

ANTI-DISCRIMINATION CENTER, INC.

“ONE COMMUNITY, NO EXCLUSION”

March 20, 2019

Hon. Katharine H. Parker
United States Magistrate Judge
500 Pearl Street, Room 750
New York, New York 10007

Re: Letter-motion for discovery (Dept. of Education)
Noel and Senat v. City of New York, 15-CV-5236

Your Honor:

This letter-motion seeks permission for plaintiffs to conduct a FRCP 30(b)(6) deposition of a representative of the City’s Department of Education (DOE) that is limited in duration (5 hours on-the-record), in time period (the tenure of the de Blasio administration), and is further limited to one topic: fear of, or opposition or resistance to, potential or realized changes in the racial or ethnic composition of schools resulting from City policies or practices. Plaintiffs have sought the consent of defendant but have not heard back. This letter is intended to explain why plaintiffs have good cause for this application. Plaintiffs respectfully request that the Court accept this letter though it is six pages.

Contrary to defendant’s insistence throughout discovery that events occurring in and about New York City’s public schools are not relevant to this case,¹ additional evidence has emerged² that: (a) HPD knows of multiple assertions from participants in its assessment of fair housing (AFH) process to the effect that there are “often” efforts to resist racial integration in schools; (b) HPD is working in close collaboration with DOE on the AFH process; (c) DOE is aware that actions by the New York City public school system exacerbated housing segregation; and (d) DOE is aware that racial stereotyping helped create segregated neighborhoods and schools, and that racial and ethnic stereotyping continues to exist. In sum, plaintiffs posit that the City is well-aware of significant resistance to racial integration of schools; that such resistance is founded on negative race-based views of “outsiders” entering the neighborhood; and that its awareness cannot be separated from the knowledge and facts that inform the City’s assessment of the popularity and purpose of its outsider-restriction policy. The racial resistance around integrating schools is deeply intertwined with and interconnected to the resistance to integrating neighborhoods residentially and supports the outsider restriction policy.

¹ See, e.g., excerpts of transcript of Feb. 16, 2017 court conference ([ECF 87](#)), at 67:6-9, 68:13-16 (defendant’s counsel asserting that schools-related discovery is “well beyond the scope of the mosaic in terms of creating inferences” of intentional discrimination and that “it shocks me, it concerns me that I’m spending all of this time and [plaintiffs’ counsel] thinks that something so tangential is absolutely necessary to his case”).

² Subsequent to the taking of most depositions and subsequent to the entry of the August 2018 stipulation that provided a path for good cause discovery supplemental to that separately available under the FRCP.

I. Relevance

As the Court knows, it has been plaintiffs' position that defendant has known about race-based resistance to neighborhood change and has been responsive to it, *inter alia*, by expanding and maintaining the outsider-restriction policy. That opposition is not apt to be discussed in the specific context of the outsider-restriction policy because defendant's executive branch has given no indication that it is open to reducing or eliminating the policy.³ There have, on the other hand, been live controversies about changes in school zones and school admission policies.⁴

As one of plaintiffs' experts, Professor Myron Orfield, has pointed out:

Concerns about schools are often a major source of opposition to affordable housing. Research suggests that residents see racial change in schools as a proxy for educational quality, and will express concern that new housing, or housing with a different composition than currently exists in the neighborhood, will erode the quality of the schools. . . .

Likewise, where there is fear of changes in school assignment or zoning procedures out of proportion to any realistic concern, and where the changes have a racial element, *officials can only reasonably suppose that concerns about school-based demographic change extend to concerns about residential racial change. . . .*

Appeals to protect "our schools" are a classic form by which race-based resistance to outsiders is expressed (mostly in white neighborhoods). But, in New York City, these comments appear in nonwhite communities, too.⁵

At the deposition of Leila Bozorg,⁶ HPD's deputy commissioner for neighborhood strategies and the person leading the team that designed and implemented public and community engagement in connection with the ongoing AFH process, Ms. Bozorg identified a number of

³ See excerpt of transcript of Apr. 24, 2018 deposition of Holly Leicht, a former HPD official in the Bloomberg administration, Ex. 1 hereto, at 115:8-13 (dismissing the possibility of there having been any discussion of potentially reducing outsider-restriction, Leicht said, "My point is elected officials would have never had that conversation, the community boards would not have. Because it was accepted and the most they would ever do is just affirm, 'Of course, the 50 percent applies.'").

⁴ See, e.g. Philissa Cramer, [With a late-night tweet, Carranza steps into emotional and divisive Upper West Side desegregation fight](#), Chalkbeat, Apr. 27, 2018 (reciting the school Chancellor's retweet of a Twitter message that had said "WATCH: Wealthy white Manhattan parents angrily rant against plan to bring more black kids to their schools"); see also Emma Whitford, [Controversial School Rezoning Plan In Gentrifying Brooklyn Wins Approval](#), Gothamist, Jan. 6, 2016 (faced with the prospect of an influx of white students to a predominantly African-American school, the head of the PTA of that school complained, "All that we will get is another PS 8 – a school that all of the black and brown folks built, only to lose all of the stake and ownership.").

⁵ See excerpts of Feb. 15, 2019 report of Professor Myron Orfield, Ex. 2 hereto, at 16-17, ¶¶ 59, 60, 62, and 63 (citation and exhibits omitted; emphasis added).

⁶ The deposition was conducted on Jan. 10th; the signed transcript and errata were received on Feb. 22nd.

documents dealing with the educational dimension of fair housing, including one that was a “Qualitative Data Synthesis” of feedback received from “stakeholders.”⁷ “Community opposition” to school integration was one of the “key takeaways,” with multiple participants (indicated in the document by two “plus” signs) noting that:

Predominantly White and affluent communities *often* block attempts for integration in schools that would provide low-income communities increased access to quality schools (e.g., rezoning of schools, bussing students, or shelters in their neighborhood). Often school integration efforts are viewed by White families as taking opportunities away from their kids. *NIMBYism is often centered on not wanting particular groups of people in a neighborhood*, and there is a lack of willingness to have conversations about racial tension.⁸

While Ms. Bozorg was only prepared to go as far as to say that the context of the observations was “potentially” about race,⁹ it is unmistakably clear to any reasonable reader that the observations were *centrally* about race and *resistance to racial change*. How much of that resistance exists and what defendant knows about it beyond what “stakeholders” have reported – are integration attempts “often” blocked, as observed by the stakeholders? What is the frequency of attempts to block integration and how are they manifested? – are entirely reasonable inquiries in a case about defendant’s deference to those who seek to stave off racial change. And DOE is the agency that most directly would know about resistance to racial change in the school context.

Ms. Bozorg herself demurred on the question of the existence of fear of prospective racial change in school assignment policies and school zone boundaries, stating that her knowledge was limited to what she learned through reporting in the media. But her testimony revealed the existence of close communication between HPD and DOE. Asked whether she had spoken to the agency’s DOE partners on the issue of fear of racial change, she stated that she had not been “in many of the direct conversations with our DOE partners”; *i.e.*, there *were* many conversations. (She did not know who on the DOE side would deal with this type of issue but volunteered that HPD Deputy Commissioner Murphy was the HPD official working “more directly with our interagency colleagues on this initiative”).¹⁰

Last month, an entity called the School Diversity Advisory Group (SDAG), issued a report called “Making the Grade.”¹¹ SDAG was created by DOE and charged with providing recommendations to the Mayor and the Chancellor on school integration. While the

⁷ Plaintiffs’ Exhibit 266, marked at the Bozorg deposition, Ex. 3 hereto.

⁸ *Id.* at 1, 5 (emphasis added).

⁹ See excerpts of transcript of Jan. 10, 2019 Bozorg deposition (“Bozorg Depo.”), Ex. 4 hereto, at 104:24-106:16.

¹⁰ For the propositions in this paragraph, see Bozorg Depo., at 95:6-96:16. These communications are separate from and in addition to regular meetings between the schools chancellor and the Mayor. See excerpt of transcript of the Nov. 2, 2017 deposition of Alicia Glen (“Glen Depo.”), Ex. 5 hereto, at 215:13-20 (“I believe the chancellor has a weekly meeting with the mayor. She reports directly to the Mayor.”).

¹¹ See https://docs.wixstatic.com/ugd/1c478c_4de7a85cae884c53a8d48750e0858172.pdf.

recommendations of the report were SDAG recommendations and not DOE recommendations, “[s]everal leaders from within the NYC DOE served as named members of the Advisory Group and participated in discussions. DOE staff also provided logistical and research support.”¹² This fact provides additional support for the likelihood that DOE officials have information concerning resistance to racial integration in schools (and the nexus thereof with housing), not only because the topic of “diversity” is contested, but also because the DOE leaders have participated in a process that pointed out that “[a]ctions by the New York City Public School system exacerbated the housing segregation as school zones were adjusted to keep black children out of nearby predominantly white schools,” and that, our history, *inter alia*, of “creating and believing stereotypes about race” has helped create “neighborhoods and zoned schools that mirror housing discrimination.”¹³ That stereotyping is not only a thing of the past, but rather something that continues to plague New York City today.¹⁴

II. Other attempts to acquire the information

Plaintiffs acknowledge that early in the discovery process they pointed to the critical link between resistance to changing the racial status quo in schools and in neighborhoods.¹⁵ The Court at that time denied our three document requests relating to this issue, and, while not precluding a future deposition on these matters, directed plaintiffs to “[f]irst depose people that are involved with the affordable housing and the community preference debate,” and then determine whether a deposition is needed regarding education and schools.¹⁶

While focused on the many additional issues that arise in the prosecution and defense of this case, plaintiffs did attempt to question several non-data deponents on the issue of resistance to racial change in the school context (consistent with the Court’s initial reminder about such questions having to fit into the time limits of a deposition). Those attempts did not yield the necessary information.

Ms. Been did understand the link between residential integration and school integration, volunteering in response to a question about the former the fact that she had had conversations with two Council Members (CMs) about the latter, but she explained that she did not otherwise

¹² *See id.* at 32.

¹³ *See id.* at 43, 6.

¹⁴ *See id.* at 24 (emphasis added) (“Our schools are shaped by a long history of decisions around race. From ghettos founded on racism, to poverty and housing costs, where we live too often dictates the quality of our schools. And if students are mostly Black and Latinx, assumptions about quality and education *are often* based on stereotypes.”). The report defines “white fragility” in its glossary. *See id.* at 113 (“A state in which even a minimum amount of racial stress becomes intolerable, triggering a range of defensive moves. These moves include the outward display of emotions such as anger, and guilt, and behaviors such as argumentation, silence, and leaving the stress-inducing situation. These behaviors, in turn, function to reinstate white racial equilibrium. Racial stress results from an interruption to what is racially familiar.”).

¹⁵ *See* Feb. 16, 2017 court conference ([ECF 87](#)), at 64:13-66:24.

¹⁶ *See id.* at 66:25-67:1, 69:22-72:24.

talk to CMs outside of her purview, which she described as “the housing plan.”¹⁷

Former Deputy Mayor Glen stated that she did not participate in the meetings that the schools chancellor had with the Mayor.¹⁸ Former HPD Commissioner Rafael Cestero stated that, “I really didn’t get into school issues. That was for Board of Education and, you know, it wasn’t . . . my purview to be involved in those conversations. . . .”¹⁹

Vicki Been’s successor as HPD Commissioner, Maria Torres-Springer, acknowledged that she was aware in general terms of controversy on the Upper West Side about changes in elementary school zones, of a debate in the same neighborhood about how to better racial integrate middle schools, and a debate about what the geographic zones should be for PS 8 in Brooklyn Heights and PS 307 in Vinegar Hill, but did not participate in conversations on these topics with either schools chancellor who has served during the de Blasio administration.²⁰ (Again, the regular meetings that the schools chancellor has are with the Mayor.). Ms. Torres-Springer insisted that she had no view as to whether or not fear of potential racial change in . . . school composition drives *some* opposition to school rezonings.”²¹

We had thought that Ms. Bozorg would be able to be more forthcoming because of her intimate involvement with the AFH process (and because it was she who was designated as HPD’s representative to a public forum on fair housing – including issues related to community preference – held by the publication City Limits – but, as noted earlier, she was not).

The moral of the story is that the information about resistance to racial change in schools is most directly available *from DOE*, as is the information as to who amongst defendant’s executive branch officials, including but not limited to the Mayor, has been made privy to that information.

III. The benefit of this discovery outweighs any burden

Plaintiffs have had no document discovery on this topic and have had no depositions devoted to this topic. DOE, on the other hand, must have a representative already familiar with these issues. Note that plaintiffs are asking only for a deposition of a representative with appropriate knowledge, not a deposition, as originally contemplated, of the schools chancellor.

IV. The August 2018 stipulation related to discovery disputes

The City will likely argue that the August 2018 stipulation precludes this request. But the plain language of the stipulation is to the contrary. Paragraph 18 of the Aug. 3, 2018 stipulation

¹⁷ See excerpt of transcript of Apr. 10, 2019 deposition of Vicki Been, Ex. 6 hereto, at 34:19-35:11.

¹⁸ See Glen Depo., at 215:18-23. Even in connection with whether it is true or false that there is little to be done as a matter of City action in terms of housing patterns as they are currently defined on the basis of race, Ms. Glen said that, “I haven’t really thought about it.” *Id.* at 265:10-16.

¹⁹ See excerpt of transcript of Nov. 14, 2017 deposition of Rafael Cestero, Ex. 7 hereto, at 229:3-8.

²⁰ See excerpt of transcript of May 10, 2018 deposition of Maria Torres-Springer, Ex. 8 hereto, at 149:20-151:6.

²¹ See *id.* at 151:7-153:4.

related to discovery disputes ([ECF 518](#)) precluded plaintiffs from seeking further discovery about defendant's Housing and Neighborhood study (HANS), and paragraph 27, in identifying the right for additional good-cause discovery specifically excluded discovery about HANS *even in the presence of good cause*. By contrast, paragraph 22 excluded a current or former DOE employee from the one supplemental deposition that was being agreed to as part of the stipulation but *did not* preclude such discovery when it came to the good-cause provision of paragraph 27.

V. Conclusion

Plaintiffs have good cause for this discovery. We have adduced additional evidence of probable DOE knowledge of resistance to racial change in schools. We have not had the opportunity to depose any DOE official before. We have not been permitted to depose the person who receives regular briefings from the schools chancellor (the Mayor).

At this stage of the proceedings, it would not be proper to choose one interpretation of events (to the extent that defendant knew about resistance to racial change in the school context, it cordoned that knowledge off from its decisions relating to where and how it would be responsive in the housing context to those who wished to maintain the racial status quo), and to reject another interpretation of events (aware of multiple manifestations of resistance to racial change in multiple contexts, defendant decided that one way to pander to that resistance was maintaining the outsider-restriction policy). Instead, the facts about scope and knowledge of resistance to racial change in schools should be allowed to be developed, and the decision about what interpretation of the facts developed should be left to the factfinder.

Respectfully submitted,

Craig Gurian

Craig Gurian
Co-counsel for plaintiffs

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JANELL WINFIELD, TRACEY
STEWART and SHAUNA NOEL,
Plaintiffs,
-against-

Civil Action No. :
15CV5236 (LTS) (KHP)

CITY OF NEW YORK,
Defendant.

-----x

VIDEOTAPED DEPOSITION OF HOLLY LEICHT
April 24, 2018
New York, New York
9:42 a.m.

Reported by:
Elizabeth Santamaria

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Leicht

discussed as going away because it was a very standardized policy.

Q. Well, it was discussed here by Kay --

A. Right.

Q. -- about going away.

A. My point is elected officials would have never had that conversation, the community boards would not have. Because it was accepted and the most they would ever do is just affirm. Of course, the 50 percent applies.

Q. So at least at the time that you were at HPD there was an expectation built in that it would be 50 percent, correct?

A. Yes.

Q. Whereas earlier in the life of the community preference policy there was an expectation that it would be 30 percent?

MS. SADOK: Objection.

A. Again, that was not on my radar screen possibly until whatever discussion ensued here.

Q. Just to clarify. You're saying you

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C E R T I F I C A T E

I, ELIZABETH SANTMARIA, a Court Reporter, do hereby certify that prior to the commencement of the examination, HOLLY LEICHT was sworn by me to testify the truth, the whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the foregoing is a true and accurate transcript of the proceedings as taken stenographically by and before me at the time, place and on the date hereinbefore set forth.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in this action.




ELIZABETH SANTAMARIA

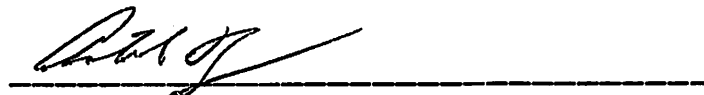
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STATE OF New York)
) : ss
COUNTY OF New York)

I, HOLLY LEICHT, the witness
herein, having read the foregoing testimony of
the pages of this deposition, do hereby
certify it to be a true and correct
transcript, subject to the corrections, if
any, shown on the attached page.


HOLLY LEICHT

Sworn and subscribed to before
me, this 18th day of June, 2018.



Notary Public

ANTOVK PIDEDJIAN
NOTARY PUBLIC-STATE OF NEW YORK
No. 01PI4969909
Qualified in Westchester County
My Commission Expires 07-30-2018

E R R A T A

I wish to make the following changes,
for the following reasons:

PAGE LINE

See attached

CHANGE:

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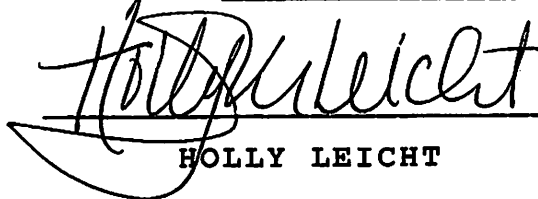
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HOLLY LEICHT

6/18/18
DATE

SUBSCRIBED AND SWORN TO BEFORE ANTOVK PIDEDJIAN
ME THIS 18th DAY OF June, 2018. NOTARY PUBLIC-STATE OF NEW YORK
No. 01PI4969909
Qualified in Westchester County
My Commission Expires 07-30-2018


NOTARY PUBLIC

7/30/2018
COMMISSION EXPIRES

96 5 CHANGE: “a” to “the”

REASON: Deponent said “the” but reporter transcribed incorrectly.

97 14-15 CHANGE: “I” to “me”

REASON: Clarify intent of statement.

111 7 CHANGE: “where” to “or”

REASON: Deponent said “or” but reporter transcribed incorrectly.

112 18 CHANGE: “I think A” to “I think, yeah,…”

REASON: Deponent said “yeah” but reporter transcribed incorrectly.

115 12-13 CORRECT PUNCTUATION: “...is just affirm, “Of course, the 50 percent applies.””

REASON: Clarify intent of statement.

118 15 CHANGE: “what was thinking” to “what their thinking was”

REASON: Clarify intent of statement.

120 4-5 CHANGE: “...to them, but – and” to “to them and...”

REASON: Clarify intent of statement.

120 17 CHANGE: “than” to “that”

REASON: Deponent stated “that” but reporter transcribed incorrectly.

120 22 CHANGE: “as” to “us”

REASON: Deponent stated “us” but reporter transcribed incorrectly.

121 3-5 CORRECT PUNCTUATION: “...didn’t impact – or lack of beliefs, because I don’t know whether they had them – didn’t...”

REASON: Clarify intent of statement.

126 12-13 CORRECT PUNCTUATION: “...described in the original plan. The focus...”

REASON: Clarify intent of statement.

128 21 CHANGE: “we” to “would”

REASON: Deponent stated “would” but reporter transcribed incorrectly.

133 20 CHANGE: “approximate” to “proximate”

REASON: Deponent stated “proximate” but reporter transcribed incorrectly.

141 19 CHANGE: “And” to “An”

REASON: Deponent stated “An” but reporter transcribed incorrectly.

141 20 CHANGE: “not be protected” to “not protected”

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

SHAUNA NOEL and EMMANUELLA SENAT, :

Plaintiffs, :

-against- :

15-CV-5236 (LTS/KHP)

CITY OF NEW YORK, :

Defendant. :

-----X

EXPERT REPORT OF PROFESSOR MYRON W. ORFIELD, JR.

I. Qualifications and expertise.

1. I am the Earl R. Larson Professor of Civil Rights and Civil Liberties Law and Director of the Institute for Metropolitan Opportunity at the University of Minnesota Law School. My primary responsibilities are teaching and directing the Law School’s Institute on Metropolitan Opportunity. My *curriculum vitae*, which includes my publications over the last 10 years, is annexed hereto as Exhibit 1.

2. I teach constitutional law, with a particular emphasis on the equal protection clause and the three major federal civil rights acts. I also teach state and local government, land use planning, and legislation.

3. The Institute for Metropolitan Opportunity is a legal and social science research center that studies racial segregation in schools and housing, state and local tax policy, land use policy, and regional governance in the 100 largest U.S. regions. It has recently embarked on a series of studies concerning the costs of government-supported affordable housing.

4. I received my law degree in 1987 from the University of Chicago Law School. I served as a law clerk to Judge Gerald W. Heaney of the United States Court of Appeals for the

able to buy the correct type of foods or personal products, and will be racially and culturally isolated and unhappy.

59. Concerns about schools are often a major source of opposition to affordable housing. Research suggests that residents see racial change in schools as a proxy for educational quality, and will express concern that new housing, or housing with a different composition than currently exists in the neighborhood, will erode the quality of the schools.

60. Likewise, where there is fear of changes in school assignment or zoning procedures out of proportion to any realistic concern, and where the changes have a racial element, officials can only reasonably suppose that concerns about school-based demographic change extend to concerns about residential racial change. *See, e.g.*, feedback from participants in City’s “Where We Live” (AFH) process as to community opposition (“Predominantly White and affluent communities often block attempts for integration in schools that would provide low-income communities increased access to quality schools (e.g., rezoning of schools, bussing students, or shelters in their neighborhood). Often school efforts are viewed by White families as taking opportunities away from their kids. NIMBYism is often centered on not wanting particular groups of people in a neighborhood, and there is a lack of willingness to have conversations about racial tension.”).¹⁴

61. When community, political, and economic leaders or groups in nonwhite segregated neighborhoods oppose integrative programs, they typically raise a different set of concerns. They argue that the integrative program will change the neighborhood’s character or

¹⁴ *See* excerpt of Where We Live NYC, “Topic-Based Roundtable C: Education, Qualitative Data Synthesis,” Sept. 5, 2018, annexed hereto as Exhibit 9, at 5. *See also* Ben Chapman, “NYC schools chancellor calls out parents against integration,” *New York Daily News*, Apr. 27, 2018, annexed hereto as Exhibit 10.

“culture,” or focus on fears of displacement of a particular racial or ethnic group, or lament “cultural” displacement.¹⁵

62. Sometimes, I have found, concerns are expressed in an explicitly race-based way; that is, stating the importance, for example, of preserving an African-American neighborhood as African-American. These explicit appeals are relatively rare in the current day (although I have sometimes seen such behavior in, for example, my home city of Minneapolis and many of its surrounding suburbs). These kinds of comments occur in New York City, too. For example, there is advocacy decrying the “whitening” of neighborhoods,¹⁶ as well as advocacy that asserts that development is resulting in “ethnic cleansing.”¹⁷ There is also the City Council Member who suggested that housing people by ethnic background is an option that should be considered.¹⁸

63. Appeals to protect “our schools” are a classic form by which race-based resistance to outsiders is expressed (mostly in white neighborhoods). But, in New York City, these comments appear in nonwhite communities, too. So, for example, when a school rezoning plan was approved that would zone more students from white, upper-middle-class families into a school that currently principally serves lower-income African-Americans, the head of the PTA of the predominantly

¹⁵ In doing so, they are not, as previously noted, following the views of the majority of their constituents. See discussion *supra*, at 9-10, ¶¶ 33-36.

¹⁶ See, e.g., excerpt of Sept. 2015 report of the Real Affordability for All coalition, annexed hereto as Exhibit 11, at 5 (“Race is an undeniable factor here and needs to be acknowledged: mandatory inclusionary zoning, as currently conceived by the de Blasio administration, will lead to the whitening of neighborhoods like East New York and the South Bronx that are scheduled to be rezoned.”).

¹⁷ See excerpt of Dartunorro Clark, “East Harlem Rezoning is ‘Ethnic Cleansing,’ Locals Say During Chaotic Vote,” *DNA Info*, June 21, 2017, annexed hereto as Exhibit 12, at 3.

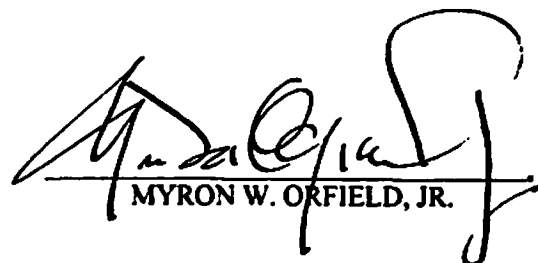
¹⁸ See Michael Gartland, “NYC councilwoman: It might be ‘beneficial’ to assign public housing by ethnic group,” *New York Post*, Mar. 27, 2015, annexed hereto as Exhibit 13.

“stakeholders.”⁴⁶ but that does not render the changes infeasible on the basis of “jerrymandering” or that constituents would not be able to see what the preference was going to be like.

104. When discussing a prospective project in an especially segregated neighborhood, the City would explain that the preference was going to be shared with residents of one or more other community districts *whose income profiles were identical to those residents of the project’s community district who would qualify for apartments* in an effort to minimize the risk of disparate impact on the basis of race. The specific community districts with which the preference were to be shared should be immaterial so long as the type of districts sharing the preference and the reason necessitating the sharing were adequately described.

105. The city could focus more on working with other communities in the region to promote housing affordability and affordable housing construction. At present, New York City itself, which has by far the region’s highest share of low-income residents, is attempting to meet most of the regional need for affordable housing. This burden could be eased by cooperating with other communities to produce affordable units.

Dated: Minneapolis, Minnesota
February 15, 2019



MYRON W. ORFIELD, JR.

⁴⁶ I am advised, for example, that the City’s decision to adopt a homeless preference for up to 25 percent of units in some buildings, including some buildings where lotteries had already been conducted, was controversial.

Where We Live NYC

Topic-Based Roundtable C: Education

Qualitative Data Synthesis

This document summarizes the feedback we heard from stakeholders at the Education Learn Phase Roundtable that took place on June 5, 2018.

(++) indicates that this idea was discussed at multiple tables

Key Takeaways

- Participants expressed that the combination of school zoning and choice policies are major drivers of segregation and disparities in educational opportunities. Lower-income families, immigrants, and homeless families do not always have the knowledge or ability to exercise choice, due to language barriers, limited time and resources, and physical distance. White affluent families move into high performing school zones (dominating the housing market and pricing out lower income families) or exercise choice to send their kids out of low-performing school zones.
- Participants noted that neighborhood conditions impact school conditions and student performance. Areas with a high concentration of poverty have schools with deteriorating conditions, concentration of students that face compounding challenges, and limited school resources. Meanwhile, schools in affluent areas with mostly White populations have better conditions, supplemental services, and are more likely to have facilities accessible to students with disabilities.
- Participants shared that the lack of diversity and cultural competency of staff/teachers within schools can also reinforce both segregation and inequities in access to quality education.
- Participants had mixed opinions on the impacts of gentrifying neighborhoods on schools. Some noted that it may give the appearance of integration, though it may be in transition, while others noted that gentrifying parents are exercising choice to send their kids to school in better performing zones. Some also noted that gentrification and the pricing out of low-income families might cause under-enrollment in schools (as new families send children to out-of-zone schools).
- Overall, here are the top five contributing factors to disparities in access to quality education:
 - **Location and type of affordable housing:** High concentration of public housing leads to high concentrations of poverty, influencing a student's school performance and the resources allocated to schools in these neighborhoods. Higher income neighborhoods with high proficiency schools do not see a lot of affordable housing developments or often oppose them perpetuating segregation in housing patterns and schools.
 - **Location and type of proficient schools and school assignment policies:** Lower income neighborhoods usually have lower quality facilities and greater challenges due to concentrated poverty. The combination of zone and choice system can reinforce segregation due to the disparities between low-income and wealthy families in their ability to exercise choice.
 - **Community opposition:** Zoning of schools and school integration are often controlled by wealthy parents, often excluding low-income children in low performing schools and reinforcing divide. Many parents support the status quo and NIMBYism does not allow for the integration of schools and neighborhoods.
 - **Impediments to mobility to integrated and/or high opportunity areas:** Voucher holders face rent limits, discrimination, as well as cultural divides when using vouchers to move to opportunity neighborhoods. There is also a lack of knowledge by parents of school opportunities or housing services available to them.
 - **Loss of affordable housing:** There has been a lot of housing lost to gentrification, which has caused families to have to move and enroll in other schools, often in areas with more concentrated poverty. There is not enough affordable housing in higher income neighborhoods, preventing low-income families from moving into neighborhoods that could give them access to higher performing schools.



Existing Conditions

I. Understanding Data on Educational Outcomes

We heard the following from participants in response to how the initial data presented in the session reflects their understanding of disparities in access to quality education:

- **Residential vs. school segregation** ++ should be directly compared to better understand the how the two issues are interconnected. It would be useful to map areas that have high levels of residential segregation and low school segregation (and vice versa), and add qualitative data.
- **Enrollment numbers in gentrifying communities** ++ are important to analyze to determine if they have decreased due to displacement of low-income communities, which may contribute to insufficient resources in schools.
- **Additional data on choice is needed** ++, particularly focused on how choice is exercised, how choice varies by where people live, and how residency impacts parents' choices around charter and private schools (and vice versa). More data is also needed to understand potential disparities in travel time to and from school.
- **English Language Learners (ELL)** ++: The data presented on 4th grade students might not tell the whole story, since older ELL students that arrive to the U.S. at an older age may show different results. Also, ELL determination might not be valid and might not include all the children that actually need to be enrolled in the program.
- **High school graduation rates** ++ could be used to measure trajectory and opportunity. The analysis could compare differences between students attending high schools in their district vs. utilizing choice.
- **Need for alternative standard measures of proficiency beyond testing:** Not all students score well for various reasons, but bring other abilities in their classrooms and projects (class work, project-based activities) that are not measured through testing. Analysis should take into account additional burdens schools with high concentration of poverty face. School attendance (absenteeism) can also be an important measure for proficiency.
- **School performance statistics can reinforce segregation:** Participants want more information on how data on school performance is affecting parents' decision to exercise choice.
- **Need further analysis of District 75,** because it serves students with specific learning needs and is non-geographic so that students cross districts. It is important to look at where different services that are provided, and why students might or might not attend their local school.
- **Suggestion to include qualitative study on homeless families** and how they navigate the school system.

II. Understanding Unique Challenges Faced by Focus Populations

Participants noted the following unique needs or challenges faced by specific populations:

- **Economically disadvantaged:** The concentration of low-income people leads to concentration of chronic stresses in schools. Students in these schools need social services and experienced and committed teachers who can differentiate instruction and are competent to deal with a child in trauma or emotional crisis (e.g., with incarcerated parents, food insecurity). These students also need additional academic interventions and after-school enrichment. Parents in economically disadvantaged neighborhoods lack information about choice and opportunity schools, making it hard for families to exercise choice. If children in these neighborhoods do attend "high-end schools," they often face stigma in their own community or bullying at the new school. Family culture and neighborhood norms influences where children go to school.
- **Populations with disabilities:** Majority of school buildings in low-income neighborhoods are inaccessible to students, teachers, and parents with physical/sensory disabilities. This makes students with special needs look for services outside of their districts. Individualized Education Program (IEP) children might not attend their local schools and need to travel far because their needs are not offered.

- **ELL and immigrant families** exercise choice at lower rates. Limited English skills and lack of familiarity with the process make it difficult for immigrant parents, who often rely on the children for information and translation, to navigate the choice system.
- **Homeless students:** Temporary housing is concentrated in specific neighborhoods. Housing instability contributes to absenteeism, which affects academic success. Academic liaisons in shelters are not providing right information about school options.
- **Low-income families in high opportunity areas / schools:** Students may encounter racism, and staff and teachers aren't trained to address the issues. Students and parents may feel isolation and lack a sense of belonging. Some low-income families face difficulties affording groceries and other amenities in high opportunity areas, which tend to be more expensive.

III. Analyzing Relationship between Segregated/Integrated Living Patterns and Quality Education

Participants noted the following as important to understanding how where we live affects access to quality education:

- **Concentration of poverty leads to compounding challenges in schools ++:** Schools in areas of concentrated poverty face heavy staff, teacher, and principal turnover. Lack of experienced and consistent teachers becomes especially problematic for children with special needs who come from challenging home environments. Furthermore, local leaders – directors of organizations that provide afterschool programming and principals – do not coordinate on lesson plans and student learning needs. In the past, poverty was more dispersed and less concentrated, but this concentration is worsened by gentrification and displacement. Some participants highlighted the importance of the need for school integration because lower income students can benefit from the resources that higher income students have.
- **School choice coupled with admission processes that preference residency within zones can reinforce segregation ++:** The existing school zoning system allows for wealthy, privileged families to dominate good schools (increasing housing demand in these zones) and to leave districts that are lower performing, exacerbating inequalities and reinforcing both neighborhood and school segregation. Choice policies allow White middle/higher income families in diverse neighborhoods to move their children away from Black/Latinx children. Lower-income and immigrant families often do not exercise choice due to lack of knowledge of choice and opportunity; challenges navigating the system (due to time, capital, and language barriers); fear of isolation; and potential challenges around distance/isolation from proficient schools. Many participants believed the system would be less segregated if families did not have the option to choose and just went to their neighborhood schools.
- **Gentrifying communities ++:** Gentrification often does not lead to school integration or improved schools, as new wealthier families often send their kids out of the district into better schools. Furthermore, displacement can lower enrollment, which affects funding. There is a concern that integration is only thought of Whites coming into neighborhoods causing displacement, or moving children of color into White neighborhoods, away from their communities.
- **Lack of diversity and integration influence where students go to school:** Black and Latinx kids are more likely to live in neighborhoods with higher poverty and attend segregated schools with lower resources. Black and Latinx students face barriers accessing other opportunity without quality schools.
- **Lack of cultural competency can reinforce patterns of segregation:** Predominantly White schools can be a hostile place for children of color, which can lead parents of children of color to choose schools with more students and staff who look like them. Guidance counselors are not often culturally competent and do not know how to deal with identity challenges students of color might face. Teachers are often trained in pedagogy that comes from White normativity/supremacy that shows up in the curriculum and in their communication. This can perpetuate a deficiency narrative amongst students of color that can impact their sense of belonging and school performance.
- **Location of accessible schools:** Accessible schools are mostly located in high income neighborhoods (e.g. Lower Manhattan), forcing students with disabilities to have to seek services and accessible schools outside of their neighborhood. Lower-income schools might also lack the services special needs students need.

IV. Identifying Future Trends

Participants noted that the following future trends may further impact educational disparities:

- The concentration of wealth will continue to increase disparities in neighborhoods and schools.
- The country and the world are urbanizing, more people are living in cities and moving away from suburban areas.
- Charter schools numbers are increasing in low-income neighborhoods. Charter schools might not be open to all students, and take away students and resources from neighborhood public schools.

Understanding and Prioritizing Contributing Factors

Below is a summary of what participants discussed regarding each of the contributing factors driving disparities in access to quality education. The contributing factors below are listed in order of how participants prioritized them across break-out tables, from highest to lowest number of individual votes.

Location and type of affordable housing (17 votes)

- **Concentration of affordable housing in low-income neighborhoods ++** reinforces patterns of segregation by concentrating students living in poverty in certain schools, this included historic placement like NYCHA campuses. The concentration of populations with low educational levels can also influence students' educational achievements. Furthermore, schools around NYCHA development often have broken-down facilities and inadequate conditions for children to learn in, regardless of programming quality.
- **Lack of affordable housing in neighborhoods with quality schools:** A participant reported his students had to move away from Flushing (where they attended quality schools) to the Bronx because of a lack of affordable housing in Flushing.
- **Allocation of affordable housing:** Qualified Allocation Plans (QAPs) do not necessarily allocate points to applications based on quality of schools. There is a lack of scrutiny about how many points are allocated to projects based on school quality.
- **Shelter placement and relationship with schools:** Though shelters are not permanent affordable housing, the location of shelters impacts a homeless child's access to quality education. The current City policy allows for families in shelter to get housing placement near where the youngest child goes to school, but HRA is not always able to commit to this due to limited availability of school space, lack of transportation, and lack of coordination across agencies (DOE and HRA) to ensure that schooling and housing options are convenient to the family. This limits the school choice and continuity of education for children in the shelter system.

Location of proficient schools and school assignment policies (17 votes)

- **School zoning and choice policies ++:** The combination of zoning and choice increases segregation and limits access to proficient schools. Proficient schools are dominated by wealthy, privileged families who often control PTAs and influence rezoning of school districts. In gentrified neighborhoods like Harlem, higher income families exercise choice to leave the neighborhood schools, while families living in local public housing often do not exercise that choice.
- **Accessible schools ++:** Lower income neighborhoods usually have inaccessible facilities for children with disabilities, forcing students to attend a school outside of their own neighborhoods.
- **Residential preference:** Some participants felt that a policy like residential preferences for schools in high opportunity areas can limit access to poor students, while others referenced some quality schools located in low-income communities (like Bronx Science), where residential preference (beyond exam) could boost diversity and local students' access to the school.
- **Test scores and grades:** Selection policies based on test scores and grades can further segregate schools because they prevent Black/Latinx children, who have not had the opportunity to attend proficient schools, from accessing specialized schools. Some participants believe the system is designed to segregate Black/Latinx students from White students.

- **Rise of charter schools in low-income neighborhoods:** Low-income families, who often do not exercise choice within the public school system, are more and more likely to send their children to charter schools. More families sending their children to their local charter takes away from investment in low performing public schools, decreasing resources.
- **Location of well-resourced schools** is concentrated in mostly in White, affluent neighborhoods that lack socioeconomic and racial diversity. There is a lack of investment in the quality of schools in low-income neighborhoods.

Community opposition (13 votes)

- **Integration efforts ++:** Predominantly White and affluent communities often block attempts for integration in schools that would provide low-income communities increased access to quality schools (e.g., rezoning of schools, bussing students, or shelters in their neighborhood). Often school integration efforts are viewed by White families as taking opportunities away from their kids. NIMBYism is often centered on not wanting particular groups of people in a neighborhood, and there is a lack of willingness to have conversations about racial tension.
- **Inequity around civic participation:** Parents that have lower educational attainment or need to spend extended hours at work face barriers in advocating for their children and fighting community opposition. Advocacy voices often do not represent broad interests or interests of those in with the most need.
- **Bullying as a form of student opposition that reinforces segregation:** Discrimination within schools through bullying can lead families to remain within their segregated neighborhoods instead of exercising choice.

Impediments to mobility to integrated and/or high opportunity areas (11 votes)

- **Lack of education and assistance for parents with vouchers ++** on how to use their voucher to direct their children to opportunity schools.
- **Vouchers cannot be used to access neighborhoods with great schools ++:** Vouchers can limit access to high opportunity neighborhoods, which are often more expensive. Voucher holders also face private source-of-income discrimination, and voucher holders are often not aware of or choose not to exercise their rights to fight discrimination. Participants believe the City lacks an expansive program to encourage mobility.
- **Counseling parents on services:** Low-income families that move to high income neighborhoods do not get enough counseling around services and often face stigma when accessing services.
- **Lack of counseling and support for families to integrate with cultural barriers:** Meaningful mobility is more than spatial; mobility demands that residents cross cultural divides, and government often fails to understand this dynamic.

Loss of affordable housing (11 votes)

Table 2 combined this contributing factor with public private investment and lack of access to opportunity due to high housing cost.

Table 3 combined loss of affordable housing with location and type of affordable housing, and lack of access to opportunity due to high housing cost.

Table 1 did not get to discuss.

Private discrimination (10 votes)

- **Lack of enforcement of anti-discrimination laws** make it challenging for protected classes to access areas with quality schools. Enforcement is difficult because people are covertly discriminating.
- **Discrimination presents itself in different ways** and people are not always aware that they are being discriminated against, but testing shows that it still exists. Discrimination is happening based on race, criminal record, economic status, credit history, and source of income, which disproportionately affect people of color.
- **Access to brokers for higher income families** can facilitate racial steering. Some affluent families hire consultants to help them decide where to invest in real estate for their children or future children to have access to a "good school zone."

- **Co-op buildings:** There's no co-op disclosure, which facilitates private discrimination and prevents people that may want to move to opportunity areas from doing so.

Lack of public/private investment in specific neighborhoods (9 votes)

- **Investments and maintenance:** There's a lack of investment and maintenance of amenities and schools in neighborhoods with low income families. There is a lack of community-driven investments in low-income areas, where students face compounding challenges.
- **Who is expected to move to promote integration / access resources:** There is a concern among participants that integration is only thought as moving children of color into White neighborhoods, or Whites coming into neighborhoods causing displacement.
- **Challenges to investment:** If community does not have investment, it hurts social cohesion. Public/private investment is challenging because it can lead to gentrification and displacement. Revitalization approach should not be thought of from a deficit model, where residents feel like the makeup of the neighborhood needs to be replaced to be "revitalized."

Lending discrimination (8 votes)

- **Racial wealth gap:** Lending discrimination furthers the racial wealth gap and prevents the intergenerational transfer of wealth.
- **Ties inability to invest in communities:** If you cannot get a loan due to your protected class status, it prevents you from investing in the revitalization your community.

Lack of access to opportunity due to high housing cost (8 votes)

- **High housing cost communities** with excellent schools makes these educational resources inaccessible to low-income people.

Lack of local or regional cooperation (6 votes)

- **Lack of cooperation between cities and suburban areas** prevents people from have access to information to make an informed choice about moving to suburbs, if they wanted to. There are barriers to build affordable housing in suburban communities, which prevents mobility for people who would make the move to those areas. Other barriers include the non-acceptance of vouchers, community preference policies in suburban communities that may perpetuate segregation, and exclusionary zoning that restricts multi-family housing.

Land use and zoning laws (4 votes)

- Can be used to perpetuate segregated housing and thus segregated schools.
- **Poor calculation for school seats** can lead some areas with high development of housing to lack adequate schools capacity nearby.
- **Rezoning for Mandatory Inclusionary Housing (MIH)** continues to prioritize neighborhoods where schools are lower quality. This rezoning of low-income neighborhoods could create market changes that lead to increased displacement and the further concentration of poverty, which has disproportionate impacts on schools in low-income communities. Beyond calculating potential new seats needed, there is a lack of comprehensive investment in existing schools and other amenities for low-income families in rezoned neighborhoods.

Availability, type, frequency, and reliability of public transportation (3 votes)

- **Exercising choice:** A family's ability to exercise choice can be limited by public transit availability and accessibility, since it can be difficult to move between boroughs. This is especially true in parts of Southern Queens and Staten Island.
- **Accessibility for parent participation:** Panel for Educational Policy (PEP) meetings are often held at a location that is a 20 minute walk to the nearest bus station, for example.
- **Bussing for general education students:** DOE does not provide buses for this population, who may still need more affordable transit.

Lack of community revitalization strategies (3 votes)

- *See lack of public/private investments and lending discrimination.*

Occupancy codes and restrictions (2 votes)

- **Restrictions in occupancy for senior housing** does not allow families to live with grandparents, who might live in in quality school zones, to be able to access better quality education.

School performance measures

- **Test scores and school performance statistics can reinforce segregation** by increasing demand for certain schools, as parents exercise choice to get out of sending their children to lower scoring schools. There is a lack of emphasis on other evaluative measures of school quality beyond test scores for parents to reference.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
JANELL WINFIELD, TRACEY
STEWART and SHAUNA NOEL,
Plaintiffs,
-against-

Civil Action No. :
15-CV-5236 (LTS) (KHP)

CITY OF NEW YORK,
Defendant.

-----x

DEPOSITION OF
LEILA BOZORG
New York, New York
January 10, 2019
9:54 a.m.

Reported by:
JUDITH CASTORE, CLR

1 BOZORG

2 prospective racial change --

3 MS. POLIFIONE: Objection.

4 Q -- in the school context?

5 MS. POLIFIONE: Objection.

6 A Can you clarify that
7 question? I'm sorry. Am I familiar
8 with?

9 Q The existence of fear of
10 prospective racial change in school
11 assignment policies and school zone
12 boundaries?

13 MS. POLIFIONE: Objection.

14 A As I mentioned, what I'm
15 familiar is through some of the
16 reporting, especially through
17 The New York Times, if I need to be
18 specific on the issue. And in some of
19 those articles they describe meetings
20 where there was significant tension
21 about the change of boundaries.
22 Whether that's specific tension around
23 racial change, I am not sure.

24 Q Have you spoken with your DOE
25 partners on that issue?

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BOZORG

MS. POLIFIONE: Objection.

A I have not been in many of the direct conversations with our DOE partners. I have another colleague who work more directly with our interagency partners on this initiative.

Q Who is that?

A Deputy Commissioner Matt Murphy.

Q And do you know who on the DOE side would deal with issues relating to this kind of resistance to change?

MS. POLIFIONE: Objection.

A I don't.

Q May I ask you to you look at what's been marked 266, Plaintiff's 266.

(Document headed, Where We Live NYC, Topic-Based Roundtable C: Education, Qualitative Data Synthesis, was marked Plaintiffs' Exhibit 266, for identification, as of this date.)

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BOZORG

to Page 5 under, Community opposition.

And the first bullet point
you see is, Integration efforts.

A Um-hum.

Q Do you see that?

A Um-hum.

Q That has the double plus sign
to indicate discussed at multiple
tables, correct?

A Yes. It has the two plus
signs.

Q And that's what it indicates,
right, that this was discussed at
multiple tables?

A Yes.

Q So could you read out loud
that first bullet point. Understanding
that all you are reading is a summary
of what stakeholders are saying. So
that's clear in the record you don't
have to worry about that.

MS. POLIFIONE: Objection.

A Okay. The sentence reads,
Predominantly white and affluent

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BOZORG

communities often block attempts for integration in schools that would provide low income communities increased access to quality schools, e.g. rezoning of schools, busing students or shelters in their neighborhood.

Should I continue?

Q Yes.

A Often school integration efforts are viewed by white families as taken opportunities away from their kids. Nimbyism is often centered on not wanting particular the groups of people in a neighborhood. And there is a lack of willingness to have conversations about racial tension.

Q When you read, NYMBYism is often centered on not wanting particular groups of people in a neighborhood, what do you understand particular groups to mean? What kind of particular groups?

MS. POLIFIONE: Objection.

1 BOZORG

2 A Look, I wasn't at the
3 roundtables where this was discussed
4 but I'm not naive to those
5 conversations or these types of
6 conversations either. I understand
7 this to mean potentially groups
8 different than one's own.

9 Q In terms of, say, race?

10 MS. POLIFIONE: Objection.

11 A Well, the next part of the
12 sentence says, There is a lack of
13 willingness to have conversations about
14 racial tension which makes me believe
15 that the context of this was
16 potentially about race.

17 Q Isn't the context of the
18 whole thing about protected class
19 status under the Fair Housing Act?

20 MS. POLIFIONE: Objection.

21 A I have to say, I'm not a
22 lawyer so I don't know the particulars
23 around that but I do know protected
24 class status is an important part of
25 it. But broadening access to

ERRATA

I, Leila Bozorg, wish to make the following changes, for the following reasons:

PAGE LINE

3 13 CHANGE: "FRANCIS" to "FRANCES"
REASON: typographical error.

3 14 CHANGE: "fpolifione@law.nyc.gov" to "fpolifio@law.nyc.gov"
REASON: typographical error.

8 4 CHANGE: "is I" to "is that I"
REASON: to clarify the intent of the sentence.

11 10 CHANGE: "but that is" to "but those are"
REASON: deponent misspoke.

12 13 CHANGE: remove the word "it's"
REASON: to clarify the intent of the sentence.

19 15 CHANGE: "my understanding of kind of HUD's" to "my understanding of HUD's"
REASON: to clarify the intent of the sentence.

20 9 CHANGE: "when" to "what"
REASON: to clarify intent of the sentence.

54 23 CHANGE: "see" to "oversee"
REASON: to clarify intent of the sentence.

57 11 CHANGE: remove the word "and"
REASON: to clarify the intent of the sentence.

86 18 CHANGE: remove the word "as"
REASON: to clarify the intent of sentence.

89 8 CHANGE: remove "versus" and add "as" after "well"
REASON: to clarify the intent of the sentence.

90 2 CHANGE: remove "kind of the part that are not"
REASON: to clarify the intent of the sentence.

90 5 CHANGE: "we've" to "we're"
REASON: incorrect transcription.

95 15 CHANGE: add the word “with” between “familiar” and “is”
REASON: to clarify the intent of the sentence.

96 6 CHANGE: “work” to “works”
REASON: incorrect transcription.

105 13 CHANGE: “taken” to “taking”
REASON: incorrect transcription.

105 15 CHANGE: remove the word “the”
REASON: incorrect transcription.

109 13, 14 CHANGE: add “,” in between “that” and “and, and add “,” after the word
“summary”
REASON: to clarify the intent of the sentence.

110 19 CHANGE: “stockholders” to “stakeholders”
REASON: incorrect transcription.

129 24 CHANGE: “severe” to “fear”
REASON: incorrect transcription.

142 13 CHANGE: add the word “any” in between “seen” and “that”
REASON: incorrect transcription.

216 8 CHANGE: “inclusive enclaves” to “exclusive enclaves”
REASON: deponent misspoke.

228 12 CHANGE: “and demographics” to in demographics”
REASON: to clarify the intent of the sentence.

228 15 CHANGE: add comma after “in”
REASON: to clarify the intent of the sentence.

228 16: CHANGE: add double dash after “that”
REASON: to clarify the intent of the sentence.

237 5-7 CHANGE: “it very well could be happening of that kind of analysis” to “that
kind of analysis very well could be happening”
REASON: to clarify the intent of the sentence.

253 19 CHANGE: add “,” after the word “conflict”
REASON: to clarify the intent of the sentence.

253 22 CHANGE: add “,” after the word “recognized”
REASON: to clarify the intent of the sentence.

266 2 CHANGE: “a” to “an”
REASON: incorrect transcription.

283 18 CHANGE: “that” to “where”
REASON: to clarify the intent of the sentence.

284 10 CHANGE: add “,” after “factors” and remove “that go into kind of what”
REASON: to clarify the intent of the sentence.

285 12 CHANGE: “that’s” to “that”
REASON: incorrect transcription

294 23 CHANGE: add “ - - ” after “housing”
REASON: to clarify the intent of the sentence.

307 17 CHANGE: remove “though” and replace it with “with what”
REASON: to clarify the intent of the sentence.


LEILA BOZORG

2/20/2019
DATE

SUBSCRIBED AND SWORN TO
BEFORE ME THIS 20th DAY OF February, 2019.


NOTARY PUBLIC

11-20-2021
COMMISSION EXPIRES

WILLIAM K. COLLAZO
Notary Public, State of New York
No. 01CO5052389
Qualified in Bronx County
My Commission Expires 11-20-2021

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
JANELL WINFIELD, TRACEY STEWART
and SHAUNA NOEL,

Plaintiffs,

-against-

CITY OF NEW YORK,

Defendant.

Civil Action No.:
15-CV-5236 (LTS) (KHP)

-----x

VIDEOTAPED

DEPOSITION OF ALICIA GLEN

New York, New York

November 3, 2017

9:26 a.m.

Reported by:
JUDITH CASTORE, CLR
Job No. 52429

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GLEN

staff, because there is no chief of staff. Zack. I think Zack as Corp. counsel. And the chiefs of staff of the deputy mayors.

I think that's the basic cast of characters.

Q At this point or any previous point in time, did the schools chancellor participate in those meetings?

A Never. Or the PD. Never.

Q Were those a different set of meetings for the head of the police department and for Ms. Farina?

MS. SADOK: Objection.

A I have no idea when chancellor -- I believe the chancellor has a weekly meeting with the mayor. She reports directly to the mayor.

Q And you don't participate in those meetings?

A No.

Q Okay. So regardless of the setting or circumstance or who else may

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GLEN

about what can and cannot be done in terms of housing patterns in New York City?

MS. SADOK: Objection.

A I don't ever recall having a conversation with him about housing patterns in New York City. That is not something we've talked about.

Q Okay. Is it your view, as deputy mayor, that there is little to be done, as a matter of city action, in terms of housing patterns as they are currently defined on the basis of race?

A I haven't really thought about it. But when you have a functional zero vacancy rate and flat to down production, it's hard to imagine a lot of movement, even if that was your goal. Right?

Q Even if it were your goal -- so I think what you're saying is, even if it were your goal, there are few opportunities to make change.

MS. SADOK: Objection.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x

JANELL WINFIELD, TRACEY STEWART
and SHAUNA NOEL,
Plaintiffs,

-against-

Civil Action No.:
15-CV-5236 (LTS) (KHP)

CITY OF NEW YORK,
Defendant.

-----x

April 10, 2018
9:20 a.m.

VIDEOTAPED DEPOSITION of VICKI BEEN, held
at the law offices of the Anti-Discrimination
Center, located at 1745 Broadway, New York, New
York 10019, before Anthony Giarro, a Registered
Professional Reporter and a Notary Public of the
State of New York.

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VICKI BEEN

Would your answer be the same, that you believe that all of them are interested in actively taking -- the City actively taking measures to reduce the level of residential racial segregation?

MS. SADOK: Objection.

A I mean, look, I can only answer within my realm of experience with them. But we had widespread support for the housing plan which we very much talked about in terms of increasing diversity in every neighborhood and reducing the concentration of -- the racial concentration and the concentration of poverty. And we had widespread support for that plan.

Q Other than support for the housing plan, do you have any other basis for your conclusion regarding across-the-board counsel member support for increasing residential integration and decreasing residential segregation?

MS. SADOK: Objection.

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VICKI BEEN

A I mean I didn't talk to council members about things outside my purview which was the housing plan except I think I had conversations with Richie Torres and I think probably Brad Lander about school integration.

Q With those two, they were interested in seeing steps taken to increase?

A Yes.

MS. SADOK: Objection.

Q So I don't know that you answered the question, though.

Other than your observation of support for the housing plan, was there any basis for your conclusion that council members across the board supported increasing residential racial integration and decreasing residential racial segregation?

MS. SADOK: Objection.

A That was the -- that was the way I interacted with council members. So that's the basis for my belief that

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STATE OF NEW YORK)
) : ss
COUNTY OF NEW YORK)

I, VICKI BEEN, the witness
herein, having read the foregoing
testimony of the pages of this deposition,
do hereby certify it to be a true and
correct transcript, subject to the
corrections, if any, shown on the attached
page.

Vicki Been

VICKI BEEN

Sworn and subscribed to before me,
this 25th day of May, 2018.

Kristin E. Silberman

Notary Public

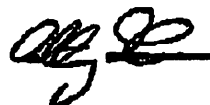
KRISTIN E. SILBERMAN
NOTARY PUBLIC STATE OF NEW YORK
NEW YORK COUNTY
LIC. #01516137116
COMM. EXP. 2/2/22

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C E R T I F I C A T I O N

I, ANTHONY GIARRO, a Shorthand Reporter and a Notary Public, do hereby certify that the foregoing witness, VICKI BEEN, was duly sworn on the date indicated, and that the foregoing, to the best of my ability, is a true and accurate transcription of my stenographic notes.

I further certify that I am not employed by nor related to any party to this action.



ANTHONY GIARRO

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
JANELL WINFIELD, TRACEY STEWART
and SHAUNA NOEL,

Plaintiffs,

-against-

CITY OF NEW YORK,

Defendant.

Civil Action No.:
15-CV-5236 (LTS) (KHP)

-----x

DEPOSITION OF
RAFAEL E. CESTERO
New York, New York
November 14, 2017
9:15 a.m.

Reported by:
JUDITH CASTORE, CLR
Job No. 52672

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CESTERO

MR. VIDAL: Objection.

A I didn't -- I mean I really didn't really get into school issues. That was for Board of Education and, you know, it wasn't -- it wasn't my purview to be involved in those conversations, so I can't really say.

Q Okay. So looking now at Exhibit 68. This is another piece you wrote. This one for Crains New York Business. Do you recognize it?

A Yes.

Q This is an article you wrote for Crains?

A Yes.

Q And if you go to the second side below that blank advertising space which happily didn't print, there's a paragraph bottom line. Do you see that? And then you write, While it is understandable that some are rejecting these proposals because they don't want their neighborhoods to change.

This article was written in

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STATE OF New York)

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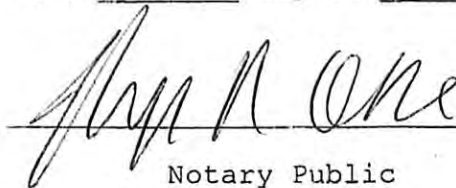
COUNTY OF New York)

I, RAFAEL E. CESTERO, the witness herein, having read the foregoing testimony of the pages of this deposition, do hereby certify it to be a true and correct transcript, subject to the corrections, if any, shown on the attached page.



RAFAEL E. CESTERO

Sworn and subscribed to before me, this 25 day of January, 2018.


Notary Public

JACLYN R KEANE
Notary Public, State of New York
No. 01KE6199572
Qualified in Nassau County
Commission Expires January 20, 2021

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
JANELL WINFIELD, TRACEY
STEWART and SHAUNA NOEL,
Plaintiffs,
-against-

Civil Action No. :
15-CV-5236 (LTS) (KHP)

CITY OF NEW YORK,
Defendant.

-----x

VIDEOTAPED DEPOSITION OF
MARIA TORRES-SPRINGER
New York, New York
May 10, 2018
9:22 a.m.

Reported by:
JUDITH CASTORE, CLR

1 TORRES-SPRINGER

2 A Errol Louis.

3 Q Anybody else?

4 A Not that I'm recalling.

5 Q Are you aware of any court
6 decisions that have limited or struck
7 down residency preference plans in
8 relation to affordable housing?

9 MS. SADOK: Objection.

10 A No, I am not.

11 Q Are you aware of any civil
12 rights organizations, other than
13 Anti-Discrimination Center that have
14 expressed the concern that community
15 preference perpetuates residential
16 racial segregation or causes a
17 disparate impact based on race?

18 MS. SADOK: Objection.

19 A No, I am not aware.

20 Q Are you aware through any
21 means whatsoever that there have
22 been -- there's been some controversy
23 on the upper west side about changes in
24 elementary school zones?

25 A Yes, I'm generally aware.

1 TORRES-SPRINGER

2 Q That involved P -- that had
3 involved, in part, PS199?

4 A I'm not sure that's -- that's
5 the school. I'm aware of the more
6 recent video.

7 Q Oh, that -- that -- you're
8 getting to my next question.

9 Are you aware that there's
10 currently a dispute about how to better
11 racially integrate middle schools in
12 District 3, which encompasses the upper
13 west side?

14 A That I'm generally aware of.
15 To the previous question, the answer is
16 no.

17 Q Are you aware that there's
18 been a controversy about what
19 neighborhoods -- what geographies are
20 zoned for PS8 in Brooklyn Heights and
21 PS307 in Vinegar Hill?

22 A Generally aware, but don't
23 know the specifics.

24 Q Have you participated in any
25 conversations either with former

1 TORRES-SPRINGER

2 chancellor Farina or current chancellor
3 Carranza about parental push back to
4 school zoning changes or to middle
5 school assignment policy changes?

6 A No.

7 Q I'm going to preface this by
8 proposing that we agree that there are
9 many parents for whom race plays no
10 role in their position on zoning
11 changes, school zoning changes and --
12 or changes in the middle school
13 assignment process. I don't know if
14 you're -- are you prepared to agree to
15 that proposition?

16 A Can you repeat it?

17 Q Yeah. That for a lot of
18 parents race plays no role as to where
19 they come out on whether supporting or
20 opposing a school zoning change.

21 A I think that's fair.

22 Q And likewise, there are a lot
23 of parents for whom race plays no role
24 in where they come out in terms of
25 supporting the process by which

1 TORRES-SPRINGER

2 students are assigned to middle
3 schools?

4 MS. SADOK: Objection.

5 A Is that different from the
6 first question?

7 Q Yeah. The -- well, the first
8 question had do with elementary school
9 rezonings.

10 A Oh, okay.

11 I think it's -- it's probably
12 fair, as well.

13 Q So do you believe that fear
14 of potential racial change in school
15 composition drives some opposition to
16 school rezonings?

17 MS. SADOK: Objection.

18 A No, I don't -- I don't want
19 to speculate as to what drives -- what
20 drives opposition in school rezonings.
21 I don't know the specifics, as I
22 mentioned, of those particular changes.

23 Q So as you're sitting here
24 today, are you saying that you have no
25 view as to whether or not fear of

1 TORRES-SPRINGER

2 potential racial change in the school
3 composition drives some opposition to
4 school rezonings?

5 A I don't know if it does.

6 Q Okay. Thank you.

7 Have you either while at EDC
8 or at HPD met with representatives of
9 any advocacy groups or other
10 organizations who express concern about
11 the prospect of change in who was going
12 to be living in the neighborhood or
13 neighborhoods they were advocating for?

14 MS. SADOK: Objection.

15 A That is a broad -- I'm trying
16 to answer to the best of my abilities.
17 That's a -- it's a broad question.
18 Have I met with -- ever met with
19 anyone, any organization that
20 expressed -- can you just repeat that
21 last part?

22 Q Yeah, a concern about the
23 prospect of change in who was going to
24 be living in the neighborhood they were
25 advocating for?

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STATE OF New York)
) : ss ,
COUNTY OF New York)

I, MARIA TORRES-SPRINGER, the witness herein, having read the foregoing testimony of the pages of this deposition, do hereby certify it to be a true and correct transcript, subject to the corrections, if any, shown on the attached page.



MARIA TORRES-SPRINGER

Sworn and subscribed to before me, this 13 day of June, 2018.



Notary Public

MICHAEL F. CHAU
NOTARY PUBLIC, State of New York
No. 01CH6072272
Qualified in Queens County
Commission Expires April 1, 2022

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C E R T I F I C A T I O N

STATE OF NEW YORK)

) ss.:

COUNTY OF NEW YORK)

I, JUDITH CASTORE, Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify:

That MARIA TORRES-SPRINGER, the witness whose deposition is hereinbefore set forth, was duly sworn by me and that this transcript of such examination is a true record of the testimony given by such witness.

I further certify that I am not related to any of the parties to this action by blood or marriage and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 14th day of May, 2018.



JUDITH CASTORE