



THE COUNCIL OF
THE CITY OF NEW YORK

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President
Board of Elections in the City of New York
32-42 Broadway, 7th Floor
New York, NY 10004

Commissioners
Board of Elections in the City of New York
32-42 Broadway, 7th Floor
New York, NY 10004

Dear Mr. Umane and Commissioners:

We write to urge the New York City Board of Elections to reject three ballot proposals (Questions 2, 3 and 4) drafted and submitted by Mayor Eric Adams' Charter Revision Commission for inclusion on the 2025 General Election ballot, due to clear legal deficiencies in the language used for their questions and abstracts. When the City Board of Elections makes its upcoming Election Law Section 4-114 determination of the November 2025 ballot, it must reject these three ballot questions based on the law.¹

Ballot Questions 2, 3, and 4 violate the statutory requirements for Charter revision referenda because the questions do not "clearly ... indicate the effect of their approval," as required by N.Y. Municipal Home Rule Law § 36(5)(b). In particular, the three questions fail to inform voters that the ballot proposals will *completely eliminate* the City Council's existing authority on behalf of the public to approve or modify a wide range of land use proposals—including many projects made up almost entirely of luxury housing.

Under current law, the City Council is the only democratically elected body that has a vote on local land use decisions. This is the only real authority that the public can rely on to influence decisions on a land use proposal within their communities, **providing a powerful voice and serving as a strong and well-known lever of power for residents to influence**

¹ See *Lenihan v. Blackwell*, 209 A.D.2d 1048, 1049 (4th Dep't 1994) (upholding Board of Election's rejection of ballot question).

development and investment in their neighborhoods. For 35 years, New Yorkers have relied on the City Council and their elected Council Members' direct say in City land use decisions. Time and again, the Council has leveraged its central role in this democratic process to negotiate deeper levels of affordability in proposed housing construction and to secure substantial local investment. This includes much-needed funding for schools, childcare, community centers, green space and parks, public transit, vital infrastructure, and subsidized affordable housing.

While local Community Boards can offer advisory input gathered from the public, they have no formal power to enact their recommendations in legally binding decisions. They rely on the Council's powers to give true consideration and effect to these views. Although the City Planning Commission has a voting role, it is comprised entirely of unelected appointees with a majority chosen by the mayor. Similarly, the Board of Standards and Appeals consists entirely of unelected mayoral appointees.

These three ballot proposals' effective elimination of the mechanism for democratic accountability to the public within the land use process is a major shift. Yet, the questions are written in a way that hides this crucial fact from voters, lacking accuracy and transparency about the decision before them. The Board of Elections must not allow Mayor Adams' Charter Revision Commission to bury the practical changes and impacts of its proposals in ballot questions that so brazenly hide the true stakes for communities and New Yorkers.

Questions 2, 3 and 4 fail to inform voters that, if enacted, they would put a wide range of land use decisions in the hands of mayoral appointees. This would eliminate the City Council's voting power, and would remove the ability of communities to negotiate investments and public benefits into their neighborhoods through the Council's power.

Questions 2 and 3 would completely eliminate the Council's authority to approve or modify a vast swath of development projects, shifting voting power entirely to unelected appointees primarily made by the mayor, on the City Planning Commission and Boards of Standards and Appeals.

Question 4 would ultimately override the Council's land use authority, including when it approves applications with modifications. It would give the Mayor and Borough Presidents collective and final veto power over the Council's modification or disapproval of rezoning applications by the City of entire neighborhoods or by private developers if they require Mandatory Inclusionary Housing (MIH)—which allows for up to 80% of new construction to be dedicated to market-rate or luxury apartments. The Council's authority to provide the final decision in the land use process, with a required two-thirds vote, would be eliminated. This new structure would effectively undermine the ability of the Council to negotiate greater affordability of housing and other needed public benefits on behalf of communities during consideration of these applications. For example, preservation of the popular 34th Street Busway proposal, investments in the garment industry, and other public benefits recently secured by the Council, alongside its approval of the modified Midtown South Mixed-Use Plan, would be far less likely under this new structure being proposed.

The proposed ballot questions and abstracts hide these fundamental facts from voters. For instance, nothing in Questions 2 or 3—or in the accompanying abstracts—discloses that

those two questions, if enacted, would *completely eliminate* the Council's power to vote on a wide range of applications for development authority within the City and its neighborhoods. Question 4 does not even indicate the authority of this newly created structure to overturn a democratic vote of the Council. Clarity on these points would have been straightforward and easy to achieve.

Instead, the ballot questions emphasize things that would *not* change (such as "Community Board review") and claim that the proposals are merely to "simplify" and "fast track." In reality, the current process for land use projects often takes multiple years, significantly due to state law environmental impact requirements and the City Planning Commission's own rules. The Council's role in the current process is confined to 50 days.

To find the Charter Revision Commission's true goal, voters would have to read the Commission's 134-page Final Report. That report spells out exactly what the ballot questions and abstracts so carefully conceal: that the purpose and effect of Questions 2, 3, and 4 is to eliminate or nullify the Council's vote over a wide range of land use projects. That change, the report argues, will impede community groups' ability to stop or modify unwanted development in their neighborhoods.

Questions 2, 3, and 4 must be rejected for placement on the November ballot because their primary impact is being hidden from voters, undermining the franchise.

Failing to disclose this information is no small omission. It is not fair to ask New Yorkers to vote on such major changes to a significant democratic process without ever actually telling them what they are voting to change in accurate and clear terms. The Board of Elections has an essential responsibility and role in ensuring that voters are not misled here.

The Board of Elections has broad authority to reject ballot questions that do not "clearly ... indicate the effect of their approval," according to N.Y. Municipal Home Rule Law § 36(5)(b). New York Courts have upheld Board of Election Commissioners' ability to exercise that power where proposed ballot questions are unclear about a crucial aspect of a proposed ballot initiative. *Lenihan v. Blackwell*, 209 A.D.2d 1048, 1049 (4th Dep't 1994).

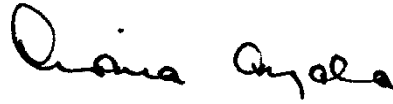
Simply put, you have the power to prevent voters from being misled by ballot questions that fail to "clearly" inform voters of their choices and the resulting effects of their approval.

Questions 2, 3, and 4 objectively fail to comply with the minimal standard required by state law. If New Yorkers vote yes, they will be unwittingly surrendering their power of public accountability by altering a democratic process to remove their elected representatives from a vast array of land use decisions, instead centralizing those decisions in the hands of mayoral appointees. If New Yorkers are going to vote for such sweeping changes, their ballots should inform them that is what they are voting on. The City Board of Elections need not be complicit in Mayor Adams' Charter Revision Commission's cynical political ploy to mislead voters about the core impacts of Questions 2, 3, and 4. Instead, the Board of Elections should uphold its commitment to voters—and to all New Yorkers—by rejecting those three questions and excluding them from the November ballot.

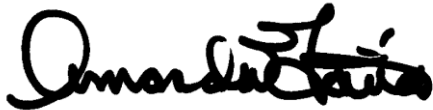
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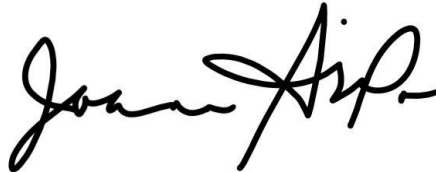
ADRIENNE E. ADAMS
Speaker



DIANA AYALA
Deputy Speaker



AMANDA FARÍAS
Majority Leader



JOANN ARIOLA
Minority Leader

cc: Michael J. Ryan, Executive Director
Vincent M. Ignizio, Deputy Executive Director
Grace Pyun, Esq., General Counsel
Michael McSweeney, City Clerk and Clerk of the Council