

**HEARING BEFORE THE CITY COUNCIL  
COMMITTEE ON STATE & FEDERAL LEGISLATION  
June 14, 2011**

Good morning Chairwoman Foster and Members of the Committee. I am David Woloch, Deputy Commissioner for External Affairs at the Department of Transportation (DOT). Thank you for providing us with this opportunity to state the Administration's support for a Home Rule Message in support of A. 7425-A/S4496-B relating to the City's Red Light Camera Program.

This bill specifically increases the number of intersections where red light cameras may be installed from 150 to 225. In its eighteen year history, the City's "Red Light Camera Program" has played a central role in our efforts to enhance public safety by serving as effective deterrents to motorists otherwise inclined to ignore traffic-control signals. The Program has proven to be an effective traffic safety measure that we believe prevents injuries and the loss of life resulting from accidents caused by running red lights. Since its inception, hundreds of thousands of vehicles including passenger vehicles, buses and taxicabs have been caught going through red lights by these photo-monitoring devices.

It is important to remember that the goal of the cameras is not just to reduce red light running at those intersections where cameras are installed, but to change motorist behavior wherever they drive. The reality of the current Program is that current State law allows us to operate the cameras at approximately only 1% of all signalized intersections in the City. We believe that in order to truly impact the behavior of New York motorists, cameras need to be present at many more locations around the City. By adding cameras to 75 additional intersections, this bill would be a helpful next step.

Testimony of Michael Hyman,  
Deputy Commissioner Tax Policy and Planning  
New York City Department of Finance  
Before the New York City Council State and Federal Legislation Committee  
June 14, 2011

Good morning Chairwoman Foster and members of the State and Federal Legislation Committee. I am Michael Hyman, Deputy Commissioner for Tax Policy and Planning of the Department of Finance. I appear before you today to testify in support of a home rule message to the State Legislature to enact the Omnibus Tax Extender.

The tax extender bill pending before the State Legislature would retain the current levels of New York City personal income, general corporation and cigarette taxes and sales taxes on certain services for three years past their scheduled expiration dates in 2011. The sunset dates for these tax provisions were last extended in 2008.

As the agency that collects taxes for the City of New York, we urge adoption of the required home rule message. Revenues were included in the Mayor's Executive Budget on the assumption that current tax law provisions would remain in effect for Fiscal Year 2012 and future fiscal years. If the current levels of taxation are not extended, the City would lose \$2.1 billion in revenue in FY 12 and \$6 billion in revenue in FY 13. This would have a serious impact on the City's ability to deliver services.

Thank you and let me know if I can answer any questions.



# City of New York Parks & Recreation



## Hearing before the New York City Council Committee on State and Federal Legislation

**T2011- 3149: Transfer ownership of certain park lands to Alexander's of Rego  
Park III, Inc. (S.5501/A.7938)  
a.k.a Lost Battalion Hall Park**

**June 14, 2011**

**Testimony by Karen Becker, Director of Government Relations, New York  
City Department of Parks & Recreation**

### **Introduction**

Good Morning acting Chair Rivera and members of the State and Federal Legislation Committee my name is Karen Becker and I am the Director of Government Relations at the Parks Department. I thank you for the opportunity to allow me to testify on the home rule on the committee's agenda today that would affect New York City Parks.

The state legislation resolution requesting the New York State Legislature to pass bills introduced by Senator Stavisky (S.5501), and Assembly Member Aubry (A.7938) would authorize the City of New York to transfer ownership of parkland that is a part of Lost Battalion Park in Rego Park, Queens in exchange for identical square footage of property (19,085 sq. ft.) that would be designated as parkland.

This alienation is related to a proposed mixed-use development by Alexander's of Rego Park III, Inc. that is bounded by the Long Island Expressway Service Road,

Junction Boulevard, and 93rd Street and lost Battalion Park to the South. This alienation would result in a better park site plan for Lost Battalion Park and would be reconfigured to a more regularized park by creating a straight line that would now form its northern boundary that runs perpendicular to Junction Boulevard and would ultimately increase its frontage along Junction Boulevard. This newly reconfigured park would enable better programming and provide improved and increased pedestrian access off of Junction Boulevard. In addition, Alexander's of Rego Park III, Inc. has agreed to undertake the funding of the improvements necessary for the new reconfigured park.

The Parks Department is fully in support of this legislation which would allow the City to alienate a portion of parkland in exchange for the City to acquire two adjacent parcels that would simplify the park's shape and improve access for the patrons of the park.

I thank you for allowing me to testify before you today and I'd be happy to answer any questions you may have.

STATEMENT OF  
SUSAN R. PETITO  
ASSISTANT COMMISSIONER, INTERGOVERNMENTAL AFFAIRS  
NEW YORK CITY POLICE DEPARTMENT

BEFORE THE NEW YORK CITY COUNCIL  
COMMITTEE ON STATE AND FEDERAL LEGISLATION  
JUNE 14, 2011

Good morning, Chair Foster, and members of the Committee. I am Susan Petito, Assistant Commissioner, Intergovernmental Affairs of the New York City Police Department, and I am with First Deputy Commissioner Don Shacknai of the New York City Fire Department. We are here today on behalf of Police Commissioner Raymond Kelly and Fire Commissioner Salvatore Cassano, to offer our comments regarding the subject of a request for a State Legislative Resolution, Senate Bill No. 5653/Assembly Bill No. 5744-A.

The bill was the subject of a veto by Governor Paterson last year, and we strongly urge the Committee to refrain from approving this damaging piece of legislation. With your permission, I will read to you the letter that the Administration forwarded to Governor Paterson last July, which briefly states our objections.

This bill would eliminate the City's ability to revoke the guarantee of a full pension benefit to a police officer or firefighter who has been discharged or dismissed from employment, as long as that individual has completed twenty years of service. The practical effect of this legislation would be to insulate those with over twenty years in service from the consequences of serious misconduct. The proposal undermines the ability of the New York City Police and Fire Commissioners to discipline their uniformed workforce, and contradicts safeguards that ensure public integrity, such as the Public Officers Law Section, which vacates the employment of a public officer as a matter of law for commission of a felony or a crime involving a violation of his or her oath of office.

There is a compelling public policy argument, supported by the courts, for denying pensions to employees who have breached the public trust. The New York Court of Appeals has stated that "[p]ensions are not only compensation for service rendered, but they serve also as a reward for faithfulness to duty and honesty of performance." (Matter of Pell v. Board of Education, 34 NY2d 222, 238 (1974); see also Matter of Mahoney v. McGuire, 107 AD2d 363, 366 (1<sup>st</sup> Dept. 1985), aff'd 66 NY2d 622 (1985).)

Contrary to assertions in the sponsor's memorandum, the bill would entirely remove a powerful incentive for long-term employees to honor their oaths of office. The penalty of dismissal late in an employee's career pales in comparison to the loss of pension benefits. While we are all sensitive to the plight of the family of an employee who loses his or her pension benefit as a

result of wrongdoing, the responsibility for that loss rests squarely upon the employee. (As a practical matter, the pension benefit is very rarely lost, since the Police and Fire Commissioners are also cognizant of the consequences, and have consistently exercised discretion as they handle cases of misconduct. The potential for such a penalty, however, is an important deterrent.)

For police officers and firefighters, the stresses and responsibilities of their jobs expose them to situations that test their integrity. It would be unwise and counterproductive to weaken the structure that incentivizes good conduct throughout the full duration of a career and which, in turn, makes the New York City Police and Fire Departments the premier emergency response agencies that they are.

Accordingly, it is urged that this bill be disapproved. Signed, Michael R. Bloomberg, Mayor, by Micah C. Lasher, Director, State Legislative Affairs.

I would also like to share relevant excerpts of Governor Paterson's veto message, issued on October 20, 2010. Governor Paterson discussed specific information provided to him by the Police Department as follows:

From 2006 through 2010, for example, the NYPD terminated only six police officers who had at least 20 years of creditable service. All but one officer either failed a drug test or was criminally convicted of a felony. The one exception occurred in 2006, when the City terminated an officer who was criminally convicted of a misdemeanor arising out of a fraud investigation. Most officers with over 20 years of creditable service who were charged with serious misconduct, however, as well as those who committed minor infractions, did not lose their pensions, but were permitted to negotiate their disciplinary charges and to retire, rather than being terminated by the NYPD.

Governor Paterson also discussed his consideration of several factors beyond the issues raised by Mayor Bloomberg's letter.

First, I note that this bill contains no exceptions even for the most severe misconduct. If I were to enact this bill into law, an officer could engage in a violent felony, or in gross corruption that endangers the lives of the City's residents, or even an act of treason -- and will remain entitled to his or her pension . . . .

Second, while current law may result in harsh consequences in those instances where a Commissioner exercises his or her discretion to terminate a member of tier 1 or tier 2, I note that existing case law also protects members from abuses of such discretion. In Matter of McDougall v. Scoppetta, (2009-02176) (Index No. 28994/08), for example, the Appellate Division, Second Department, reviewed a determination of the Commissioner of the FDNY adopting the recommendation and findings of an administrative

law judge made after a hearing, finding a firefighter guilty of two charges of misconduct and terminating his employment. The McDougall case presented the issue of whether the penalty of termination of McDougall's employment was disproportionate to the offense so as to constitute an abuse of discretion. The court, noting that as a result of the termination, the firefighter and his family would lose his pension and retirement benefits, valued at approximately \$2,000,000, which he earned during his 25 years of service to the FDNY, annulled the imposition of a penalty of termination of the firefighter's employment and allowed him to retire and receive his pension after paying an \$80,000 fine. Thus, the termination of a member of tier 1 or tier 2, and the concomitant loss of his or her pension, is reviewable in court. Indeed, the relatively infrequent use of termination and the clear precedent established by the McDougall case reassures me that the revocation of the pensions of long-serving tier 1/tier 2 members will not be undertaken lightly.

For the reasons stated in Mayor Bloomberg's letter and Governor Paterson's veto message, we urge you to reject the request for enactment of the bill at hand, and thank you for your consideration.

UNIFORMED  
FIRE DEPARTMENT, CITY OF NEW YORK  
FIRE OFFICERS  
LOCAL 854, INTERNATIONAL ASSN. OF FIRE FIGHTERS, AFL-CIO  
ASSOCIATION

225 BROADWAY ☆ NEW YORK, NY 10007 ☆ SUITE 401  
TEL: (212) 293-9300 ☆ FAX: (212) 292-1560 ☆ EMAIL: WWW.UFOA.ORG

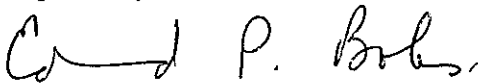
**Memorandum in Support**

**Request for a Home Rule Message for A.05744/S.5653**

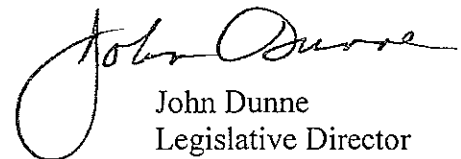
- A fire officer's pension is actually deferred income. It is a long-standing negotiated benefit agreed to in exchange for reduced wages received during our tenure working for the City of New York. It is an *earned* benefit. We receive this benefit in exchange for putting our lives on the line each day and every day we report for duty.
- The penalty of losing a pension accrued over the course of a 20-year career is too excessive a punishment. The loss of our pension, with its accrued annuity value upwards of one million dollars earned over the course of an entire career, is cruel and inhuman treatment, particularly when the impact is weighed of such punishment on an entire family. Additionally, the loss of the Variable Supplement benefit, assuming a fire officer would like 20-years in retirement, would be close to one-quarter of a million dollars. This severe financial penalty could be imposed on a fire officer who has not even been arrested or charged with a crime, let alone ever convicted of a crime. Termination, and commensurate loss of pension, could simply be the result of Fire Department charges alone.
- Only NYC police officers and firefighters are held to this high standard that inflicts severe financial punishment. Other police officers and firefighters across New York State do not forfeit their pensions. Elected officials, City officials, judges, and many other New York City and New York State workers as well do not forfeit their pensions. We are in no way condoning illicit behavior or illegal wrongdoing, but it is plainly unfair to single out for such extreme treatment. It's one thing to levy a penalty on a person who makes a mistake, but let's not crucify an individual who has otherwise served the City well.

A.05477, S.5652 is submitted in answer to fairness and equity. Accordingly, we respectfully request the NY City Council to award a Home Rule Message to this legislation.

Respectfully submitted,



Edward Boles  
Legislative Chairman



John Dunne  
Legislative Director



— AFFILIATED WITH —

NEW YORK STATE AFL-CIO

NEW YORK CITY CENTRAL LABOR COUNCIL AFL-CIO • MARITIME PORT COUNCIL OF GREATER NEW YORK & VICINITY  
UNION LABEL & SERVICE TRADES COUNCIL OF GREATER NEW YORK & LONG ISLAND • NATIONAL SAFETY COUNCIL





**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 5653 Res. No. \_\_\_\_\_

in favor  in opposition

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

(PLEASE PRINT)  
Name: FRANK TRAMONTANO

Address: 457-80th ST

I represent: PATROLMAN'S GUILD ASSOCIATION

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

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. M: A8305-11 Res. No. 55706-A

in favor  in opposition

Date: 6/14/11

(PLEASE PRINT)  
Name: Robert Cole

Address: United Nations Development Corp. 2 UN Plaza 27th

I represent: United Nations Development Corp.

Address: 2 UN Plaza, 27th Floor, NY, NY

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

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

in favor  in opposition

Date: 6/14/11 M: A 8305 A/  
55706 A

(PLEASE PRINT)  
Name: Sander Lehren

Address: 41 Madison Ave NY NY 10010

I represent: United Nations Development Corporation

Address: 2 UN Plaza, NY NY

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

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. SLR A7938/5559 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 6/14/2011

Name: Karen Becker (PLEASE PRINT)

Address: 830 Fifth Avenue, New York, NY

I represent: Parks Department 10035

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

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

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

A5744/55603  in favor  in opposition

Date: 6/14/11

Name: Don Shackman (PLEASE PRINT)

Address: 9 Metrotech

I represent: FDNY - 1st Deputy Cmr

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

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. A3425/54496 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 6/14/11

Name: David Woloch (PLEASE PRINT)

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

I represent: MTC DOT

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

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

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. SR for 55653 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 8/14/11

(PLEASE PRINT)

Name: Susan Petito, Asst. Comm. Intergovernmental

Address: 1 Police Plaza NYC Affairs

I represent: MYPD

Address: 1 Police Plaza

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. SR A7763 Res. No. \_\_\_\_\_

in favor  in opposition

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

(PLEASE PRINT)

Name: Michael Hyman

Address: 253 Broadway

I represent: New York City Dept of Finance

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

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. SR A5741 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 8/14/11

(PLEASE PRINT)

Name: KEN CARDONA

Address: 26 Thomas St

I represent: Detectives Endowment Assoc

Address: 26 Thomas St

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

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. Pres. A8275-A - 55706 A Res. No. \_\_\_\_\_

in favor  in opposition

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

(PLEASE PRINT)

Name: MARK THOMPSON

Address: 276 1st Ave # 2G

I represent: COMMUNITY BOARD SIX

Address: 866 U.N. PLAZA

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

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

A5744/SJW3  in favor  in opposition

Date: 6/14/11

(PLEASE PRINT)

Name: Lt. Eddie Boles

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

I represent: Uniformed Fire Officers Association (UFOA)

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

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

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

in favor  in opposition

Date: 6/14/11

(PLEASE PRINT)

Name: PAUL DI GIACOMO

Address: 26 THOMAS ST

I represent: DETECTIVES' ENDOWMENT ASSOC.

Address: 26 THOMAS ST

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