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Testimony Before the New York City Charter Revision Commission

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My name is Gale A. Brewer and I am the City Council Member for District 6, representing the Upper West Side from W. 54 to W. 96 Streets, parts of Riverside Park, and all of Central Park. I am also chair of the Council's Committee on Oversight and Investigations.

With then Public Advocate Leticia James, I had the experience of passing a law to create a Charter Revision Commission whose members were selected by a range of elected officials including at the time Mayor Bill de Blasio; Corey Johnson, the City Council speaker; Ms. James; Scott M. Stringer, the comptroller; myself as Manhattan Borough President; and the four other borough presidents. Intro 1830-2017 was introduced December 19, became Intro 0241-2018, had a hearing before the Governmental Operations Committee on March 16, 2018, passed the committee on April 10, 2018, was voted on positively by the full Council on April 11, 2018, and the Mayor signed the bill, which became Local Law 11 of 2018.

The Local Law authorized a commission to conduct a top-to-bottom review of the charter, which, as you know, is New York City's equivalent of a constitution. The review was slated to take up issues such as whether or not to increase public participation in land-use decisions, alter the way budget decisions are made, and to question the checks and balances between the mayor and the Council. The last time such a broad review had occurred was in 1989. However, in February 2018, Mayor de Blasio announced in his State of the City address that he would appoint his own Charter Revision Commission for proposals to be included on the November 2018 ballot. The Council-created commission would take more time and its proposals would go to voters in November 2019.

Mayor de Blasio's commission was supposed to have a narrow mandate, limited to charter changes aimed at improving the city's campaign finance system — including lowering the maximum levels of campaign contributions to candidates — and encouraging voter participation in elections. Mayor de Blasio made the announcement of his panel on April 12, 2018, one day after the Council voted for their commission. The Council invited the Mayor to participate fully in the more democratic panel, but he insisted on his own commission. (One outcome was the establishment of the Civic Engagement Commission and Racial Justice Commission, which I think duplicates what other agencies do and is a waste of precious government dollars. Many people in city government agree with me. I tried to keep this referendum off the ballot but was not successful.)

In 2024, Mayor Eric Adams appointed his own commission. I believe, as I testified at the time, that the commission was established as a power grab from the City Council. Similar to Mayor de Blasio's timing in 2018, this Mayor announced the panel two weeks before the City Council passed a bill on June 6, 2024 that would expand its oversight over more mayoral appointments.

Just like last year, this Commission's recommendations will take precedence on the November ballot over proposals by the City Council initiated Commission to Strengthen Local Democracy. Mayor Adams tasked your Commission with "determining how to make New York City's municipal government more transparent and responsive to the needs of city residents." I agree that transparent and responsive government is paramount. In fact, I testified before the 2010 Charter Revision Commission with then City Council Speaker Christine Quinn that government must always strive to do this by meeting these three roles: 1) Providing communities with greater opportunity for input into government decision; 2) Making each branch or office of government more accountable; and 3) increasing transparency in government.

To that end, I hope you will consider the following proposals:

I. Land Use

Strengthen the Franchise and Concession Review Committee. Under the current structure, Franchise and Concession Review Committee (FCRC) vote outcomes are heavily weighted in the mayor's favor, as the mayor has four of the possible six votes for any matter. The Charter also states that when an application relates to more than one borough, the relevant Borough Presidents share a single vote. I first pitched reforming the Franchise and Concession Review Committee to

the 2010 Charter Commission alongside then Speaker Christine Quinn (I testified: “Large concessions such as recreational facilities, large restaurants, and citywide concessions be made explicitly the purview of the Council”). Unfortunately, the reforms were not considered, and the Adams administration is poised to award the expiring contract for operation of Wollman Rink in Central Park to the Trump Organization or other private outfit. The 1989 Charter Commission added a requirement that the City Council approve all “Major Concessions,” defined in the Charter as those with significant land use impacts and implications as determined by the City Planning Commission or for which an environmental impact statement is required by law. The term has been interpreted in such a way that only a small handful of concessions have been delivered to the Council for its review since this provision was created. The Charter, not the mayoral administration, should clearly define what matters need to be reviewed by the Council. Additionally, in order to establish a more balanced, transparent and accountable power structure on the FCRC, the Public Advocate should be added as a member, the “additional” Mayoral appointee should be removed, and vote sharing should be eliminated.

ULURP. One simple request: Mandate that the Department of City Planning brief Community Boards on any ULURP application before the process begins.

Establish a New York City Land Bank. Addressing New York City’s affordable housing crisis requires using all of the tools at the City’s disposal to build and preserve truly affordable housing. The City has left a proven solution out of its toolkit by failing to turn vacant City-owned land and tax delinquent properties into permanently affordable housing. New York City’s primary strategy for developing affordable housing on city-owned lots has been to sell the property to a developer in exchange for a percentage of affordable units for a limited duration. While this model has facilitated the creation of thousands of affordable units, the City loses leverage by transferring title, which weakens its ability to hold developers accountable and negotiate for deeper and permanent affordability. The City Charter should be changed to require the creation of a Land Bank with the mission of constructing permanent affordable housing on blighted city and privately-owned vacant properties.

Protect Landmarked Buildings. The Landmarks Law includes an unfortunate loophole which allows the Landmarks Preservation Commission, without any City Council oversight, to let developers destroy seven existing, individually designated landmarks based on alleged financial hardship. This is inconsistent with the intent of the Landmarks Law, and the loophole should be closed.

Revocable Consent Agreements. A revocable consent is the grant of a right to an individual or organization to construct and maintain certain structures on, over, or under the inalienable property of the City. Generally, revocable consents are granted for a term of 10 years, at the end of which time they may be renewed. As the name implies, the City retains the right to revoke a revocable consent at any time. But they become encumbrances. Two current examples are outdoor cafes and battery swapping cabinets.

II. Oversight and Accountability

Budget Independence for Oversight Agencies. It is my opinion that current and historic funding levels are not enough for the Department of Investigation (DOI) and other oversight bodies to adequately maintain integrity in municipal operations and ensure public money is spent lawfully. City Hall’s budget decisions have significantly impacted DOI’s ability to hire and retain employees. Their OTPS budget primarily pays the rent for outside monitors, so they cover expenses with dwindling forfeiture funds left over from the 2011 CityTime settlement. As DOI Commissioner Jocelyn Strauber testified before my committee on March 14, 2025, “our budgetary needs do not seem to be a key priority for this administration.” Oversight agencies need budget independence, but very few have it. Thanks to the 1989 Charter Commission, the Independent Budget Office (IBO) budget is a set percentage of the budget of the Office of Management and Budget (no less than ten percent). The Campaign Finance Board sets its own budget. The 2019 Commission based staffing at the Civilian Complaint Review Board is based on the budgeted headcount of the New York City Police Department. This Commission should grant the same independence to DOI, the Board of Correction, the Special Commissioner of Investigation for the New York City School District, and several Commissions.

III. The City Budget

Enhance Units of Appropriation. This Commission should review the Unit of Appropriation (U/A) structure to make budgetary decisions more transparent and less broad, giving meaning to the 1989 Commission’s intent. Each year, the Council has to negotiate with the administration for more clarity, and we always want more than we get. The Department of Education uses a single U/A called “general education instruction and school leadership” that accounts for \$8 billion in City money. The Police Department mixes the budgets of all police precincts, boroughwide offices, detectives division, forensic investigation division, narcotics division, and strategic response group in a single U/A called “operations.” I

suggest a charter amendment that ensures adherence to the mandate that U/As correspond more closely to the various functions, activities or programs of each agency. Under current law, the Charter states that each Unit of Appropriation represents an amount allocated for a particular activity and that it be for just one purpose. The Council and the public need smaller, programmatic Units of Appropriation to enable oversight of City agencies, to better understand the administration's priorities, and to adjust program funding as a result.

Reform Revenue Estimates. Charter section 1515 requires “accurate estimates of revenues and expenditures” but the estimates are unilaterally determined by the Mayor. There is a serious lack of trust in revenue estimates and no consequences for getting them wrong. The Council has been correct in our higher revenue estimates than those of the Adams administration each year. That is how budget cuts were restored, but they were not needed in the first place. The current revenue estimate structure allows it to be used by City Hall not as a tool for ensuring a balanced budget, but rather as a tool to force the Council to change its budget priorities, or to win public favor by restoring cuts at the 11th hour. I support the Charter revisions proposed to this body by the Citizens Budget Commission on February 28, 2025. Additionally, this Commission should explore joint revenue estimates, also known as consensus estimates, between the City Council and the mayor.

IV. Executive Authority

Expand Advice and Consent. There were many debates throughout the 2018-2019 charter revision process that I initiated with then Public Advocate Leticia James. Members of the Commission had very different viewpoints from one another— from the Republicans representing Staten Island to Sal Albanese, the representative for then-Brooklyn Borough President Eric Adams—but they reached an agreement. One of the consensus outcomes was that the mayor's pick for Corporation Counsel should be determined through advice and consent, and it has proven to be valuable. There is no reason other agencies should not go through the same process. Other major cities such as Los Angeles and Chicago have been using advice and consent for many years. When you have extra public scrutiny, you end up with the best people.

Implementation of Local Laws. In all mayoral administrations, laws that are passed by the City Council are sometimes not implemented. For example, the Council passed reforms to CityFHEPS July 2023 that went into effect on January 9, 2024, but have not been implemented. Former Council Member Lou Fidler, may

he rest in peace, said to the 2010 Bloomberg commission that the charter should require all laws passed by the City Council go into effect unless the mayor is sued to stop them. If the mayor thinks a duly enacted law is preempted or otherwise legally infirm, he can sue as well. The mayor should be prohibited from refusing to enforce it in the absence of a court agreeing with him. The mayor should not get a pass from the presumption that a duly enacted law is valid.

Mayoral Appointments. The mayor has too much control over the makeup of boards such as the Rent Guidelines Board, the Board of Correction, and the Advisory Committee on the Judiciary. The City Council, Borough Presidents, and Public Advocate should have more spots to fill so these boards are not simply pass-throughs for the mayor.

Independence at DOI. Commissioner Strauber recently presented several proposals to my committee intended to safeguard DOI's independence and protect the agency from retaliation. I will share two. First, establish a tenure of five or six years for the DOI Commissioner so that their term would span administrations, limiting the risk that a DOI Commissioner would be subject to improper influence by any mayoral administration. Second, expand controls around removal of the DOI Commissioner by adding a requirement that removal be for cause only and require approval of the City Council.

V. Democracy and Elections

Changing Election Cycles. I support the testimony of Citizens Union and others who have proposed moving City elections to even years, which would significantly boost voter turnout, diversify the electorate, and save the City money. In 2022, San Francisco voters passed a proposition moving elections for mayor and other local offices from odd-numbered years to presidential election years. November 5, 2024 was the city's first on-cycle mayoral election, and turnout nearly doubled to 78.5 percent. New York City turnout in off-cycle elections is very low. In 2021, just 23 percent of registered voters cast a ballot for mayor. On November 5, 2024, more than twice as many people turned out to vote for president. Moving city elections to even years would require an amendment to the State constitution, but this Commission could put forward changes at the City level that would be necessary to enact it.

Thank you for the opportunity to testify. I am happy to answer any questions.