control signal. The term “traffic control signal” means any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

b. By March 30, 2018 and every two years thereafter until March 30, 2024 the department shall develop strategies for enhancing safety within a half mile radius of a minimum of 50 schools and, where practicable, more than 50 schools, including traffic calming treatments and traffic control signals, and post on its website and submit to the speaker of the council and the mayor, a report describing such strategies, including information on whether any such strategies were implemented, and the status of such implementation, as applicable.

c. The strategies referenced in subdivision b of this section shall be selected by the department and prioritized according to criteria which may include but are not limited to those locations within each borough that have the highest density of pedestrian fatalities and severe injuries, as referenced in plans developed by the department in 2015 regarding pedestrian safety.

§ 2. This local law takes effect immediately, and is deemed repealed after the posting and submission of the report due March 30, 2024, required by subdivision b of section 19-199 of the administrative code of the city of New York, as added by section one of this local law.

YDANIS A. RODRIGUEZ, *Chairperson*; DANIEL R. GARODNICK, JAMES VACCA, MARGARET S. CHIN, STEPHEN T. LEVIN, JAMES G. VAN BRAMER, DAVID G. GREENFIELD, COSTA G. CONSTANTINIDES, CARLOS MENCHACA, DONOVAN J. RICHARDS; Committee on Transportation, November 15, 2017.

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

Report for Int. No. 1463-A

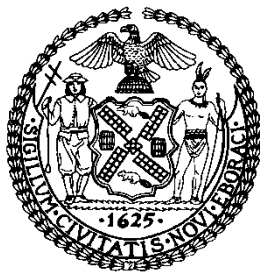
Report of the Committee on Transportation in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to establishing a program to provide public notification of hit-and-run incidents

The Committee on Transportation, to which the annexed proposed amended local law was referred on February 1, 2017 (Minutes, page 347), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Transportation for Int. No. 1116-A printed in these Minutes)

The following is the text of Int. No. 1463-A:



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT
PROPOSED INTRO. NO: Int. 1463-A
COMMITTEE: Transportation**

TITLE: A local law to amend the administrative code of the city of New York, in relation to establishing a program to provide public notification of hit-and-run incidents

SPONSORS: Council Members Rodriguez, Gibson, Van Bramer, Levine, Dromm, Torres, Lancman, Deutsch, Gentile, Vallone, Richards, Espinal, Koslowitz, Salamanca, Rosenthal, Koo, Maisel, Kallos, and Constantinides

SUMMARY OF LEGISLATION: Proposed Intro. 1463-A would require the City to establish an alert system to notify the public and media of hit-and-run incidents resulting in serious injuries or fatalities, in order to assist in the identification of the responsible perpetrators. The administering agency would be required to develop a protocol for notification to certain organizations when a hit-and-run alert is issued. Finally, the administering agency, to be designated by the mayor, would issue alerts within 24 hours of the determination that an incident occurred by any appropriate means, including, but not limited to, email notifications, text messages, telephone

calls, television broadcasts, or radio broadcasts. The alert may be issued repeatedly, within the discretion of the administering agency, until the perpetrator involved has been located or it is no longer appropriate to issue an alert.

EFFECTIVE DATE: This local law would take effect 90 days after it becomes law.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	Full Fiscal Impact FY19
Revenues	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: It is anticipated that there would be no impact on revenues resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: It is estimated that this legislation would have no impact on expenditures since existing resources would be used by the administering agency to comply with this local law.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division
Mayor's Office of Legislative Affairs

ESTIMATE PREPARED BY: John Basile, Financial Analyst

ESTIMATE REVIEWED BY: Nathan Toth, Deputy Director
Chima Obichere, Unit Head
Eric Bernstein, Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the full Council as Intro. No. 1463 on February 1, 2017 and was referred to the Committee on Transportation (Committee). A joint hearing was held by the Committee with the Committee on Public Safety on May 2, 2017, and the legislation was laid over. The legislation was subsequently amended and the amended version, Proposed Intro. No. 1463-A, will be considered by the Committee on November 15, 2017. Upon a successful vote by the Committee, Proposed Intro. No. 1463-A will be submitted to the full Council for a vote on November 16, 2017.

DATE PREPARED: November 9, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1463-A:)

Int. No. 1463-A

By Council Members Rodriguez, Gibson, Van Bramer, Levine, Dromm, Torres, Lancman, Deutsch, Gentile, Vallone, Richards, Espinal, Koslowitz, Salamanca, Rosenthal, Koo, Maisel, Kallos, Constantinides, Menchaca, Cohen, Garodnick, Chin and Miller.

A Local Law to amend the administrative code of the city of New York, in relation to establishing a program to provide public notification of hit-and-run incidents

Be it enacted by the Council as follows:

Section 1. Title 10 of the administrative code of the city of New York is amended by adding a new chapter 9 to read as follows:

*CHAPTER 9
HIT-AND-RUN ALERT*

§ 10-901 Definitions. As used in this chapter, the following terms have the following meanings:

Administering agency. The term "administering agency" means any city agency, office, department, division, bureau or institution of government, the expenses of which are paid in whole or in part from the city treasury, as the mayor designates.

Hit-and-run. The term "hit-and-run" means when any driver who, knowing or having cause to know that serious physical injury has been caused to another person due to an incident involving the driver's motor vehicle, leaves the scene of an incident without complying with all of the provisions of paragraph a of subdivision two of section six hundred of the vehicle and traffic law.

Serious physical injury. The term "serious physical injury" has the same meaning as in section 10.00 of the penal law.

§ 10-902 Hit-and-run alert system. a. The administering agency shall establish a hit-and-run alert system, pursuant to the provisions of this section, to provide rapid notification to the public when a hit-and-run involving serious physical injury or death occurs.

b. The administering agency shall develop a protocol for notification to organizations such as media organizations, medical facilities and community organizations when a hit-and-run alert is issued.

c. The administering agency shall issue a hit-and-run alert within 24 hours of the determination that a hit-and-run involving serious physical injury or death occurred, provided the perpetrator involved in such incident has not been located, and that sufficient information about the perpetrator of the hit-and-run incident or the subject motor vehicle is available to the administering agency. The administering agency may use its discretion to refrain from issuing such alert if the alert is inappropriate under the circumstances or would compromise a law enforcement investigation. The hit-and-run alert may be issued by any appropriate means, including, but not limited to, email notifications, text messages, telephone calls, television broadcasts, or radio broadcasts. The hit-and-run alert may be issued at repeated intervals within the discretion of the administering agency until the perpetrator involved in such hit-and-run has been located or until the administering agency determines that the issuance of a hit-and-run alert is no longer appropriate.

§ 2. This local law takes effect 90 days after it becomes law.

YDANIS A. RODRIGUEZ, *Chairperson*; DANIEL R. GARODNICK, JAMES VACCA, MARGARET S. CHIN, STEPHEN T. LEVIN, JAMES G. VAN BRAMER, DAVID G. GREENFIELD, COSTA G. CONSTANTINIDES, CARLOS MENCHACA, DONOVAN J. RICHARDS; Committee on Transportation, November 15, 2017.

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

GENERAL ORDER CALENDAR**Resolution approving various persons Commissioners of Deeds**

By the Presiding Officer –

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

Approved New Applicants

<i>Name</i>	<i>Address</i>	<i>District #</i>
Christina Martinez	1694 Madison Avenue #12G New York, N.Y. 10029	9
Janice Valdez	1421 Grand Concourse #4E Bronx, N.Y. 10452	14
Marisol Morales	2676 Grand Concourse #5M Bronx, N.Y. 10458	15
Lesly A. Miranda	120 Pugsley Avenue Bronx, N.Y. 10473	18
Maurice Crawford	93-29 50th Avenue Queens, N.Y. 11373	25
Michael D. Starace	133-09 115th Avenue South Ozone Park, N.Y. 11420	28
Rachel A. Martin	85-10 Forest Parkway #1 Queens, N.Y. 11421	30
Sharon Cardona	832b Ocean Avenue Brooklyn, N.Y. 11226	40
Kerby Joseph Noel	942 East 87th Street Brooklyn, N.Y. 11236	46
Savina Sandy DeMestrio- Giordano	26 Cortelyou Avenue Staten Island, N.Y. 10312	51

Approved Reapplicants

<i>Name</i>	<i>Address</i>	<i>District #</i>
Mildred Aviles	170 Avenue D #11A New York, N.Y. 10009	2
Wanda Larregui	216 West 62nd Street #2D New York, N.Y. 10023	6
Rowan P. Kirchheimer	600 West 111th Street #10C New York, N.Y. 10025	7
Evelyn Negron	528 East 139th Street Bronx, N.Y. 10454	8
Nellie Rivera	310 East 115th Street #7C New York, N.Y. 10029	8
Susan Pollard	31-33 West 129th Street #4 New York, N.Y. 10027	9
Donald Feldman	500 Kappock Street #4L Bronx, N.Y. 10463	11
Arlene Cruickshank	100 Darrow Place #8D Bronx, N.Y. 10475	12
Betsy Santiago	120 DeKruif Place #6H Bronx, N.Y. 10475	12
Belkis Perez	250 Hosmer Avenue #2FL Bronx, N.Y. 10465	13
Glenn Trammell, Jr.	2160 Matthews Avenue #5K Bronx, N.Y. 10462	13
Margarita Vega	1893-95 Andrews Avenue #4H Bronx, N.Y. 10453	14
Brigitte Gutierrez	2171 Clinton Avenue Bronx, N.Y. 10457	15
Beverly Scriven	880-3 Colgate Avenue #3H Bronx, N.Y. 10473	17
Subeh Roushom Ety	1470 East Avenue #5D Bronx, N.Y. 10462	18
Idalis Feliciano	1269 Havemeyer Avenue #1R Bronx, N.Y. 10462	18

Evelyn Sanchez	1332 Metropolitan Avenue #5E Bronx, N.Y. 10462	18
Carole E. Stallworth	1040 Rosedale Avenue #1H Bronx, N.Y. 10472	18
Margaret G. Toro	220-55 46th Avenue #8G Bayside, N.Y. 11361	19
Theresa A. Finegan	158-10 Sanford Avenue #2C Flushing, N.Y. 11358	20
Roger A. Davila	104-41 Roosevelt Avenue #1R Corona, N.Y. 11368	21
Natella Aminov	150-24 78th Road Flushing, N.Y. 11367	24
Stacy D. Thompson	155-20 Jewel Avenue #2C Flushing, N.Y. 11367	24
Roger E. Hammer	90-11 Northern Blvd #607 Queens, N.Y. 11372	25
Dora S. Paredes	34-41 77th Street #321 Jackson Heights, N.Y. 11372	25
Clarissa R. Ingram	117-28 202nd Street St. Albans, N.Y. 11412	27
Toni Wright	109-25 173rd Street Jamaica, N.Y. 11433	27
Astrid Beza	230-07 141st Avenue Laurelton, N.Y. 11413	31
Bracha Ribowsky	809 Empire Avenue Queens, N.Y. 11691	31
Ronald S. Dalo	94-41 109th Avenue Ozone Park, N.Y. 11417	32
Andrea Greenberg	86-10 151st Avenue Howard Beach, N.Y. 11414	32
Richard Resk	158-04 86th Street Howard Beach, N.Y. 11414	32
Lew M. Simon	134 Beach 122nd Street Rockaway Park, N.Y. 11694	32

Wilfredo Negron	541 Wythe Avenue #8H Bronx, N.Y. 11249	33
Massiel Perez	325 Roebling Street #7D Brooklyn, N.Y. 11211	33
Drew H. Elliott	1 Rockwell Place #1F Brooklyn, N.Y. 11217	35
Kisha A. Nesbeth	572 Prospect Place #3B Brooklyn, N.Y. 11238	35
Carmen M. Tones	54 Underhill Avenue #2 Brooklyn, N.Y. 11238	35
Jose Martinez	4814 4th Avenue #105 Brooklyn, N.Y. 11220	38
Jahanies Martinez	4014 16th Avenue #3 Brooklyn, N.Y. 11218	39
Michael Augustus Blugh	2114 Albemarle Terrace Brooklyn, N.Y. 11226	40
Oladipo Fayemi	1035 Clarkson Avenue #2B Brooklyn, N.Y. 11212	41
Sister Maria Theresa Amato, Op.	132 Battery Avenue Brooklyn, N.Y. 11209	43
Robert E. Reale	8901 Shore Road Brooklyn, N.Y. 11209	43
Joseph J. Williams	8105 4th Avenue #6C Brooklyn, N.Y. 11209	43
Marie Ichart	1430 42nd Street Brooklyn, N.Y. 11219	44
Joann Atkinson	1160 Ocean Avenue #3D Brooklyn, N.Y. 11230	45
Cheryl Phillip	510 East 46th Street Brooklyn, N.Y. 11203	45
MaryAnn L. Vigliante	7502 Avenue V Brooklyn, N.Y. 11234	46
Wayne Butler	3743 Nautilus Avenue Brooklyn, N.Y. 11224	47

	4056	November 16, 2017
Frank J. Ferrara	2920 Avenue R Brooklyn, N.Y. 11229	48
Phyllis Franchini	385 Adelaide Avenue Staten Island, N.Y. 10306	50
Margaret Maravolo	335 Woodbine Avenue Staten Island, N.Y. 10314	50
Silvana Tredici	230 Carteret Street Staten Island, N.Y. 10307	51

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

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

- (1) **Int 508-A -** Online facilitation of voter registration.
- (2) **Int 657-A -** Documentation of annual water tank inspections and the reporting of such inspections.
- (3) **Int 1116-A -** Mapping motor vehicle related injuries and fatalities.
- (4) **Int 1257-A -** Annual school safety implementation report and providing for the repeal of such report.
- (5) **Int 1267-A -** Prohibiting certain disclosures of intimate images.
- (6) **Int 1463-A -** Program to provide public notification of hit-and-run incidents.
- (7) **Int 1528-A -** Names of public datasets requested under the freedom of information law.

- (8) **Int 1557-A -** Establishing a chief privacy officer and policies and protocols.
- (9) **Int 1579-A -** Access to non-public areas of city property and property of human services contractors and subcontractors.
- (10) **Int 1588-A -** Identifying information.
- (11) **Int 1637-A -** Creating a long-term energy plan and establishing energy policy advisory subcommittee.
- (12) **Int 1673-A -** Notice of the recording of certain real estate instruments.
- (13) **Int 1692-A -** Technical corrections to local law 116 for the year 2017
- (14) **Int 1707-A -** Amending open data standards.
- (15) **Int 1722-A -** Providing notice to class two property owners.
- (16) **Int 1763 -** Eligible funds exemption for veterans.
- (17) **Res 1713 -** Amending and restating the resolution computing and certifying base percentage, current percentage and current base proportion of each class of real property.
- (18) **Res 1714 -** Resolution amending and restating the resolution computing and certifying adjusted base proportion of each class of real property.
- (19) **Res 1715 -** The support of the government of the city of New York and the counties therein and for the payment of indebtedness thereof, for the fiscal year.
- (20) **L.U. 784 & Res 1720 -** App. C **170464 ZSM** Manhattan, Community District 2, Council District 1.

- (21) **L.U. 789 & Res 1721 -** App. **20175287 TCM** Manhattan, Community Board 1, Council District 1.
- (22) **L.U. 791 & Res 1722 -** App. **C 170352 PQK** Brooklyn, Community District 4, Council District 34.
- (23) **L.U. 792 & Res 1723 -** App. **C 170454 ZMK** Brooklyn Community District 16, Council District 41.
- (24) **L.U. 793 & Res 1724 -** App. **N 170455 ZRK** Brooklyn, Community District 16, Council District 41.
- (25) **L.U. 794 & Res 1725 -** App. **C 170456 HAK** Brooklyn, Community District 16, Council District 41.
- (26) **L.U. 795 & Res 1726 -** App. **C 170457 ZSK** Brooklyn, Community District 16, Council District 41.
- (27) **L.U. 813 & Res 1718 -** Forest Hills MHA, Block 2159, Lot 2; Queens, Community District No. 6, Council District No. 29.
- (28) **L.U. 814 & Res 1719 -** Creston Parkview, Block 3175, Lot 26; the Bronx, Community District No. 7, Council District No. 14.
- (29) **L.U. 815 & Res 1727 -** App. **N 180108 HKQ** Queens, Community Board 4, Council District 25.
- (30) **Resolution approving various persons Commissioners of Deeds.**

The Public Advocate (Ms. James) put the question whether the Council would agree with and adopt such reports which were decided in the **affirmative** by the following vote:

Affirmative – Borelli, Cabrera, Chin, Cohen, Constantinides, Cornegy, Crowley, Deutsch, Dromm, Espinal, Eugene, Ferreras-Copeland, Garodnick, Gentile, Gibson, Greenfield, Grodenchik, Johnson, Kallos, King, Koo, Koslowitz, Lancman, Lander, Levin, Levine, Maisel, Mealy, Menchaca, Mendez, Miller, Palma, Perkins, Reynoso, Richards, Rodriguez, Rose, Rosenthal, Torres, Treyger, Ulrich, Vacca, Vallone, Williams, Matteo, Van Bramer, and the Speaker (Council Member Mark-Viverito) – **47**.

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

The following was the vote recorded for **Int. No. 1557-A, 1579-A, and 1588-A:**

Affirmative – Cabrera, Chin, Cohen, Constantinides, Cornegy, Crowley, Deutsch, Dromm, Espinal, Eugene, Ferreras-Copeland, Garodnick, Gentile, Gibson, Greenfield, Grodenchik, Johnson, Kallos, King, Koo, Koslowitz, Lancman, Lander, Levin, Levine, Maisel, Mealy, Menchaca, Mendez, Miller, Palma, Perkins, Reynoso, Richards, Rodriguez, Rose, Rosenthal, Torres, Treyger, Vacca, Vallone, Williams, Van Bramer, and the Speaker (Council Member Mark-Viverito) – **44**.

Negative – Borelli, Ulrich, and Matteo – **3**.

The following was the vote recorded for **Preconsidered Res. Nos. 1713, 1714, and 1715:**

Affirmative – Cabrera, Chin, Cohen, Constantinides, Cornegy, Crowley, Deutsch, Dromm, Espinal, Eugene, Ferreras-Copeland, Garodnick, Gentile, Gibson, Greenfield, Grodenchik, Johnson, Kallos, King, Koo, Koslowitz, Lancman, Lander, Levin, Levine, Maisel, Mealy, Menchaca, Mendez, Palma, Perkins, Reynoso, Richards, Rodriguez, Rosenthal, Torres, Treyger, Vallone, Williams, Van Bramer, and the Speaker (Council Member Mark-Viverito) – **41**.

Negative – Borelli, Miller, Rose, Ulrich, Vacca, and Matteo – **6**.

*The following Introductions were sent to the Mayor for his consideration and approval:
Int. Nos. 508-A, 657-A, 1116-A, 1257-A, 1267-A, 1463-A, 1528-A, 1557-A, 1579-A, 1588-A, 1637-A, 1673-A,
1692-A, 1707-A, 1722-A, and Preconsidered Int. No. 1763.*

RESOLUTIONS

Presented for voice-vote

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

Report for voice-vote item Res. No. 1421

Report of the Committee on Finance in favor of a Resolution calling upon the New York State Legislature to pass and the Governor to sign legislation to require all real property conveyances to be memorialized by a deed recorded in the office of the clerk of the county where such real property is situated.

The Committee on Finance, to which the annexed resolution was referred on March 16, 2017 (Minutes, page 836), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Finance for Int. No. 1673-A printed in the Reports of the Standing Committee section of these Minutes)

Accordingly, this Committee recommends its adoption.

(The following is the text of Res. No. 1421:)

Res. No. 1421

Resolution calling upon the New York State Legislature to pass and the Governor to sign legislation to require all real property conveyances to be memorialized by a deed recorded in the office of the clerk of the county where such real property is situated.

By Council Members Vallone, Rosenthal, Cornegy and Kallos.

Whereas, New York State Real Property Law provides that a conveyance of an interest in real property is effective against the whole world when a grantor executes and delivers a deed to the grantee; and

Whereas, New York State Real Property Law also provides that any written instrument conveying an interest in real property may be recorded in the office of the clerk of the county where such real property is situated; and

Whereas, New York State Real Property Law provides that every such conveyance not so recorded is void against any person who subsequently purchases such property in good faith for valuable consideration and whose conveyance is first duly recorded; and

Whereas, In New York City, the Department of Finance oversees the Office of the City Register; and

Whereas, According to the Commissioner of the New York City Department of Finance, Jacques Jiha, it is easy for people to fraudulently record deeds to property they don't own; and

Whereas, New York State Real Property Law requires the Office of the City Register to record any properly filed instrument conveying an interest in real property without inquiring into its authenticity; and

Whereas, According to Commissioner Jiha, people who inherit property and do not record the deeds to their property are often the targets of fraud; and

Whereas, According to the New York Daily News, in order to recover property that has been fraudulently taken by the filing of a false deed, a property owner may expend significant resources on litigation in actions to cancel and discharge fraudulent deeds and liens on the property, and in squatter holdover proceedings to evict and remove the false filer; and

Whereas, The Department of Finance of has established a “Notice of Recorded Document System” to alert registered property owners when documents are recorded without their knowledge and to allow property owners to take steps to limit the harm caused by the recording of fraudulent documents against their property; and

Whereas, In order to receive notices of recorded documents from the Department of Finance, a property owner must first record the deed conveying their interest in such property; and

Whereas, New York State Real Property Law does not currently require conveyances of interests in real property to be recorded; and

Whereas, The New York City Housing Maintenance Code requires all owners of multiple dwellings and all owners of one- and two-family dwellings where neither the owner nor any family member occupies such dwelling to register with the Department of Housing Preservation and Development so that such owners may be contacted in the event of an emergency; and

Whereas, The New York City Housing Maintenance Code also requires all such owners to provide notice to the Department of Housing Preservation and Development whenever such owner transfers title to another person; and

Whereas, The registration requirements of the Housing Maintenance Code do not register an owner of real property with the “Notice of Recorded Document System” maintained by the Department of Finance; and

Whereas, Owners of buildings not subject to the Housing Maintenance Code are not required to register with the City at all; now, therefore be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to pass and the Governor to sign legislation to require all real property conveyances to be memorialized by a deed recorded in the office of the clerk of the county where such real property is situated.

JULISSA FERRERAS-COPELAND, *Chairperson*; YDANIS A. RODRIGUEZ, JAMES G. VAN BRAMER, ROBERT E. CORNEGY, Jr., MARK LEVINE, HELEN K. ROSENTHAL, STEVEN MATTEO; Committee on Finance, November 16, 2017.

Pursuant to Rule 8.50 of the Council, the Public Advocate (Ms. James) called for a voice vote. Hearing no objections, the Public Advocate (Ms. James) declared the Resolution to be adopted.

Adopted unanimously by the Council by voice-vote.

INTRODUCTION AND READING OF BILLS

Int. No. 1760

By Council Member Constantinides.

A Local Law to amend the administrative code of the city of New York, in relation to testing for lead in the soil of public parks and remediation of lead-contaminated soil

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 17 of the administrative code of the city of New York is amended by adding a new section 17-199.6 to read as follows:

§ 17-199.6 *Testing of soil for lead in parks.* a. *For the purposes of this section, the term “state arterial highway” means a route or thoroughfare as described in section 349-f of the highway law.*

b. *The department shall:*

1. *Test for lead in the soil on lands under the jurisdiction of the department of parks and recreation located within 300 feet of a state arterial highway or within 300 feet of one of the bridges or tunnels that crosses over or under a body of water from one of the other four boroughs to Manhattan;*

2. *Convey the results of such tests to the public; and*

3. *Notify the department of parks and recreation.*

c. *The department shall post such results online and shall include:*

1. *Information about the concentration of lead found in the soil;*

2. *Whether such concentration of lead poses a risk of significant lead exposure or lead poisoning to individuals exposed to it;*

3. *General information about any ongoing environmental remediation efforts in parks found to contain lead; and*

4. *Information on how to limit the risk of lead exposure.*

§ 2. Chapter 1 of title 18 of the administrative code of the city of New York is amended by adding a new section 18-154 to read as follows:

§ 18-154 *Remediation of lead-contaminated soil.* a. *Definitions.* *For the purposes of this section, the term “phytoremediation” means the use of plants and associated soil microbes to reduce the concentrations or toxic effects of contaminants in the environment.*

b. *Upon notification by the department of health and mental hygiene that soil on lands under its jurisdiction are contaminated with lead as provided in section 17-199.6, the department shall remediate such lead-contaminated soil using phytoremediation along with any other method the department deems appropriate.*

§ 3. This local law takes effect 90 days after it becomes law.

Referred to the Committee on Health.

Int. No. 1761

By Council Member Constantinides.

A Local Law to amend the administrative code of the city of New York, in relation to the testing of soil for the presence of lead

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 17 of the administrative code of the city of New York is amended by adding a new section 17-199.6 to read as follows:

§ 17-199.6 Testing of soil for lead. a. For the purposes of this section, the following terms have the following meanings:

Manhattan river crossing. The term “Manhattan river crossing” means one of the bridges or tunnels to Manhattan that crosses over or under a body of water.

State arterial highway. The term “state arterial highway” means a route or thoroughfare as described in section 349-f of the highway law.

Tenant. The term “tenant” means a tenant, subtenant, lessee, sublessee, or other person entitled to the possession or to the use or occupancy of any premises.

b. The department shall publish online a map showing property in the city located within 300 feet of a state arterial highway or Manhattan river crossing.

c. Upon request by a property owner of any building or lot of ground in the city located within 300 feet of a state arterial highway or Manhattan river crossing, or by a tenant of such a building, the department shall test the soil located on said property owner’s land for lead and convey the results of such test to said property owner or tenant. Such results shall include:

- 1. Information about the concentration of lead found in the soil;*
- 2. Whether such concentration of lead found in the soil is such that there is a risk of significant lead exposure or lead poisoning to individuals who are exposed to it;*
- 3. Information about applying for the NYC voluntary cleanup program; and*
- 4. General information about environmental remediation of soil that contains lead; and*
- 5. Information on how to limit the risk of lead exposure.*

§ 2. This local law takes effect 90 days after it becomes law.

Referred to the Committee on Health.

Int. No. 1762

By Council Member Dromm.

A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of education and the administration for children’s services to report on educational programming for youth in placement and detention facilities

Be it enacted by the Council as follows:

Section 1. Chapter 9 of title 21 of the administrative code of the city of New York is amended by adding a new section 21-914 to read as follows:

§ 21-914 Placement and detention facility education report. a. Definitions. For the purposes of this section, the following terms have the following meanings:

Adolescent. The term “adolescent” means any youth in the custody of ACS who is 16 or 17 years old.

Assault. The term “assault” means any action taken with intent to cause physical injury to another person.

Child. Notwithstanding section 21-901, the term “child” means any youth in ACS custody who is 15 years old or younger.

Department of education site. The term “department of education site” means (i) any facility operated by the department of education that offers educational programming to youth and that is located on property under the control of the department of education or (ii) any school operated by the department of education that offers educational programming to youth directly on-site in limited secure placement facilities.

Department of education staff. The term “department of education staff” means any employee of the department of education assigned to work in a department of education site.

Educational programming. The term “educational programming” means any educational services that the department of education offers to youth in the custody of ACS.

High school equivalency diploma test. The term “high school equivalency diplomacy test” means any test that the New York state education department offers for the purpose of establishing the equivalent of a high school diploma, including but not limited to a general education development test or the test assessing secondary completion.

Individualized educational plan. The term “individualized educational plan” has the same meaning as is set forth in paragraph (1) of subsection (d) of section 1414 of title 20 of the United States code and any regulations promulgated thereto.

Staff. The term “staff” means ACS staff.

b. The department of education and ACS shall each produce an annual report on educational programming for youth in placement and detention facilities. No later than 90 days after the final day of the 2017-2018 school year and no later than 90 days after each subsequent school year, the department of education and ACS shall post the reports on their respective websites and provide a link in each such report to the report of the other agency.

c. The department of education report shall include, but need not be limited to, the following information, provided that no information shall be reported in a manner that would violate any applicable provision of federal, state or local law relating to the privacy of information respecting youth or that would interfere with law enforcement investigations or otherwise conflict with the interests of law enforcement. If a category contains between 1 and 5 youth, or allows another category to be narrowed to between 1 and 5 youth, the number shall be replaced with a symbol. The youth age as of the final day of school enrollment or attendance will be used to categorize the youth as a child or an adolescent, for the purposes of this reporting. All required information relating to children and adolescents shall be reported separately.

1. The number and percentage of children and adolescents enrolled in educational programming. Such percentage shall be calculated by dividing the number of children and adolescents enrolled in educational programming on the final day of the school year by the respective number of children and adolescents on such date.

2. The number of hours of compulsory educational programming offered to children and adolescents on each school day and the curriculum subject areas included in educational programming.

3. The number of children and adolescents whose educational programming is designed for the regents diploma and the number of children and adolescents whose educational programming is designed for a high school equivalency diploma test.

4. The number of children who completed elementary school program requirements.

5. The number of children who completed middle school program requirements.

6. The number of adolescents who graduated from high school.

7. The number of adolescents to whom a high school equivalency diploma test was administered.

8. The number of adolescents who passed a high school equivalency diploma test.

9. The functional level of adolescents on tests such as the test of basic adult education or similar testing. The functional level may be calculated per the last test administered to the adolescent each school year.

10. The number of youth enrolled in department of education sites, disaggregated by age.

11. The number and percentage of children and adolescents who are enrolled in educational programming for whom the department of education has developed individualized education plans. Such percentage shall be calculated by dividing the number of children and adolescents so enrolled on the final day of the school year by the respective number of children and adolescents on such date.

12. The number of children and adolescents who have individualized educational plans and who are receiving special education services.

13. The number and percentage of children and adolescents enrolled in educational programming whom the department of education identifies as having an English language learner status. Such percentage shall be calculated by dividing the number of children and adolescents so enrolled on the final day of the school year by the respective number of children and adolescents on such date.

14. The number of teachers working at department of education sites, in total and disaggregated by those assigned to teach children and adolescents.

15. *The number of department of education staff other than teachers assigned to work at department of education sites, in total and disaggregated by those working with children and adolescents.*

16. *The average class size for educational programming that the department of education provides to children and adolescents.*

17. *The number of children and adolescents participating in department of education vocational training, the nature of such programming, and the number of children and adolescents who complete such programming.*

18. *The average and median number of credits that children and adolescents enrolled in high school educational programming accumulate. This paragraph only applies to those children and adolescents who are in custody for a sufficient period during the reporting period to have earned credits.*

19. *The average and median rate of attendance in a department of education school for children and adolescents, upon six months after their release from the custody of ACS and upon one year post-release.*

20. *The number of children and adolescents enrolled in physical education at department of education sites.*

21. *The number of unique assaults on department of education staff by youth.*

d. The ACS report shall include, but need not be limited to, the following information, provided that no information shall be reported in a manner that would violate any applicable provision of federal, state or local law relating to the privacy of information respecting youth or that would interfere with law enforcement investigations or otherwise conflict with the interests of law enforcement. If a category contains between 1 and 5 youth, or allows another category to be narrowed to between 1 and 5 youth, the number shall be replaced with a symbol. The youth age as of the incident date will be used to categorize the youth as a child or adolescent, for the purposes of this reporting.

1. The number of youth that ACS prevented from attending educational programming because of a behavioral issue or assault.

2. The number of assaults on staff at a department of education site, in total and disaggregated by whether a child or an adolescent committed such assault.

3. The number of incidents of use of physical restraints at a department of education site, in total and disaggregated by whether such physical restraints were used on a child or an adolescent.

4. The number of incidents of use of mechanical restraints at a department of education site, in total and disaggregated by whether such mechanical restraints were used on a child or an adolescent.

e. The department of education report shall include its plans, if any, to ensure the educational progress of youth released from the custody of ACS.

§ 2. This local law takes effect immediately.

Referred to the Committee on Education.

Preconsidered Int. No. 1763

By Council Members Ferreras-Copeland, Matteo, Ulrich, Kallos and Miller.

A Local Law to amend the administrative code of the city of New York, in relation to the eligible funds exemption for veterans

Be it enacted by the Council as follows:

Section 1. Part 1 of subchapter 2 of chapter 2 of title 11 of the administrative code of the city of New York is amended by adding a new section 11-245.46 to read as follows:

§ 11-245.46 Exemption for veterans; taxes for school purposes exempted. Pursuant to paragraph (3) of subdivision one of section four hundred fifty-eight of the real property tax law, the city hereby provides that the exemption authorized pursuant to such section shall be applicable to taxes for school purposes.

§2. This local law takes effect January 1, 2018.

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

Preconsidered Res. No. 1713

RESOLUTION AMENDING AND RESTATING THE RESOLUTION COMPUTING AND CERTIFYING BASE PERCENTAGE, CURRENT PERCENTAGE AND CURRENT BASE PROPORTION OF EACH CLASS OF REAL PROPERTY FOR FISCAL 2018 TO THE STATE BOARD OF REAL PROPERTY TAX SERVICES PURSUANT TO SECTION 1803-a, REAL PROPERTY TAX LAW.

By Council Member Ferreras-Copeland.

Whereas, On March 10, 2017, the State Board of Real Property Tax Services (the "SBRPTS") certified the final state equalization rate, class ratios and class equalization rates for the City's Fiscal 2018 assessment rolls, required by Article 18, Real Property Tax Law; and

Whereas, Section 1803-a (1), Real Property Tax Law, requires the Council to compute and certify, to the SBRPTS, for each tax levy, the base percentage, the current percentage and the current base proportion of each class of real property in the City subsequent to the date on which the SBRPTS files with the Clerk of the Council a certification setting forth the final state equalization rate, class ratios and class equalization rates for the City's Fiscal 2018 assessment rolls, pursuant to Section 1212, Real Property Tax Law; and

Whereas, On June 6, 2017, the Council adopted a resolution computing and certifying the base percentage, current percentage and current base proportion of each class of real property for Fiscal 2018 to the State Board of Real Property Tax Services pursuant to Section 1803-a, Real Property Tax Law (the "June 6th Resolution"); and

Whereas, The June 6th Resolution reflects a 5.0 percent cap on any increase in the current base proportion for any class of real property, as compared with the previous year's adjusted base proportion; and

Whereas, After the adoption of the June 6th Resolution, Section 1803-a, Real Property Tax Law, was amended to lower the percent of increase in the current base proportion as compared with the previous year's adjusted base proportion to 0 percent;

NOW, THEREFORE, be it resolved by the Council of the City of New York as follows:

Section 1. Computation and Certification of Base Percentages, Current Base Percentages and Current Base Proportions for Fiscal 2018. (a) The Council hereby computes and certifies the base percentage, the current percentage and the current base percentage for the City's Fiscal 2018 assessment rolls as shown on SBRPTS Form RP-6700, attached hereto as Exhibit A and incorporated herein by reference (the "CBP Certificate").

(b) The Clerk of the Council is hereby authorized and directed to execute the CBP Certificate and to file it with the SBRPTS after the date on which the SBRPTS filed with the Clerk of the Council a certification setting forth the final state equalization rate, class ratios and class equalization rates for the City's Fiscal 2018 assessment rolls, pursuant to Section 1212, Real Property Tax Law.

Section 2. Effective Date. This resolution shall take effect immediately.

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

Preconsidered Res. No. 1714

RESOLUTION AMENDING AND RESTATING THE RESOLUTION COMPUTING AND CERTIFYING ADJUSTED BASE PROPORTION OF EACH CLASS OF REAL PROPERTY FOR FISCAL 2018 TO THE STATE BOARD OF REAL PROPERTY TAX SERVICES PURSUANT TO SECTION 1803-a, REAL PROPERTY TAX LAW.

By Council Member Ferreras-Copeland.

Whereas, On May 25, 2017, pursuant to Section 1514 of the Charter of the City of New York, the Commissioner of the Department of Finance delivered to the Council the certified assessment rolls for all real property assessable for taxation in the City in each borough thereof for the fiscal year beginning on July 1, 2017 and ending on June 30, 2018 ("Fiscal 2018"), a certified copy of which is in the Office of the Clerk of the City pursuant to Section 516, Real Property Tax Law (the "Fiscal 2018 Assessment Rolls"); and

Whereas, Section 1803-a (5), Real Property Tax Law, requires the Council subsequent to the filing of the final Fiscal 2018 Assessment Rolls, to adjust current base proportions computed pursuant to the Current Base Proportion Resolution to reflect additions to and removals from the Fiscal 2018 Assessment Rolls as described therein (each such current base proportion so adjusted to be known as an "Adjusted Base Proportion"); and

Whereas, Within five (5) days upon determination of the Adjusted Base Proportions, Section 1803-a (6), Real Property Tax Law, requires the Council to certify, to the State Board of Real Property Tax Services ("SBRPTS"), the Adjusted Base Proportion for each class of real property applicable to the City, the assessed value of all property in each class of real property, the net change in assessed value for each class on the Fiscal 2018 Assessment Rolls resulting from the additions to or removals from the Fiscal 2018 Assessment Rolls as described above, and the net change in assessed value for each class on the Fiscal 2018 Assessment Rolls resulting from changes other than those referred to above; and

Whereas, On June 6, 2017, the Council adopted a resolution in which the Council computed and certified the current base proportion, the current percentage and the base percentage of each class of real property in the City for Fiscal 2018 pursuant to Section 1803-a (1), Real Property Tax Law (the "Current Base Proportion Resolution"); and

Whereas, After the June 6th adoption of the Current Base Proportion Resolution, Section 1803-a, Real Property Tax Law, was to lower the percent of increase in the current base proportion as compared with the previous year's adjusted base proportion to 0 percent; and

Whereas, Pursuant to the amendment to Section 1803-a, Real Property Tax Law, on November 16, 2017, the Council adopted a resolution computing and certifying the base percentage, current percentage and current base proportion of each class of real property for Fiscal 2018 to the SBRPTS pursuant to Section 1803-a, Real Property Tax Law;

NOW, THEREFORE, be it resolved by The Council of The City of New York as follows:

Section 1. Computation and Certification of Adjusted Base Proportions and Related Information for Fiscal 2018. (a) The Council hereby computes and certifies the Adjusted Base Proportion for each class of real property applicable to the City, the assessed value of all property in each class of real property, the net change in assessed value for each class on the Fiscal 2018 Assessment Rolls resulting from the additions to or removals from the Fiscal 2018 Assessment Rolls as described in Section 1803-a (5), Real Property Tax Law, and the net change in assessed value for each class on the Fiscal 2018 Assessment Rolls resulting from changes other than those described in Section 1803-a (5), Real Property Tax Law, as shown on SBRPTS Form RP-6702, attached hereto as Exhibit A and incorporated herein by reference (the "ABP Certificate").

(b) The Clerk of the Council is hereby authorized and directed to execute the ABP Certificate and to file it with the SBRPTS no later than five (5) days after the date hereof.

Section 2. Effective Date. This resolution shall take effect immediately.

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

[Preconsidered Res. No. 1715](#)

RESOLUTION AMENDING AND RESTATING THE RESOLUTION TO PROVIDE THE AMOUNTS NECESSARY FOR THE SUPPORT OF THE GOVERNMENT OF THE CITY OF NEW YORK AND THE COUNTIES THEREIN AND FOR THE PAYMENT OF INDEBTEDNESS THEREOF, FOR THE FISCAL YEAR BEGINNING ON JULY 1, 2017 AND ENDING ON JUNE 30, 2018 BY THE LEVY OF TAXES ON THE REAL PROPERTY IN THE CITY OF NEW YORK, IN ACCORDANCE WITH THE PROVISIONS OF THE CONSTITUTION OF THE STATE OF NEW YORK, THE REAL PROPERTY TAX LAW AND THE NEW YORK CITY CHARTER.

By Council Member Ferreras-Copeland.

For text of the resolution, please see the Search Legislation option at the New York City Council www.council.nyc.gov website and refer to the Res 1715-2017 file:

<http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3211454&GUID=F7CFCEE7-53B2-4E1D-8A8C-7700D365CDF3&Options=ID%7cText%7c&Search=res+1715>

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

Preconsidered Int. No. 1764

By Council Member Grodenchik.

A Local Law to amend the administrative code of the city of New York, in relation to J-51 benefit eligibility

Be it enacted by the Council as follows:

Section 1. Paragraph b of subdivision i-1 of section 11-243 of the administrative code, as added by local law number 48 for the year 2013, is amended to read as follows:

(b) With respect to conversions, alterations or improvements completed on or after December thirty-first, two thousand eleven:

(i) except as otherwise provided in this section with respect to multiple dwellings, buildings and structures owned and operated either by limited-profit housing companies established pursuant to article two of the private housing finance law or redevelopment companies established pursuant to article five of the private housing finance law, or with respect to a group of multiple dwellings that was developed as a planned community and that is owned as two separate condominiums containing a total of ten thousand or more dwelling units, any multiple dwelling, building or structure that is owned as a cooperative or a condominium that has an average assessed value [of thirty thousand dollars or more] per dwelling unit *that exceeds the assessed valuation limitation as provided in clause (iii) of this paragraph* shall only be eligible for such benefits if the alterations or improvements for which such multiple dwelling, building or structure has applied for the benefits pursuant to this section were carried out with substantial governmental assistance, and

(ii) no benefits pursuant to this section shall be granted for the conversion of any non-residential building or structure into a class A multiple dwelling unless such conversion was carried out with substantial governmental assistance[;].

(iii) *For final assessment rolls to be completed prior to two thousand seventeen, the assessed value limitation shall be thirty thousand dollars; for the final assessment roll to be completed in two thousand seventeen, the assessed value limitation shall be thirty-two thousand dollars increased by the cost-of-living adjustment percentage of two thousand seventeen; for final assessment rolls to be completed in each ensuing year, the applicable assessed value limitation, cost-of-living adjustment percentage and applicable increase percentage shall all be advanced by one year, and the assessed valuation limitation shall be the previously applicable assessed value limitation increased by the new cost-of-living adjustment percentage. If there should be a year for which there is no applicable increase percentage due to a general benefit increase as defined by subdivision three of subsection (i) of section four hundred fifteen of title forty-two of the United States code, the applicable increase percentage for purposes of this computation shall be deemed to be the percentage which would have yielded that general benefit increase. For the purposes of this computation, the cost-of-living adjustment percentage of two thousand eighteen shall be equal to the “applicable increase percentage” used by the United States commissioner of social security to determine the monthly social security benefits payable in two thousand seventeen to individuals, as provided by subsection (i) of section four hundred fifteen of title forty-two of the United States code. Notwithstanding anything to the contrary contained herein, the assessed value limitation shall not at any time exceed thirty-five thousand dollars.*

§ 2. This local law takes effect immediately and is retroactive to and deemed to have been in full force and effect as of September 30, 2016.

Referred to the Committee on Housing and Buildings (preconsidered but laid over by the Committee on Housing and Buildings).

Int. No. 1765

By Council Members Levine, Kallos, Rosenthal, Van Bramer, Koslowitz, Johnson, Constantinides, Deutsch, Vacca, Rose, Treyger, Williams, Espinal, Vallone, Garodnick, Richards, Rodriguez, Dromm, Lander, Levin, Gibson, Torres, Barron, Menchaca, Chin, Perkins, Reynoso, Lancman, Cabrera, Cohen, Crowley, Maisel, Ferreras-Copeland, Greenfield and Koo.

A Local Law in relation to requiring the Department of Transportation to implement transit signal priority on at least 10 bus routes per year for the next 4 years

Be it enacted by the Council as follows:

Section 1. Transit signal priority. a. The department of transportation shall identify those city intersections that can provide riders with the greatest benefits through implementation of transit signal priority, and shall to the extent practicable, in cooperation with relevant city and state agencies including the metropolitan transportation authority, implement transit signal priority on at least ten bus routes per year in each of the next four calendar years following the passage of this local law.

b. The department shall post on its website the intersections identified pursuant to this local law and bus routes that receive transit signal priority.

c. If the department is not able to meet the implementation deadlines created by this local law in any given year, it shall promptly submit to the mayor and speaker of the council a memorandum detailing why the target will not be met and identifying remedial steps the department has the authority to take to achieve the implementation timeframe in subsequent years.

§ 2. This local law takes effect immediately and is deemed repealed at the conclusion of the final calendar year during which the requirements of section 1 of this local law are in effect.

Referred to the Committee on Transportation.

Res. No. 1716

Resolution calling on the United Nations Security Council to urge the government of Myanmar to immediately cease hostilities against Rohingya Muslims and permit the safe return of refugees.

By Council Members Miller, the Speaker (Council Member Mark-Viverito), Van Bramer, Constantinides, Lancman, Menchaca, Barron, Koo and Chin.

Whereas, Myanmar, a nation of nearly 57 million people located in Southeast Asia, is in the midst of upheaval that the United Nations (UN) has described as the “world’s fastest growing refugee crisis”; and

Whereas, According to Amnesty International, Myanmar’s military has systematically expelled more than 500,000 Rohingya Muslims (as many as 60 percent of whom are children) between August and September of this year; and

Whereas, The UN recently estimated that the number of Rohingya refugees in Bangladesh would soon exceed 1 million; and

Whereas, Many non-governmental organizations (NGOs) and scholars of ethnic conflict have described Rohingya Muslims, the overwhelming majority of whom live in Myanmar’s northwest, near its border with Bangladesh, as one of the most heavily-persecuted minorities in the world; and

Whereas, Neither the government of Myanmar nor the government of Bangladesh has granted citizenship to the Rohingya, so these conflicting policies leave the Rohingya effectively stateless; and

Whereas, As a consequence, the Rohingya have become refugees, seeking asylum throughout Asia, in countries as distinct as Saudi Arabia, Pakistan, and Malaysia; and

Whereas, United Nations Children’s Fund (UNICEF) recently launched a campaign to raise \$76.1 million to support ongoing humanitarian relief efforts, that will include the provision of 900,000 doses of cholera vaccine as well as protection services and psychosocial support for as many as 180,000 children; and

Whereas, The Rohingya crisis has prompted worldwide condemnation; and

Whereas, The UN High Commissioner for Human Rights described the situation in Myanmar as “a textbook example of ethnic cleansing”; and

Whereas, Similarly, the White House urged Myanmar to “stop the violence and end the displacement of civilians from all communities,” and Great Britain’s Minister of State for Asia and the Pacific called the current situation an “unacceptable tragedy”; and

Whereas, These heinous acts require a robust response from entities around the world; and

Whereas, Targeting a particular ethnic group is contrary to the values that shape New York City; and

Whereas, New York City is home to tens of thousands of people who come from the nations most directly affected by this crisis; and

Whereas, According to the United States Census Bureau, there are roughly 4,100 people who came from Myanmar and approximately 61,000 residents of full or partial Bangladeshi descent living throughout the five boroughs; and

Whereas, The Pew Research Center has found that 3 percent of New York City’s population is Muslim, who come from every continent as well as countries across Europe, Asia, the Middle East, and Africa; and

Whereas, The experience of forced migration is not unique to Rohingya Muslims, as marginalized populations around the world have seen their lives and livelihoods displaced, their land redistributed, and their legal rights jeopardized in times of political and social instability; and

Whereas, Opposition to the expulsion of the Rohingya Muslims sparked recent protests in September and October across the world, from the outside of the UN building in New York to Hong Kong, Australia, and Russia; and

Whereas, As the world’s preeminent intergovernmental organization, the United Nations has a unique role to play in mitigating and eventually stopping this violence; and

Whereas, If the Security Council, which consists of the United States, Russia, China, the United Kingdom, and France, were to adopt a formal resolution urging the cease of hostilities and the safe return of refugees, it would send the strongest possible message of disapproval concerning the situation in Myanmar, and facilitate more robust efforts to end the humanitarian crisis; now, therefore, be it

Resolved, That the Council of the City of New York calls on the United Nations Security Council to urge the government of Myanmar to immediately cease hostilities against Rohingya Muslims and permit the safe return of refugees

Referred to the Committee on Cultural Affairs, Libraries and International Intergroup Relations.

Int. No. 1766

By Council Members Treyger and Palma.

A Local Law to amend the administrative code of the city of New York, in relation to prohibiting sexual contact between police and peace officers and individuals in their custody

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 10 of the administrative code of the city of New York is amended by adding a new section 10-179 to read as follows:

§ 10-179 Sexual contact between police and peace officers and individuals in their custody.

a. Definitions. As used in this section, the following terms have the following meanings:

Custody. The term “custody” has its ordinary meaning and occurs when an individual is not free to leave.

Peace officer. The term “peace officer” has the same meaning as that in section 1.20 of the criminal procedure law.

Police officer. The term “police officer” has the same meaning as that in section 1.20 of the criminal procedure law.

Sexual contact. The term “sexual contact” has the same meaning as that in section 130.00 of the penal law.

b. Unlawful sexual contact between police and peace officers and individuals in their custody.

It is unlawful for a police or peace officer to engage in sexual contact with an individual in custody.

c. Criminal prohibition. The violation of subdivision b is a misdemeanor punishable by up to one year in jail, or a fine of up to \$1,000, or both.

§ 2. This local law takes effect immediately.

Referred to the Committee on Public Safety.

Res. No. 1717

Resolution urging the New York State Legislature to amend the Penal Law Section 130.05 to include individuals in police custody as being categorically incapable of consenting to sexual conduct with a police officer.

By Council Member Treyger.

Whereas, Pursuant to section 130.05 of the New York State Penal Law, individuals in certain custodial situations, such as incarcerated or hospitalized individuals, are incapable of consenting to sexual relations with those placed in charge of their custody; and

Whereas, These laws protect vulnerable individuals from abuse; and

Whereas, New York State law contains no such provisions categorically preventing an individual in police custody from consenting to sexual conduct with a police officer; and

Whereas, The power dynamic between police officers and individuals in their custody is such that genuine consent cannot be provided; and

Whereas, The power dynamic between police officers and individuals in their custody is substantially similar to that between correction officers and inmates and other relationships already addressed in State law, and

Whereas, The lack of a State law to address this issue has already led to the alleged abuse of a person in custody by police officers; and

Whereas, For example, on September 15, 2017, two New York City Police Department detectives, placed an eighteen year old woman in custody and both police officers engaged in sexual conduct with the woman who was handcuffed in the back of their police van; and

Whereas, Both officers claim that the sexual conduct was consensual, and the woman alleges that the officers forced her to engage in sexual conduct in exchange for being released from custody without facing criminal charges; and

Whereas, Consent should not be a defense when an officer is accused of a sex crime by someone in their custody; now, therefore, be it

Resolved, That the Council of the City of New York urges the New York State Legislature to amend the Penal Law Section 130.05 to include individuals in police custody as being categorically incapable of consenting to sexual conduct with a police officer.

Referred to the Committee on Public Safety.

Int. No. 1767

By Council Member Ulrich.

A Local Law to amend the administrative code of the city of New York, in relation to instituting cure periods for certain department of sanitation and department of buildings violations by veterans service organizations

Be it enacted by the Council as follows:

Section 1. Title 16 of the administrative code of the city of New York is amended by adding a new section 16-143 to read as follows:

§ 16-143 Cure periods for certain department violations issued to veterans service organizations. a. Definitions. For the purposes of this section, the term “veterans service organization” means an association, corporation or other entity that qualifies under paragraphs (2), (4), (7), (8), (10), (19) or (23) of subsection (c) of section 501 of the internal revenue code as a tax-exempt organization that has been organized for the benefit of veterans; and that is (i) chartered by congress under part B of subtitle II of title 36 of the United States code, (ii) recognized or approved by the secretary of the federal department of veterans affairs for purposes of preparation, presentation and prosecution of laws administered by such department under section 5902 of title 38 of the United States code and paragraphs (a) and (c) of section 628 of part 14 of title 38 of the code of federal regulations, or (iii) both.

b. The department shall provide a warning period of 120 days during which a veterans service organization may cure a violation issued by the department.

c. After such warning period expires, the veterans service organization may request the department for an extension of time to cure the violation. The organization shall make such a request in a manner and form determined by the department and shall include proof that such organization attempted to cure the violation within the initial warning period of 120 days.

d. The department shall determine by rule which categories of violations qualify for such warning period.

e. The department shall not apply such warning period to any safety-threatening violation.

§ 2. Section 28-202.1 of the administrative code of the city of New York is amended by adding a new item 8 to read as follows:

§ 28-202.1 Civil penalties. Except as otherwise specified in this code or other law, violations of this code, the 1968 building code, the zoning resolution or other laws or rules enforced by the department shall be punishable by civil penalties within the ranges set forth below:

1. For immediately hazardous violations, a civil penalty of not less than one thousand dollars nor more than \$25,000 may be imposed for each violation. In addition to such civil penalty, a separate additional penalty may be imposed of not more than \$1,000 for each day that the violation is not corrected. The commissioner may by rule establish such specified daily penalties.

2. For major violations, a civil penalty of not more than \$10,000 may be imposed for each violation. In addition to such civil penalty, a separate additional penalty may be imposed of not more than \$250 for each month that the violation is not corrected. The commissioner may by rule establish such specified monthly penalties.

3. For lesser violations, a civil penalty of not more than \$500 may be imposed for each violation.

Exceptions:

1. The owner, lessee, occupant, manager or operator of a building affected by a natural or man-made disaster, as determined by the commissioner, shall not be subject to a civil penalty for a violation involving such building if (i) notice of such violation is issued by the department during the 90-day period immediately after such disaster or, in the case of a major natural or man-made disaster as determined by the commissioner, during the six-month period immediately after such disaster, and (ii) such violation is corrected on or before 40 days after such disaster period or such greater amount of time as determined by the commissioner for such violation. The notice of such violation shall state that such violation is subject to this exception and shall set forth the procedure and time period for correcting such violation without incurring a civil penalty. This exception shall not apply to immediately hazardous violations, violations charged as aggravated violations or violations without connection to such disaster, as determined by the department.

2. The owner, lessee, occupant, manager or operator of a building where a violation occurs shall not be subject to a civil penalty for such violation if (i) such violation was connected to a natural or man-made disaster, as determined by the commissioner, and (ii) such building is undergoing, or scheduled or under evaluation for, work or acquisition through a city-operated disaster recovery program responding to such disaster.

3. The owner, lessee, occupant, manager or operator of a building shall not be subject to a civil penalty for a violation resulting from work done by a city employee, or by a third party under contract with the city, in response to a natural or man-made disaster, provided that such violation is corrected on or before 60 days after the issuance of such violation, or such greater amount of time as determined by the commissioner for such violation. If such owner, lessee, occupant, manager or operator of a building can demonstrate to the satisfaction of the department that a city employee or third party under contract with the city has committed to correcting such violation then such violation shall be rescinded, without penalty. The notice of such violation shall state that such violation is subject to this exception and shall set forth the procedure and time period for correcting such violation without incurring a civil penalty. This exception shall not apply to immediately hazardous violations or violations charged as aggravated violations.

4. The minimum civil penalty for a violation of section 28-408.1 or section 28-410.1 of this code shall be \$2,500 for a first violation and \$5,000 for a second violation, in addition to any separate daily penalty imposed pursuant to item 1 of this section.

5. For a violation of section 28-210.1:

5.1. Unless exception 5.2 applies, the minimum civil penalty for a violation of section 28-210.1 in any building involving the illegal conversion, maintenance or occupancy of three or more dwelling units above the number of dwelling units that is legally authorized by the certificate of occupancy or if no certificate of occupancy is required as evidenced by official records shall be \$15,000. Each dwelling unit above the number that is legally authorized by the certificate of occupancy or if no certificate of occupancy is required as evidenced by official records shall constitute a separate offense that shall be charged separately and shall be punishable by a separate civil penalty. Provided, however, that the penalties for multiple violations of this exception may be based on the same evidence; and

5.2. The owner of a building shall not be subject to a civil penalty for a violation of section 28-210.1 in such building if such owner can show the following:

5.2.1. Such violation was the first such violation issued for such building or was issued within 30 days after such first violation;

5.2.2. At the time such violation was issued or, if such violation was issued within 30 days after such first violation was issued, the time such first violation was issued, a registration for such building has been properly filed with the department of housing preservation and development in accordance with article two of subchapter 4 of the housing maintenance code; and

5.2.3 At the time such violation was issued or, if such violation was issued within 30 days after such first violation was issued, the time such first violation was issued, such owner reasonably did not know of, or could not reasonably have known of such illegal conversion, the maintenance thereof or occupancy thereof and takes lawful immediate and diligent steps to cure said violation.

6. The minimum civil penalty for a violation of section 3321.1 of the New York city building code shall be \$5,000. The department may by rule provide that, for a first violation of such section or a first set of such violations that occur substantially at the same time, the minimum penalty may be reduced to \$2,500.

7. The minimum civil penalty for a violation of section 3321.2 of the New York city building code shall be \$2,500.

8. *The department shall apply the cure period and conditions provided pursuant to section 16-143 to any violation the department issues to any veterans service organization.*

§ 3. Title 31 of the administrative code of the city of New York is amended by adding a new section 31-106 to read as follows:

§ 31-106 *Outreach campaign pertaining to certain department of sanitation and department of buildings violations by veterans service organizations. a. Definitions. For the purposes of this section, the term “veterans service organization” has the same meaning as provided in section 16-143.*

b. The department shall conduct and promote a public information and outreach campaign to inform veterans service organizations about the cure periods available pursuant to sections 16-143 and 28-202.1. The department shall also post information about such cure periods on its website.

§ 4. This local law takes effect 120 days after it becomes law, except that the department of sanitation, department of buildings, and department of veterans’ services shall take such measures as are necessary for the implementation of this local law, including the promulgation of rules, before such date.

Referred to the Committee on Veterans.

Preconsidered L.U. No. 813

By Council Member Ferreras-Copeland:

Forest Hills MHA, Block 2159, Lot 2; Queens, Community District No. 6, Council District No. 29.

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

Preconsidered L.U. No. 814

By Council Member Ferreras-Copeland:

Creston Parkview, Block 3175, Lot 26; the Bronx, Community District No. 7, Council District No. 14.

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

Preconsidered L.U. No. 815

By Council Member Greenfield:

Application No. N 180108 HKQ pursuant to Section 3020 of the New York City Charter concerning the designation by the Landmarks Preservation Commission of Old Saint James Episcopal Church (now Old Saint James Parish Hall) (Block 1549, p/o, Lot 1), as a landmark, Borough of Queens, Community Board 4, Council District 25.

Adopted by the Council (preconsidered and approved by the Committee on Land Use and the Subcommittee on Landmarks, Public Siting, and Maritime Uses).

Preconsidered L.U. No. 816

By Council Member Greenfield:

Application No. 20185102 HAM submitted by the Department of Housing Preservation and Development pursuant to Article XI of the Private Housing Finance Law for approval of a new real property tax exemption for property located at Block 393, Lot 37 and Block 47 Lot 27, Borough of Manhattan, Community District 3, Council District 2.

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions (preconsidered but laid over by the Subcommittee on Planning, Dispositions and Concessions).

L.U. No. 817

By Council Member Greenfield:

Application No. N 170425 (A) ZRY submitted by New York City Department of City Planning, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, to create a definition, a use and, in designated areas, a special permit for self-service storage facilities and to establish APPENDIX J (Designated Areas in Manufacturing Districts).

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

L.U. No. 818

By Council Member Greenfield:

Application No. 20185107 HAM submitted by the Department of Housing Preservation and Development pursuant to Article XI of the Private Housing Finance Law for approval of a new real property tax exemption for property located at Block 2114, Lot 35, Borough of Manhattan, Community Board 12, Council District 7.

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

<http://legistar.council.nyc.gov/Calendar.aspx>

ANNOUNCEMENTS

Monday, November 20, 2017

[Subcommittee on Zoning & Franchises](#) 9:30 a.m.
See Land Use Calendar
 Council Chambers – City Hall Donovan Richards, Chairperson

[Committee on Mental Health, Developmental Disability, Alcoholism, Substance Abuse and Disability Services](#) jointly with the
[Committee on Veterans](#) 10:00 a.m.
Oversight - Mental Health Services for NYC-Area Veterans.
 Committee Room – 250 Broadway, 14th Floor Andrew Cohen, Chairperson
 Eric Ulrich, Chairperson

[Subcommittee on Landmarks, Public Siting & Maritime Uses](#)11:00 a.m.
See Land Use Calendar
 Committee Room – City Hall Peter Koo, Chairperson

[Committee on General Welfare](#)
[Committee on Housing and Buildings](#)10:00 a.m.
Oversight – HPD’s Coordination with DHS/HRA to Address the Homelessness Crisis.
 Committee Room – 250 Broadway, 16th Floor Stephen Levin, Chairperson
 Jumaane D. Williams, Chairperson

[Subcommittee on Planning, Dispositions & Concessions](#)..... 1:00 p.m.
See Land Use Calendar
 Committee Room – City Hall Rafael Salamanca, Chairperson

Tuesday, November 21, 2017

[Committee on Public Safety](#)10:00 a.m.
Oversight - NYPD’s School Safety’s Role and Efforts to Improve School Climate.
 Council Chambers – City Hall Vanessa L. Gibson, Chairperson

[Committee on Land Use](#).....11:00 a.m.
All items reported out of the Subcommittees
 AND SUCH OTHER BUSINESS AS MAY BE NECESSARY
 Committee Room – City Hall David G. Greenfield, Chairperson

[Committee on Environmental Protection](#) jointly with the
[Committee on Consumer Affairs](#)1:00 p.m.
Oversight - The Feasibility of Microgrids
 Council Chambers – City Hall Costa Constantinides, Chairperson
 Rafael L. Espinal, Chairperson

★ *Deferred*

[Committee on Education](#) 1:00 p.m.
Oversight – Diversity in New York City Schools
 Council Chambers – City Hall Daniel Dromm, Chairperson

Monday, November 27, 2017★ *Note Committee Addition*★★ *Note Location Change*

[Committee on Sanitation and Solid Waste Management](#) jointly with the
 ★ [Committee on Transportation](#) 10:00 a.m.
Oversight - Private Sanitation Fleet Safety
 ★★ Council Chambers – City Hall Antonio Reynoso, Chairperson
 Ydanis Rodriguez, Chairperson

[Committee on Small Business](#) jointly with the
[Committee on Civil Service and Labor](#) 10:00 a.m.
Oversight - Update on Career Pathways/Workforce Development Systems.
 Committee Room – City Hall Robert Cornegy, Chairperson
 I. Daneek Miller, Chairperson

[Committee on Recovery and Resiliency](#) 1:00 p.m.
Oversight - Update on assisting vulnerable populations in emergency evacuations.
 Committee Room – 250 Broadway, 16th Floor Mark Treyger, Chairperson

Tuesday, November 28, 2017

[Committee on Economic Development](#) 1:00 p.m.
Oversight - NYC's Sagging Air Cargo Industry
 Committee Room – City Hall Daniel Garodnick, Chairperson

[Committee on Health](#) jointly with the
[Committee on Immigration](#) 10:00 a.m.
Oversight - Immigrant Access to Healthcare.
 Council Chambers – City Hall Corey Johnson, Chairperson
 Carlos Menchaca, Chairperson

[Committee on Technology](#) jointly with the
[Committee on Higher Education](#) 10:00 a.m.
Oversight - CUNY Tech Incubators
 Committee Room – 250 Broadway, 16th Floor James Vacca, Chairperson
 Inez Barron, Chairperson

[Committee on Governmental Operations](#) 1:00 p.m.
Oversight - DCAS's Energy Management and Energy Efficiency Initiatives
 Committee Room – 250 Broadway, 14th Floor Ben Kallos, Chairperson

[Committee on Juvenile Justice](#).....1:00 p.m.
Oversight - Trauma-Informed Services in the Juvenile Justice System
 Committee Room – 250 Broadway, 16th Floor Fernando Cabrera, Chairperson

Wednesday, November 29, 2017

[Committee on Aging](#)10:00 a.m.
Oversight - Supporting Unpaid Caregivers
 Council Chambers – City Hall Margaret Chin, Chairperson

★ Deferred

~~[Committee on Sanitation and Solid Waste Management](#).....10:00 a.m.
Oversight – Private Sanitation Fleet Safety
 Committee Room – 250 Broadway, 16th Floor Antonio Reynoso, Chairperson~~

★ Deferred

~~[Committee on Fire and Criminal Justice Services](#) – 1:00 p.m.
Oversight – Progress in Closing Rikers Island
 Council Chambers – City Hall Elizabeth Crowley, Chairperson~~

Thursday, November 30, 2017

[Stated Council Meeting](#).....*Ceremonial Tributes – 1:00 p.m.*
Agenda – 1:30 p.m.

During the Communication from the Speaker segment of this Meeting, the Speaker (Council Member Mark-Viverito) announced the Council’s release of its Legislative API which provides a platform for the public from which to pull data for use in applications and other civic engagement tools. This project helps increase access and transparency in government was a key goal in the Council’s 2.0 Technology Road Map. The Speaker (Council Member Mark-Viverito) thanked the Council’s Public Technology and Digital Strategy Division and Council Members Kallos and Lander for their efforts in this matter. She also thanked advocates from the civic technology community such as BetaNYC, Councilmatic, and the Participatory Foundation for their support.

Whereupon on motion of the Speaker (Council Member Mark-Viverito), the Public Advocate (Ms. James) adjourned these proceedings to meet again for the Stated Meeting on Thursday, November 30, 2017.

MICHAEL M. McSWEENEY, City Clerk
 Clerk of the Council

Editor’s Local Law Note: Int. No. 1313-A, adopted by the Council at the October 17, 2017 Stated Meeting, was signed into law by the Mayor on November 6, 2017 as Local Law No. 199 of 2017.