**THE COUNCIL OF THE CITY OF NEW YORK**



**OFFICE OF THE GENERAL COUNSEL**

**COMMITTEE REPORT OF THE**

**COMMITTEE ON RULES, PRIVILEGES AND ELECTIONS**

**Hon. Karen Koslowitz, Chairperson**

**September 12, 2019**

Chambers at City Hall

New York, NY 10007

**Topic I: New York City Landmarks Preservation Commission – (Candidate nominated by the Mayor for appointment, upon the advice and consent of the Council)**

* **Everardo Jefferson [M-179]**

Pursuant to the *New York City Charter* (“*Charter*”) §3020, the New York City Landmarks Preservation Commission (“LPC”) is responsible for establishing and regulating landmarks, portions of landmarks, landmark sites, interior landmarks, scenic landmarks, and historic districts. The LPC also regulates alterations to designated buildings.

The LPC consists of eleven (11) members. The membership of this commission must include at least three architects, one historian qualified in the field, one city planner or landscape architect, and one realtor; and shall include at least one resident from each of the five boroughs. The mayor appoints the members of the LPC with the advice and consent of the Council. When appointing a member to this commission who must be an architect, historian, city planner, or landscape architect, the mayor may consult with the Fine Arts Federation of New York or any other similar organization. These members are appointed for staggered three-year terms. Each member continues to serve as a commissioner until his or her successor is appointed and qualified. The mayor also designates one member to serve as the LPC Chair, and designates another member to serve as LPC Vice Chair. These particular LPC members shall serve until a successor is designated. The LPC members, with the exception of the Chair, serve without compensation, but are reimbursed for necessary expenses incurred in the course of performing their duties. The current Chair's salary is $212,044.00.

The LPC must appoint a full-time executive director and may also employ technical experts and other employees necessary to perform day-to-day operations within the appropriations therefor.

As enumerated in the *Charter*, the LPC is required to provide opportunities for comment in advance of any hearing, regarding a proposed landmark designation, landmark site, interior landmark, scenic landmark, or historic district.[[1]](#footnote-1) Notices of proposed designations must be sent to the New York City Planning Commission (“CPC”), all affected Community Boards, and the Office of the Borough President, for the borough where the property or district is located.

The LPC also has a duty to provide certain notices to the Council. The LPC is required to file a copy of any designation with the Council and the CPC, within ten days of making the designation. Furthermore, within 60 days after such filing, CPC must hold a public hearing on any such designation of a historic district and submit a report to the Council, with respect to the relation of any such designation to the *Zoning Resolution*, projected public improvements, and any plans for the development, growth, improvement or renewal of the area involved, whether it relates to the designation of a historic district or a landmark. The CPC must include in this report, its recommendation, if any, for the Council’s action with respect to the historic district designation.

The Council may modify or disapprove of any LPC designation by a majority vote, within 120 days from date that a copy of such designation is filed with the Council, provided that either the CPC has submitted the required report on the designation or at least sixty days has elapsed since the filing of the designation with the Council. The Council’s vote shall be filed with the mayor, by the Council. The mayor has five days following the filing of the Council’s vote, to disapprove of the Council’s action. If the mayor fails to disapprove of the Council’s action during this time, the Council’s action becomes final. If the mayor disapproves of the Council’s action, the mayor must file his/her disapproval with the Council. Thereafter, the Council may choose to override the mayor’s disapproval within ten days of the filing of the mayor’s disapproval, with a two-thirds vote from the Council.

In addition to the designation of landmarks, pursuant to *Administrative Code* § 25-303(i), the LPC also has the ability to make recommendations to CPC at any time, regarding amendments to the provisions in the *Zoning Resolution*, which are applicable to improvements in the historic districts. Moreover, pursuant to *Administrative Code* § 25-307, the LPC also has the responsibility of determining whether a proposed alteration or demolition affecting a landmark, is consistent with the *Landmarks Preservation and Historic Districts* chapter of the *Administrative Code*. In instances where LPC determines that the proposed change complies with the *Code*, it may grant a *Certificate of Appropriateness*. Otherwise, the LPC may deny the applicant’s request.

A Hardship Appeals Panel also exists that consists of five members appointed by the mayor, with the Council’s advice and consent. This panel operates independently of the LPC, and reviews appeals of LPC determinations, denying applications for *Certificates of Appropriateness,* brought to this panel on the grounds or basis of hardship, concerning demolitions, alterations, or reconstructive improvements. However, this panel only has the power to review applications involving tax-exempt properties.

Mr. Jefferson is scheduled to appear before the Committee on Rules, Privileges and Elections on Thursday, September 12, 2019. If Mr. Jefferson, a resident of Manhattan, receives the advice and consent of the Council, he will be eligible to complete the remainder of a three-year term, expiring on June 28, 2020. Copies of Mr. Jefferson’s résumé and report/resolution are attached to this Briefing paper.

**Topic II: *New York City Environmental Control Board – (Candidate for appointment by the Mayor upon advice and consent of the Council)***

* **Jarrod E. Whittington [M-178]**

Within the New York City Office of Administrative Trials and Hearings (“OATH”) there is an Environmental Control Board (“ECB”) that adjudicates notices of violation issued by various city agencies including the Departments of Environmental Protection, Police, Sanitation, Health and Mental Hygiene, Fire and Buildings. ECB has the power to render decisions and orders and to impose civil penalties under law provided for such violations. ECB may apply to a court of competent jurisdiction for enforcement of any decision, order or subpoena that it issues. ECB’s responsibilities and structure are outlined in New York City Charter section 1049-a.

Among the provisions of law enforced by ECB are those relating to the cleanliness of city streets; the disposal of wastes; the provision of a pure, wholesome and adequate supply of water; the prevention of air, water and noise pollution; the regulation of street peddling; and the city response to emergencies caused by releases or threatened releases of hazardous substances. ECB has the authority to make, amend or rescind such rules and regulations to carry out its duties. Also, ECB has concurrent jurisdiction with the Board of Health to enforce those provisions of the health code and the rules and regulations relating thereto that the Board of Health shall designate.

ECB consists of the Commissioners of the Departments of Environmental Protection, Sanitation, Health and Mental Hygiene, Buildings, Police, Fire and the Chief Administrative Law Judge of OATH, as well as six persons appointed by the Mayor with the advice and consent of the Council. The Chief Administrative Judge of OATH serves as Chair of ECB. Within its appropriation, ECB may appoint an Executive Director and such hearing officers, including non-salaried hearing officers and other employees as it finds necessary, to properly perform its duties.

Members other than agency Commissioners may not be employed by the City. Five of the six non-Commission members must possess broad general background and experience, one in each of the following areas: air pollution control, water pollution control, noise pollution control, real estate, or the business community. The sixth non-Commissioner member represents the general public. Members other than the agency Commissioners are compensated and receive a $175.10 per-diem when performing the work of ECB. Member terms are for four years.

Mr. Whittington is scheduled to appear before the Committee on Rules, Privileges and Elections on Thursday, September 12, 2019. If Mr. Whittington, a resident of Brooklyn, receives the advice and consent of the Council, he will serve for the remainder of a four-year term that will expire on March 5, 2023, as the ECB member with experience in the field of noise pollution control. Copies of Mr. Whittington’s résumé and report/resolution are attached to this Briefing paper.

**PROJECT STAFF**

Charles W. Davis III, Chief Compliance Officer

Andre Johnson Brown, Legislative Investigator

Julius Caranda, Senior Legislative Investigator

Lance Polivy, Counsel

1. Landmarks are not always buildings. A landmark may be a bridge, a park, a water tower, a pier, a cemetery, a building lobby, a sidewalk clock, a fence, or even a tree. A property or object is eligible for landmark status when at least part of it is thirty years old or older. [↑](#footnote-ref-1)