



City of New York

OFFICE OF THE COMPTROLLER

Scott M. Stringer
COMPTROLLER



FINANCIAL AUDIT

Marjorie Landa

Deputy Comptroller for Audit

Audit Report on the Twelve Manhattan
Community Boards' Compliance with
New York City Charter and New York
City Administrative Code Requirements
for Public Meetings and Hearings, and
for Websites

FK21-075A

December 29, 2021

<http://comptroller.nyc.gov>



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
SCOTT M. STRINGER

December 29, 2021

To the Residents of the City of New York:

My office has audited the Manhattan Community Boards to determine whether they complied with New York City Charter and New York City Administrative Code requirements for public meetings and public hearings, and websites. We perform audits such as this to increase transparency and accountability and to ensure that the public is afforded the opportunity to participate in local government.

The audit found that the Manhattan Community Boards generally complied with the City Charter requirements to conduct monthly public meetings, to set aside time to hear from the public at public meetings, and to maintain a website which provides notice of upcoming meetings and board contact information.

However, the audit found that most of the Manhattan Community Boards did not consistently conduct monthly public hearings, and that certain Manhattan Community Boards did not provide adequate public notice for meetings and hearings by notifying media outlets and posting notices in physical public locations, make meetings and hearings available for broadcasting and cablecasting, and publish past meeting minutes on their websites. Additionally, our audit found that not all of the Manhattan Community Boards maintained websites that are translatable into the seven most commonly spoken languages in New York City, and that none fully adopted the protocols required to make their websites accessible for persons with disabilities.

The audit recommends that the Manhattan Community Boards should: (1) conduct public hearings each month in accordance with the City Charter and, if necessary, seek guidance on how to comply with this requirement; (2) ensure that public notice of all general board meetings is given to news media outlets and posted in public locations; (3) ensure that public notice of all public hearings is published in the official newspaper; (4) take the necessary steps to ensure that all meetings and hearings are made available for broadcasting and cablecasting; (5) post meeting minutes from meetings for the past 12 months on their websites; and (6) contact DoITT and website platform vendors to ensure that their websites include a translation feature and are fully accessible to persons with disabilities as per the WCAG 2.0 Level AA standard.

The results of the audit have been discussed with Manhattan Community Board officials and their comments have been considered in preparing this report. The Manhattan Community Boards' complete written responses are attached to this report.

If you have any questions concerning this report, please e-mail my Audit Bureau at audit@comptroller.nyc.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott M. Stringer".

Scott M. Stringer

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THE CITY OF NEW YORK OFFICE OF THE COMPTROLLER FINANCIAL AUDIT

Audit Report on the Twelve Manhattan Community Boards' Compliance with New York City Charter and New York City Administrative Code Requirements for Public Meetings and Hearings, and for Websites

FK21-075A

EXECUTIVE SUMMARY

Community Boards are established under the New York City Charter (City Charter) Chapter 70, Section 2800(a), which states that “[f]or each community district . . . there shall be a community board.” The Community Boards are local representative bodies authorized by the City Charter to advocate for the residents and needs of their districts. New York City (the City) is divided into 59 community districts, each served by a Community Board.

Several City agencies are responsible for assisting the Community Boards in fulfilling their overall responsibilities, including the respective Borough Presidents, the Civic Engagement Commission, and the Mayor’s Office Community Affairs Unit.

Each Community Board comprises up to 50 non-salaried members, each of whom must reside, work, or have some other significant interest in the district. One of the Community Board members is elected by the other members to serve as the Chairperson. In addition, each Community Board appoints a District Manager and may employ other staff and consultants to fulfill its duties, all of whom are paid by the City. Each Community Board is allocated funds through the City budget to cover staff salaries and non-salary expenses, including rent, utilities, and other miscellaneous expenses.

Manhattan has 12 Community Boards that collectively cover the entire borough.

Audit Findings and Conclusions

The Manhattan Community Boards generally complied with the City Charter requirements to conduct monthly public meetings, to set aside time to hear from the public at public meetings, and to maintain a website which provides notice of upcoming meetings and board contact information.

However, our audit found that not all of the Manhattan Community Boards complied with the City Charter requirements relating to public meetings and hearings and to maintaining websites. Specifically, we found that most of the 12 Manhattan Community Boards did not consistently

conduct monthly public hearings, and that certain Manhattan Community Boards did not provide required adequate public notice for meetings and hearings by notifying media outlets and posting notices in physical public locations, did not make meetings and hearings available for broadcasting and cablecasting, and did not publish past meeting minutes on their websites.

Additionally, our audit found that not all of the Manhattan Community Boards fully complied with New York City Administrative Code (NYC Administrative Code) requirements relating to maintaining websites. Specifically, some Manhattan Community Boards did not maintain websites that are translatable into the seven most commonly spoken languages in New York City, and others did not maintain websites which were fully accessible for persons with disabilities.

For the majority of findings discussed in the report, the Manhattan Community Board officials informed us that the reason they are not in compliance is mainly due to a lack of: (1) guidance, instructions, assistance, and support from the other City agencies who are responsible for assisting the Community Boards, and (2) financial and professional resources necessary to fulfill the requirements.

Audit Recommendations

Based on our findings, we made six recommendations to the Manhattan Community Boards, specifically, that the Manhattan Community Boards should:

- Conduct public hearings each month in accordance with the New York City Charter Chapter 70, Section 2800(h) and, if necessary, seek guidance on how to comply with this requirement by contacting the New York City Law Department as well as the other City agencies tasked with providing assistance to the Community Boards—the Manhattan Borough President’s Office, the Civic Engagement Commission, and the Mayor’s Office Community Affairs Unit;
- Ensure that public notice of all general board meetings is given to news media outlets and posted in public locations;
- Ensure that public notice of all public hearings is published in the official newspaper or in a newspaper having general circulation within the municipality and includes the date, time and place of the hearing, and a brief statement of its purpose;
- Take the necessary steps to ensure that all meetings and hearings are made available for broadcasting and cablecasting, including but not limited to, determining how to obtain access to channels dedicated for governmental use, identifying the associated costs, and allocating or seeking the necessary resources to comply with the City Charter mandate;
- Post meeting minutes from meetings for the past 12 months on their websites; and
- Contact DoITT and website platform vendors to ensure that their websites include a translation feature that allows the text of their website to be viewed in the seven most commonly spoken languages in the City and are fully accessible to persons with disabilities as per the WCAG 2.0 Level AA standard.

Agency Responses

On December 6, 2021, we submitted a draft report to the Manhattan Community Boards with a request for written comments. We received written responses from Manhattan Community Boards #1, #2, #4, #6, #7, #8, and #12. In their responses, Manhattan Community Boards #4, #6, and #8 generally agreed to implement the report's recommendations. Manhattan Community Boards #1, #2, #7, and #12 addressed only certain report findings and generally did not address the report's recommendations. We considered the comments and additional documentation provided by Manhattan Community Boards #1, #2, #4, #6, #7, #8, and #12 and modified the report, where warranted.

We did not receive written comments in response to the draft report from Manhattan Community Boards #3, #5, #9, #10, and #11.

AUDIT REPORT

Background

Community Boards are established under the City Charter Chapter 70, Section 2800(a), which states that “[f]or each community district . . . there shall be a community board.” The Community Boards are local representative bodies authorized by the City Charter to advocate for the residents and needs of their districts. The City is divided into 59 community districts, each served by a Community Board.

Under Chapter 70, Section 2800(d) of the City Charter, Community Boards are responsible for, among other things:

- Considering the needs of the district;
- Preparing and submitting to the Mayor an annual statement of community district needs, capital budget priorities, expense budget priorities, and recommendations and priorities on the allocation and use of funds earmarked for community development activities under City, State, or federal programs;
- Preparing comprehensive and special purpose plans for the growth, improvement, and development of the community district;
- Assisting with capital project planning;
- Vetting land use and zoning proposals; and
- Assisting City departments and agencies in communicating with and transmitting information to the people of the district.

Several City offices are responsible for assisting the Community Boards in fulfilling their overall responsibilities. Under the City Charter, the respective Borough President is responsible for appointing Community Board members for two-year terms and providing training and technical assistance to the Community Boards within the borough. The City Charter also states that “[s]ubject to appropriation, the [C]ivic [E]ngagement [C]ommission shall provide assistance and training to community boards . . . which may include but need not be limited to assistance in utilizing technological tools and assistance in developing uniform meeting procedures.” Additionally, the Mayor’s Office Community Affairs Unit is responsible for assisting Community Boards in carrying out their Charter-mandated responsibilities and coordinating City policies that relate to the Community Boards.

Each Community Board comprises up to 50 non-salaried members, each of whom must reside, work, or have some other significant interest in the district. One of the Community Board members is elected by the other members to serve as the Chairperson. In addition, each Community Board appoints a District Manager and may employ other staff and consultants to fulfill its duties, all of whom are paid by the City.

Community Boards are allocated funds through the City budget to cover staff salaries and non-salary expenses, such as rent, utilities, and other miscellaneous expenses. Table I below provides a breakdown of the total budget allocated for each Manhattan Community Board for Fiscal Years

2019, 2020, and 2021 and Table II below provides a breakdown of each Community Board's staffing level as of September 30, 2021.

Table I

Total Budget Allocations for Each
Manhattan Community Board (CB)

Manhattan Community Board	Fiscal Year 2019	Fiscal Year 2020	Fiscal Year 2021	Percentage Change in Budget Allocation from FY19 to FY21
CB1	\$ 449,725	\$ 465,495	\$ 411,829	-9.2%
CB2	\$ 441,129	\$ 427,612	\$ 379,802	-16.1%
CB3	\$ 433,289	\$ 433,938	\$ 397,213	-9.1%
CB4	\$ 423,818	\$ 458,139	\$ 403,027	-5.2%
CB5	\$ 375,918	\$ 402,258	\$ 341,027	-10.2%
CB6	\$ 565,355	\$ 576,190	\$ 520,134	-8.7%
CB7	\$ 382,884	\$ 392,844	\$ 373,779	-2.4%
CB8	\$ 490,068	\$ 467,018	\$ 421,462	-16.3%
CB9	\$ 425,796	\$ 431,986	\$ 381,670	-11.6%
CB10	\$ 408,208	\$ 415,454	\$ 407,921	-0.1%
CB11	\$ 367,338	\$ 374,689	\$ 347,381	-5.7%
CB12	\$ 445,374	\$ 450,820	\$ 418,742	-6.4%

Table II

Total Staffing Level for Each
Manhattan Community Board (CB)
as of September 30, 2021¹

Manhattan Community Board	District Managers	Assistant District Managers	Community Coordinators	Community Associates/ Assistants/ Aides	Total Board Staff
CB1	1	0	2	0	3
CB2	1	1	1	1	4
CB3	1	1	0	2	4
CB4	1	0	1	1	3
CB5	1	1	0	1	3
CB6	1	0	1	1	3
CB7	1	0	0	1	2
CB8	1	0	0	3	4
CB9	1	0	0	2	3
CB10	1	0	0	2	3
CB11	1	1	0	1	3
CB12	1	0	1	1	3

Manhattan has 12 Community Boards that collectively cover the entire borough. Table III below lists the neighborhoods served by each of the Manhattan Community Boards, and the Illustration that follows provides a map of the Manhattan community districts.

¹ Table II includes full-time and part-time staff who were employed by the City and paid with City funds as reported in the City's Payroll Management Systems as of September 30, 2021.

Table III

Neighborhoods Served by Each
Manhattan Community Board (CB)²

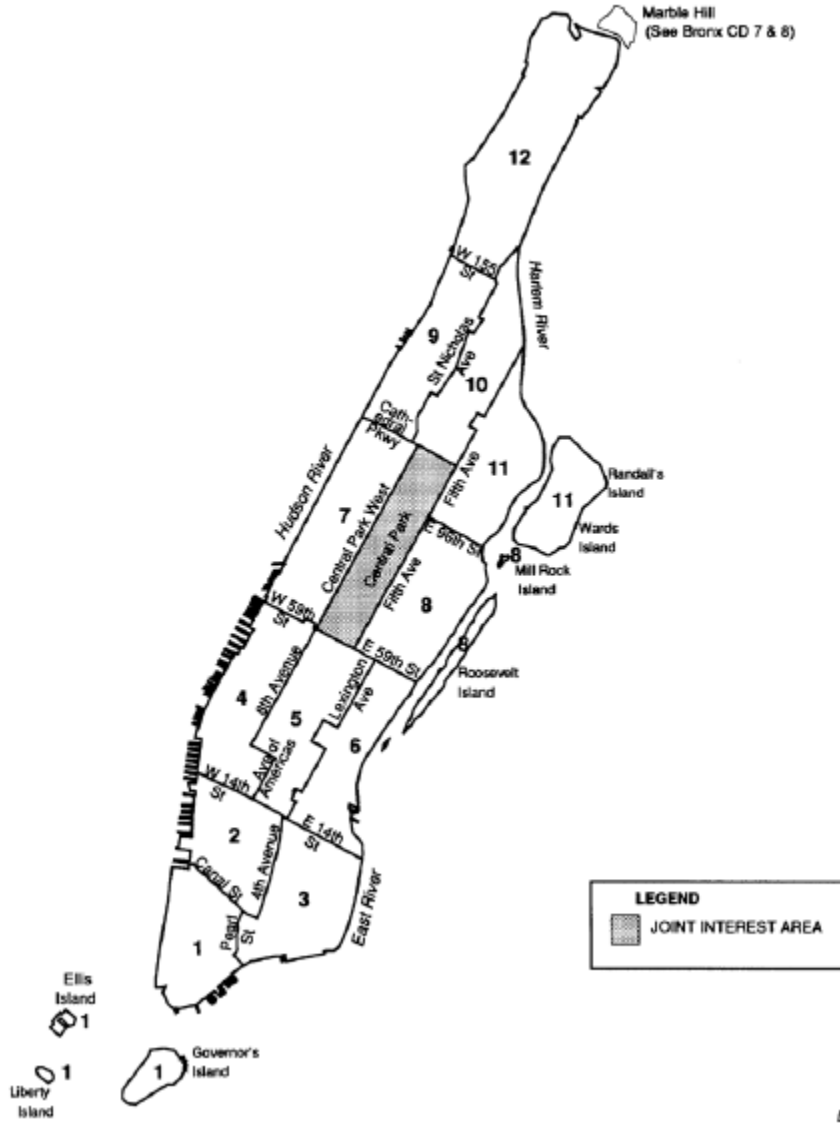
Manhattan Community Board	Neighborhoods Served
CB1	Battery Park City, Civic Center, Ellis Island, Governors Island, Liberty Island, South Street Seaport, Tribeca, Wall Street, World Trade Center
CB2	Greenwich Village, Hudson Square, Little Italy, NoHo, SoHo, South Village, West Village
CB3	Chinatown, East Village, Lower East Side, NoHo, Two Bridges
CB4	Chelsea, Clinton, Hudson Yards
CB5	Flatiron, Gramercy Park, Herald Square, Midtown, Midtown South, Murray Hill, Times Square, Union Square
CB6	Beekman Place, Gramercy Park, Murray Hill, Peter Cooper Village, Stuyvesant Town, Sutton Place, Tudor City, Turtle Bay
CB7	Lincoln Square, Manhattan Valley, Upper West Side
CB8	Carnegie Hill, Lenox Hill, Roosevelt Island, Upper East Side, Yorkville
CB9	Hamilton Heights, Manhattanville, Morningside Heights, West Harlem
CB10	Central Harlem
CB11	East Harlem, Harlem, Randall's Island Park, Wards Island Park
CB12	Inwood, Washington Heights

² Source: The New York City Department of City Planning Community District Profiles. Some neighborhoods may be in multiple districts.

Illustration

Map of Manhattan Community Districts³

COMMUNITY DISTRICT (CD) MAP: MANHATTAN



³ Source: The New York City Community Boards Handbook 2015.

Objectives

The objectives of this audit were to determine whether each of the 12 Manhattan Community Boards complied with:

(1) The New York City Charter Chapter 70, Section 2800(h), which requires Community Boards to meet and hold public hearings at least once per month (except for the months of July and August), to give adequate public notice for meetings and hearings, to make meetings and hearings available for broadcasting and cablecasting, and to set aside time for the public to speak at meetings;

(2) The New York City Charter Chapter 70, Section 2800(d)(22), which requires Community Boards "[w]ith assistance and support from the department of information technology and telecommunications, [to] maintain a website that provides adequate public notice of upcoming meetings, minutes from past meetings for the past twelve months, and contact information for the board";

(3) The New York City Administrative Code, Section 23-801, which states that "[e]very website maintained by or on behalf of the city or a city agency shall include a translation feature for viewing the text of that website, wherever practicable, in . . . the seven most commonly spoken languages within the city"; and

(4) The New York City Administrative Code, Section 23-802(a), which states that "[t]he mayor or the mayor's designee shall adopt a protocol for websites maintained by or on behalf of the city or a city agency relating to website accessibility for persons with disabilities."

Scope and Methodology Statement

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

This audit covered the period of June 1, 2019 through September 30, 2021. Please refer to the Detailed Scope and Methodology at the end of this report for the specific procedures and tests that were conducted.

Discussion of Audit Results

The matters covered in this report were discussed with officials from each of the Manhattan Community Boards during and at the conclusion of this audit. A preliminary draft report was sent to the Manhattan Community Boards and discussed at an exit conference on November 10, 2021. On December 6, 2021, we submitted a draft report to officials at the Manhattan Community Boards with a request for written comments. We received written responses from Manhattan Community Boards #1, #2, #4, #6, #7, #8, and #12.

In their responses, Manhattan Community Boards #4, #6, and #8 generally agreed to implement the report's recommendations, even though Manhattan Community Board #6 disagreed with the

report's findings relating to public hearings. Manhattan Community Boards #1, #2, #7, and #12 addressed only certain report findings and generally did not address the report's recommendations. We considered the comments and additional documentation provided by Manhattan Community Boards #1, #2, #4, #6, #7, #8, and #12 and modified the report, when warranted.

We did not receive written comments in response to the draft report from Manhattan Community Boards #3, #5, #9, #10, and #11.

The full text of the responses received from Manhattan Community Boards #1, #2, #4, #6, #7, #8, and #12 are included as an addendum to this report and excerpts are included and discussed below.

In addition, the Manhattan Community Boards collectively sought and obtained written advice, in the form of a letter, from the New York City Law Department concerning several issues that the draft report covered, and several of the Manhattan Community Boards forwarded and referenced the Law Department's letter in their responses. The full text of the Law Department's letter is included as part of the written response submitted by Manhattan Community Board #4 and can be found on pages 6 through 9 in the addendum to this report.

Manhattan Community Board #1

In its response, Manhattan Community Board #1 stated that it held monthly public hearings, posted notice of meetings and public hearings, and posted meeting minutes on its website. Furthermore, Manhattan Community Board #1 also stated that "there are sections of the audit report that are missing information that was forwarded to your office." However, we reviewed the additional documentation submitted by Manhattan Community Board #1 and found that the board did not provide sufficient documentary evidence, in the form of meeting minutes or a meeting video recording, to show that it held topic-specific hearings (during a committee meeting or other meeting) in which the public was given an opportunity to express their views on a particular matter, such as one of the categories of matters listed in the City Charter. The City Charter states that each Community Board shall hold public hearings on matters affecting the district including (1) capital needs and departmental estimates, (2) expense budget needs and estimates, (3) the allocation and use of funds earmarked for community development activities under City, State, or federal programs, (4) the Citywide statement of needs which identifies City facilities which the City intends to open, expand, close, or significantly reduce in size or service capacity, and (5) public agencies' and private entities' applications and proposals for the use, development, or improvement of land. Further, the City Charter states that each Community Board shall, at its discretion, hold public hearings on any matter relating to the welfare of the district and its residents.

With regard to posting public hearing notices, Manhattan Community Board #1 said it fulfilled the requirement in that the liquor license applicants "post the hearing information on their storefronts." However, the board itself is required to post notices of public hearings. The New York State Department of State, Committee on Open Government, Open Meetings Law, Advisory Opinion #4895 states that "[i]n order to comply with the various provisions of the Open Meetings Law, **the Board should . . . designate one or more physical locations at which it will post notice of the time and place of its meetings.**" [Emphasis added.]

As to posting meeting minutes, the report states that the May 2020 general board meeting minutes were not posted on the Manhattan Community Board #1 website when we conducted our initial

review in June 2020. The report acknowledges that those minutes are now posted on the Manhattan Community Board #1 website.

Manhattan Community Board #2

In its response, Manhattan Community Board #2 stated that it held monthly public hearings and posted notices in public locations. Specifically, Manhattan Community Board #2 stated “in an email to the Comptroller’s Office dated November 16, 2021, District Manager Bob Gormley submitted evidence that Manhattan CB2 had conducted public hearings. In said email, DM Gormley forwarded a link to the Manhattan CB2 calendar. The calendar states at the top of the page, ‘Public Hearings are noted with asterisks....’” However, we reviewed the additional documentation submitted by Manhattan Community Board #2 and found that the board did not provide sufficient documentary evidence, in the form of meeting minutes or a meeting video recording, to show that it held topic-specific hearings (during a committee meeting or other meeting) in which the public was given an opportunity to express their views on a particular matter, such as one of the categories of matters listed in the City Charter as stated above.

Furthermore, in its response, Manhattan Community Board # 2 acknowledges that “[t]he one area in which Manhattan CB2 was delinquent is in a failure to post a paper notice of our monthly full board meeting. . . . This requirement will be met every month in the future.”

Manhattan Community Board #4

In its response, Manhattan Community Board #4 stated the actions the board has taken to comply with the City Charter and the NYC Administrative Code.

Manhattan Community Board #6

In its response, Manhattan Community Board #6 disagreed with the report’s findings relating to public hearings but agreed to implement the report’s recommendations. Specifically, Manhattan Community Board #6 stated, in part,

The Comptroller’s 2012 *Audit Report on the Manhattan Community Boards’ Compliance with Meeting and Public Hearing Rules and Regulations* (MD12-080A) found that ‘all 12 Manhattan Community Boards adhered to the provisions set forth by the Charter and NYS’s OML ...’ Consequently, the report made no recommendations. Additionally, the 2012 audit report found that ‘... meetings were held and that time was allotted to allow members of the public to voice their issues and concerns. ... Section 2800(h) of the Charter mandates that ‘At each public meeting, the board shall set aside time to hear from the public.’ This is the way CB6 and all other community boards have interpreted the Charter since the 2012 audit and for many years before that. And CB6 conducted its meetings accordingly during the audit period, including holding two formal public hearings.

However, the 2012 audit did not include a review of monthly public hearings. As noted in the Detailed Scope and Methodology, the prior audit determined whether the Manhattan Community Boards conducted monthly board meetings and whether a public session was held (i.e., whether the board set aside time to hear from the public at those monthly board meetings). The current audit reviewed compliance with the City Charter requirement to hold both a meeting and a public hearing each month except July and August: “Except during the months of July and August, each community board shall meet at least once each month within the community district **and conduct at least one public hearing each month.**” [Emphasis added.]

Manhattan Community Board #7

In its response, Manhattan Community Board #7 stated that it conducted public hearings in that it conducted two ULURP hearings and allowed the public to speak at full board meetings and committee meetings. However, Manhattan Community Board #7 did not submit sufficient documentary evidence, in the form of meeting minutes or a meeting video recording, to show that it held those meetings. Furthermore, the public session portion of a general board meeting, in which the public is invited to share comments and concerns on any matter, does not constitute a public hearing because “[a] hearing is generally held to provide members of the public with an opportunity to express their views concerning a particular subject, such as a proposed budget, a local law or a matter involving land use” (New York State Department of State, Committee on Open Government, Open Meetings Law, Advisory Opinion #3834).

Manhattan Community Board #8

In its response, Manhattan Community Board #8 generally agreed with the report’s recommendations and provided additional documentation for public hearings, which it had not previously provided. Manhattan Community Board #8 also stated, “Following the Preliminary Draft Report, the CB8 staff submitted documentation that showed our agency held public hearings every month during the audit’s scope, but it was only reflected through May 2020 in the Draft Report.” However, contrary to Manhattan Community Board #8’s assertion, throughout the course of the audit the board only provided supporting documentation for public hearings through May 2020. We reviewed the additional documentation submitted by Manhattan Community Board #8 in response to the draft report and updated the finding to reflect that Manhattan Community Board #8 held the required public hearings each month during our scope period.

Manhattan Community Board #12

In its response, Manhattan Community Board #12 stated that it held three public hearings, provided adequate public notice of meetings and public hearings to news media outlets, and posted meeting minutes on its website. Further, Manhattan Community Board #12 stated that “[i]t is the trade understanding that Public Hearings are reserved for ULURP applications, Budget Ranking, or in particular when it is warranted.”

With regard to public hearings, Manhattan Community Board #12 provided supporting documentation, such as monthly calendars and meeting agendas, which it had not previously provided. We reviewed the additional documentation submitted by Manhattan Community Board #12 and found that the board did not provide sufficient documentary evidence, in the form of meeting minutes or a meeting video recording, to show that the board held topic-specific hearings (during a committee meeting or other meeting) in which the public was given an opportunity to express their views on a particular matter, such as one of the categories of matters affecting the district as listed in the City Charter as stated above.

Manhattan Community Board #12 stated that it “provides adequate and consistent public notice of all its meetings to the general public, elected official, and new media as follow. The main tool of public notification in CB #12, M is the monthly calendar. . . . The CB #12, M monthly calendar is. . . e-blasted via Mailer Lite to a list of 1,800 subscribers (these subscribers include journalists and directors of several media like Manhattan Times, Daily News, The City, NY1, El Diario La Prensa, and local cable program producers, and NYCLink).” However, Manhattan Community Board #12 did not provide documentary evidence to support its assertion. Therefore, we did not find any basis to modify the finding.

Regarding posting meeting minutes, Manhattan Community Board #12 stated that “[w]e don’t know when you check our website; but, CB #12, website is up today. Please review CB #12, webpage, and correct report.” We reviewed the Manhattan Community Board #12 website and noted in the finding section below that the May 2020 general board meeting minutes, which were not posted on the Manhattan Community Board #12 website when we conducted our initial review in June 2020, are now posted on the board’s website.

FINDINGS AND RECOMMENDATIONS

The Manhattan Community Boards generally complied with the City Charter requirements to conduct monthly public meetings, to set aside time to hear from the public at public meetings, and to maintain a website which provides notice of upcoming meetings and board contact information.

However, our audit found that not all of the Manhattan Community Boards complied with the City Charter requirements relating to public meetings and hearings and to maintaining websites. Specifically, we found that most of the 12 Manhattan Community Boards did not consistently conduct monthly public hearings, and that certain Manhattan Community Boards did not provide adequate public notice for meetings and hearings by notifying media outlets and posting notices in physical public locations, did not make meetings and hearings available for broadcasting and cablecasting, and did not publish past meeting minutes on their websites.

Additionally, our audit found that not all of the Manhattan Community Boards fully complied with NYC Administrative Code requirements relating to maintaining websites. Specifically, some Manhattan Community Boards did not maintain websites that are translatable into the seven most commonly spoken languages in New York City, and others did not fully adopt the protocols required to make their websites accessible for persons with disabilities.

These findings are discussed in the following sections of the report. For the majority of findings discussed in the report, the Manhattan Community Board officials informed us that the main reasons they are not in compliance are a lack of: (1) guidance, instructions, assistance, and support from the other City agencies who are responsible for assisting the Community Boards, and (2) financial and professional resources necessary to fulfill the requirements.

Manhattan Community Boards Did Not Fully Comply with City Charter Requirements for Public Meetings and Public Hearings

Boards Did Not Consistently Conduct Monthly Public Hearings

Section 102(1) of the Open Meetings Law defines a meeting as “the official convening of a public body for the purpose of conducting public business.” Furthermore, Section 109 of the Open Meetings Law states that “[t]he committee on open government . . . shall issue advisory opinions from time to time as, in its discretion, may be required to inform public bodies and persons of the interpretations of the provisions of the open meetings law.” The New York State Department of State, Committee on Open Government, Open Meetings Law, Advisory Opinion #3834 defines “meetings” and “hearings” to differentiate the purpose and function of each:

A meeting is different from a hearing. A meeting is generally a gathering of quorum of a public body for the purpose of discussion, deliberation, and potentially taking action within the scope of its powers and duties. A hearing is generally held to provide members of the public with an opportunity to express their views **concerning a particular subject**, such as a proposed budget, a local law or a matter involving land use. [Emphasis added.]

The New York State Division of Local Government Services guidance titled “Conducting Public Meetings and Public Hearings” also states that public hearings are held to allow the public to speak on particular matters as follows:

A public hearing is an official proceeding of a governmental body or officer, during which the public is accorded the right to be heard. . . . Many public hearings are required by law **on particular matters**, such as those that must be held prior to adoption of a local law, or prior to a determination by a planning board. . . . Many others need only be held at the option of a public body, because it may desire merely to gauge public opinion **on a matter**. [Emphases added.]

Per Chapter 70, Section 2800(h) of the City Charter, Community Boards are required to hold both a meeting and a public hearing each month except July and August: “Except during the months of July and August, each community board shall meet at least once each month within the community district **and conduct at least one public hearing each month.**” [Emphasis added.] The City Charter states that each Community Board shall hold public hearings on matters affecting the district including (1) capital needs and departmental estimates, (2) expense budget needs and estimates, (3) the allocation and use of funds earmarked for community development activities under City, State, or federal programs, (4) the Citywide statement of needs which identifies City facilities which the City intends to open, expand, close, or significantly reduce in size or service capacity, and (5) public agencies’ and private entities’ applications and proposals for the use, development, or improvement of land. Further, the City Charter states that each Community Board shall, at its discretion, hold public hearings on any matter relating to the welfare of the district and its residents.

However, based on our review of public hearing minutes for the period September 2019 through November 2020, 11 of the 12 Manhattan Community Boards failed to conduct at least one public hearing each month as detailed in Table IV below. Furthermore, 8 of the 12 Manhattan Community Boards did not conduct *any* public hearings (Manhattan Community Boards #1, #2, #3, #5, #7, #9, #10, and #12).

Table IV

Analysis of Monthly Public Hearings
for the Period September 2019
through November 2020⁴

Month	Public Hearing Held (Yes/No)											
	CB1	CB2	CB3	CB4	CB5	CB6	CB7	CB8	CB9	CB10	CB11	CB12
September 2019	No	No	No	Yes	No	Yes	No	Yes	No	No	Yes	No
October 2019	No	No	No	No	No	No	No	Yes	No	No	No	No
November 2019	No	No	No	Yes	No	No	No	Yes	No	No	No	No
December 2019	No	No	No	Yes	No	No	No	Yes	No	No	No	No
January 2020	No	No	No	No	No	No	No	Yes	No	No	No	No
February 2020	No	No	No	Yes	No	No	No	Yes	No	No	Yes	No
March 2020	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
April 2020	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
May 2020	No	No	No	No	No	No	No	Yes	No	No	No	No
June 2020	No	No	No	No	No	No	No	Yes	No	No	No	No
July 2020	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
August 2020	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
September 2020	No	No	No	No	No	Yes	No	Yes	No	No	Yes	No
October 2020	No	No	No	No	No	No	No	Yes	No	No	Yes	No
November 2020	No	No	No	Yes	No	No	No	Yes	No	No	Yes	No
Total Hearings Conducted	0	0	0	5	0	2	0	11	0	0	5	0
Total Hearings Not Conducted	11	11	11	6	11	9	11	0	11	11	6	11

After we presented our findings to the Manhattan Community Boards, some Manhattan Community Board officials stated that the public is afforded the opportunity to speak on any topic during the “public session” at each general board meeting and at committee meetings. Some

⁴ As previously stated, Community Boards are not required to hold public hearings in the months of July and August. Therefore, we excluded the months of July 2020 and August 2020 from our analysis. Additionally, due to the COVID-19 pandemic, we judgmentally excluded the months of March 2020 and April 2020 from our analysis. In total, we reviewed public hearing minutes for 11 months—September 2019 through February 2020, May 2020, June 2020, and September 2020 through November 2020.

Manhattan Community Board officials stated that the boards hold several committee meetings each month and that the committee meetings in some cases could constitute a public hearing because they are discussing particular matters such as liquor license applications and other applications before the board.

Additionally, some Manhattan Community Board officials stated that holding monthly public hearings may not be practicable because the boards may not have a specific matter to discuss each month and that boards hold public hearings when warranted. Lastly, some Manhattan Community Board officials stated that boards lack the resources to satisfy this requirement and do not receive training, guidance, and instruction from the agencies who are responsible for assisting them.

However, as previously noted, the City Charter states that, except for the months of July and August, Community Boards are required to “conduct at least one public hearing each month” on matters such as capital needs, expense budget needs, the use of community development funds, city facilities, land use, and other matters relating to the welfare of the district and its residents.

Additionally, the public session portion of a general board meeting, in which the public is invited to share comments and concerns on any matter, does not constitute a public hearing because “[a] hearing is generally held to provide members of the public with an opportunity to express their views concerning a particular subject, such as a proposed budget, a local law or a matter involving land use.”

In regard to committee meetings, while some Manhattan Community Boards held committee meetings concerning various topics, the Manhattan Community Boards that this report cites as not having conducted a required public hearing each month did not provide evidence that they held topic-specific hearings (during a committee meeting or other meeting) in which the public was given an opportunity to express their views on a particular matter.

With regard to Manhattan Community Board officials’ assertion that they lack training, guidance, and instruction, the New York State Division of Local Government Services guidance titled “*Conducting Public Meetings and Public Hearings*” notes that “[w]here local officials require guidance on particular public hearing and notice requirements associated with municipal business, they should contact the municipal attorney for advice.” Therefore, the Manhattan Community Boards should seek advice from the New York City Law Department as well as the other City agencies tasked with providing assistance to the Community Boards to ensure that boards comply with the Charter mandate to hold a public hearing each month. Since the 12 Manhattan Community Boards did not comply with the City Charter requirement to conduct public hearings at least once per month, with the exceptions of July and August, the public may not have been informed of and allowed to express their views on issues affecting their district including, among other things, land use and zoning proposals, capital projects, capital budget and expense budget priorities, and programs and services.

Most Boards Did Not Provide Adequate Public Notice of Meetings and Hearings

Chapter 70, Section 2800(h) of the City Charter states that “[e]ach board shall give adequate public notice of its meetings and hearings.” Further, the New York State Public Officers Law, Article 7, Open Meetings Law, Section 104, states that,

1. Public notice of the time and place of a meeting scheduled at least one week prior thereto shall be given or electronically transmitted to the news media and shall be conspicuously posted in one or more designated public locations at least seventy-two hours before such meeting.
2. Public notice of the time and place of every other meeting shall be given or electronically transmitted, to the extent practicable, to the news media and shall be conspicuously posted in one or more designated public locations at a reasonable time prior thereto. . . .
6. When a public body has the ability to do so, notice of the time and place of a meeting given in accordance with subdivision one or two of this section, shall also be conspicuously posted on the public body's internet website.

In addition, the New York State Department of State, Committee on Open Government, Open Meetings Law, Advisory Opinion #4895 states that “[i]n order to comply with the various provisions of the Open Meetings Law, the Board should . . . designate one or more **physical locations** at which it will post notice of the time and place of its meetings.” [Emphasis added.]

However, our audit found that, although all 12 Manhattan Community Boards generally conducted monthly general board meetings as required, 8 of the 12 did not provide adequate public notice of those meetings as required. Specifically, Manhattan Community Boards #3, #6, #10, #11, and #12 reported that they do not notify news media outlets; and Manhattan Community Boards #2, #3, #5, and #8 reported that they do not post notices in public locations.

Our audit also found that certain Manhattan Community Boards did not provide adequate public notice of public hearings. According to the New York State Department of State guidance titled *Conducting Public Meetings and Public Hearings*, “Legal notice of the hearing should be published in the official newspaper, if there is one, or in a newspaper having general circulation within the municipality, as required by law. A public notice should be posted on the official bulletin board or signboard, and in other places as required by law.” The New York State Division of Local Government Services guidance titled *Conducting Public Meetings and Public Hearings* also details public notice requirements for public hearings and states that “[l]egal notice of the hearing should be published in the official newspaper, if there is one, or in a newspaper having general circulation within the municipality,” and that “all notices of public hearings must, at a minimum, include . . . the date, time and place of the hearing; and . . . a brief statement of its purpose.”

However, as previously stated, 8 of the 12 Manhattan Community Boards did not conduct any public hearings during the period September 2019 through November 2020. Of the four Manhattan Community Boards that did conduct public hearings, two reported that they do not publish notice of public hearings in the newspaper (Manhattan Community Boards #6 and #11).

After we presented our findings to the Manhattan Community Boards, some Manhattan Community Board officials stated that the boards require liquor license applicants or other applicants to post notices in public locations for the meetings in which their applications will be presented to the board. However, the requirement to post the public notice is the responsibility of the Community Boards themselves, and not the applicants. Specifically, the New York State Department of State, Committee on Open Government, Open Meetings Law, Advisory Opinion #4895 states that “[t]he requirement that notice of a meeting be ‘posted’ in one or more ‘designated’ locations, in our opinion, mandates that a public body, by resolution or through the adoption of policy or a directive, select one or more specific locations where notice of meetings will consistently and regularly be posted.”

Since most of the 12 Manhattan Community Boards did not consistently provide adequate public notice of meetings and hearings, the public may not have been aware of public meetings and hearings and afforded the opportunity to observe and participate in Community Board discussions, deliberations, and actions, and to express their views concerning issues affecting their district.

Boards Did Not Make Meetings and Hearings Available for Broadcasting and Cablecasting

New York City Charter Chapter 70, Section 2800(h), states that “[e]ach board . . . shall make such meetings and hearings available for broadcasting and cablecasting.” Chapter 47, Section 1063(a) of the City Charter states that “[a]ll future cable franchises and franchise renewals shall require (i) that channels be designated for governmental use.”

However, 2 of the 12 Manhattan Community Boards reported that they do not make their meetings and hearings available for broadcasting on the radio or on the internet (Manhattan Community Boards #3 and #11). The remaining 10 Manhattan Community Boards reported that they broadcast their meetings by livestreaming meetings and hearings on their social media platforms including Facebook and YouTube (Manhattan Community Boards #1, #2, #4, #5, #6, #7, #8, #9, #10, and #12). Additionally, *none* of the 12 Manhattan Community Boards reported that they make their meetings and hearings available for cablecasting on cable television.

Three Manhattan Community Boards reported that they were not aware of the City Charter requirement to make meetings and hearings available for broadcasting and cablecasting.

After we presented our findings to the Manhattan Community Boards, some Manhattan Community Board officials stated that they lack the technical expertise and funding to comply with the broadcasting and cablecasting requirements and that they have not been given guidance and instruction from other City agencies, who are responsible for assisting them, in regard to what would constitute broadcasting and cablecasting and how it can be accomplished. Furthermore, some Manhattan Community Board officials also questioned whether broadcasting and cablecasting was an effective use of City resources and stated that other alternatives, such as livestreaming on social media platforms, can reach a broader audience.

However, as previously noted, Chapter 47, Section 1063(a) of the City Charter states that “[a]ll future cable franchises and franchise renewals shall require (i) that channels be designated for governmental use.” The boards should therefore seek guidance from the City agencies that are responsible for assisting them and determine how they can obtain such access, identify the associated costs, and allocate or seek the necessary resources to comply with the City Charter mandate.

Additionally, Manhattan Community Board #3 provided YouTube links for all of its general board meetings held during 2019 and 2020 and stated that “CB 3 makes every meeting available for broadcast as required. People may record meeting in any manner. In addition, the following meetings were livestreamed and are also available to be viewed through our website.” We are unable to determine independently whether the meetings were livestreamed or whether they were recorded and subsequently uploaded to YouTube.

Lastly, Manhattan Community Board #8 officials stated that the board is “seeking cablecasting, but that was beyond our budget” and also stated that the board submitted a letter requesting their council members to continue paying for livestreaming services for the board’s meetings. The

Manhattan Community Board #8 officials further stated that they had received the requested funding for only full board meetings.

Since the Manhattan Community Boards did not consistently conduct public hearings, properly notify the public of meetings and hearings, and make meetings and hearings available for broadcasting and cablecasting, the Manhattan Community Boards increased the risk that the public may not have been informed of issues affecting their district and thereby may have limited the public's ability to participate in local government. As stated in the New York State Department of State, Committee on Open Government, Open Meetings Law, Section 100:

The people must be able to remain informed if they are to retain control over those who are their public servants. It is the only climate under which the commonwealth will prosper and enable the governmental process to operate for the benefit of those who created it.

Recommendations

The Manhattan Community Boards should:

1. Conduct public hearings each month in accordance with the New York City Charter Chapter 70, Section 2800(h) and, if necessary, seek guidance on how to comply with this requirement by contacting the New York City Law Department as well as the other City agencies tasked with providing assistance to the Community Boards—the Manhattan Borough President's Office, the Civic Engagement Commission, and the Mayor's Office Community Affairs Unit;

Board #4 Response: "To comply with New York City Charter and Administrative Code, Manhattan Community Board 4 (MCB4) has taken the following actions:

. . . Provide public notice and conduct a public hearing at the beginning of every monthly full board meeting."

Board #6 Response: "CB6 can work towards changing its meeting practices in order to conform with the impractical interpretation of this audit."

Board #8 Response: "Going forward, CB8 will continue to dedicate time to holding at least one Public Hearing each month on a specific topic. Additionally, CB8 District Manager Will Brightbill would welcome the opportunity to work with the Comptroller's Office, Law Department, Manhattan Borough President's Office, the Civic Engagement Commission, and the Mayor's Community Affairs Unit to devise an agreed upon definition of a Community Board Public Hearing to dispel any potential ambiguity regarding compliance with the City Charter."

Auditor Comment: We appreciate the efforts that the Community Boards have made so far and/or have committed to making to comply with the City Charter meeting requirements. We urge all of the Community Boards to come into full compliance. As this report notes, the City Charter requires each community board to conduct at least one public hearing each month, except during July and August, and to hold public hearings on matters affecting the district, including (1) capital needs and departmental estimates, (2) expense budget needs and estimates, (3) the allocation and use of funds earmarked for community development activities under City, State, or federal programs, (4) the Citywide statement of needs which identifies City facilities that the City intends to open, expand, close, or significantly

reduce in size or service capacity, and (5) public agencies' and private entities' applications and proposals for the use, development, or improvement of land. Further, the City Charter states that each Community Board shall, at its discretion, hold public hearings on any matter relating to the welfare of the district and its residents. Therefore, we reiterate our recommendation that the Manhattan Community Boards should conduct public hearings each month in accordance with the New York City Charter Chapter 70, Section 2800(h) and, if necessary, seek guidance on how to comply with this requirement by contacting the New York City Law Department as well as the other City agencies tasked with providing assistance to the Community Boards.

2. Ensure that public notice of all general board meetings is given to news media outlets and posted in public locations;

Board #4 Response: "To comply with New York City Charter and Administrative Code, Manhattan Community Board 4 (MCB4) has taken the following actions:

. . . Provide public notice and conduct a public hearing at the beginning of every monthly full board meeting."

Board #6 Response: "CB6 has labored under the misapprehension that we were fully in compliance with the posting requirement, as all of our meetings are posted on the LinkNYC console screens that are visible by tens of thousands of people throughout all corners of our district. CB6 will continue to post its meetings on LinkNYC, as it is a wide-reaching medium. But since the interpretation is that a paper notice of our meetings must be placed in a physical location, we will do this moving forward. Additionally, the one or two media outlets that would be interested in following CB6 meetings are subscribed to our newsletter and weekly e-blasts, which always feature information about our upcoming meetings and links to our website calendar. They attend our meetings when a particular agenda item is of interest to them. However, if it would make our compliance more explicit, CB6 will send a dedicated email to our local news media outlets with our meeting information."

Board #8 Response: "In addition to all of the digital outreach Community Board 8 currently does for our meetings and hearings and the posting of physical notices by applicants whose applications are the subjects of public hearings, CB8 will begin posting a physical notice for all public hearings and public meetings in a consistent location in our community. Until further notice, that location will be at the southeast corner of Park Avenue and East 59th Street in front of the Board Office."

3. Ensure that public notice of all public hearings is published in the official newspaper or in a newspaper having general circulation within the municipality and includes the date, time and place of the hearing, and a brief statement of its purpose; and

Board #4 Response: "To comply with New York City Charter and Administrative Code, Manhattan Community Board 4 (MCB4) has taken the following actions:

#1. Provide public notice and conduct a public hearing at the beginning of every monthly full board meeting."

Board #6 Response: "The twelve Manhattan Community Boards sent a letter to the New York City Law Department seeking guidance on this and other

recommendations included in the draft audit report. In a letter received on December 14, 2021, the Law Department’s guidance is as follows: ‘It is important to note that a community board is responsible only for notifying a newspaper or news outlet of its meetings/hearings. It is not responsible for ensuring that the notice is published or aired.’”

Auditor Comment: As this report notes, the applicable New York State Department of State guidance advises, “Legal notice of the hearing should be published in the official newspaper, if there is one, or in a newspaper having general circulation within the municipality, as required by law.” Furthermore, the guidance provided by the Law Department also states that “[w]hen a community board notices one of its hearings, it is also advisable (though not required) that the notice also be published in New York City’s official publication, the City Record, even though this is not considered a newspaper or news outlet.” Therefore, we reiterate our recommendation that the Community Boards should ensure that public notice of all public hearings is published in the official newspaper or in a newspaper having general circulation within the municipality.

Board #8 Response: “In addition to all of the digital outreach Community Board 8 currently does for our meetings and hearings and the posting of physical notices by applicants whose applications are the subjects of public hearings, CB8 will begin posting a physical notice for all public hearings and public meetings in a consistent location in our community. Until further notice, that location will be at the southeast corner of Park Avenue and East 59th Street in front of the Board Office.”

4. Take the necessary steps to ensure that all meetings and hearings are made available for broadcasting and cablecasting, including but not limited to, determining how to obtain access to channels dedicated for governmental use, identifying the associated costs, and allocating or seeking the necessary resources to comply with the City Charter mandate.

Board #1 Response: “CB 1 has been using WebEx to hold meetings since April of 2020. The ability to share a streaming feed to cable news networks is a native feature and would happily be provided if asked. CB 1 will include language about this offering on future agendas and on our website.”

Board #4 Response: “To comply with New York City Charter and Administrative Code, Manhattan Community Board 4 (MCB4) has taken the following actions:

. . . List on all meeting agendas and notices that meetings and hearings are available for cablecasting.”

Board #6 Response: “The twelve Manhattan Community Boards sent a letter to the New York City Law Department seeking guidance on this and other recommendations included in the draft audit report. In a letter received on December 14, 2021, the Law Department’s guidance is as follows:

‘In our view, the Charter requirement under discussion does not require that community boards themselves broadcast and/or cablecast all of their meetings and hearings. However, we believe that the Charter contemplates that a community board do more than passively allow reporters or anyone else in attendance to broadcast and/or cablecast those events. The Charter requirement would be satisfied, in our view, if a community board ensured that organizations or individuals likely to be interested in broadcasting or

cablecasting its meetings and hearings were informed of them, perhaps at the same time that any notice of a meeting or hearing is transmitted.’

Given the fact that community boards are understaffed and under-resourced, a point that is suggested by the audit report’s Table I, we will follow the guidance of the Law Department in our fulfillment of this recommendation.”

Board #7 Response: “The only recommendation that should be drawn in the Draft Report, therefore, should be a strong endorsement of increasing the budget of all Community Boards to be able to afford the type of equipment, software and related peripherals needed to achieve the public access goals to which CB7 and other Community Boards are already committed.”

Board #8 Response: “Community Board 8 will follow the guidance issued by the Law Department on December 14, 2021, regarding Broadcasting and Cablecasting of Community Board Meetings and Hearings. In the view of the Law Department, ‘the Charter requirement under discussion does not require that community boards themselves broadcast and/or cablecast all of their meetings and hearings.’ Further, they explain ‘the Charter requirement would be satisfied, in our view, if a community board ensured that organizations or individuals likely to be interested in broadcasting or cablecasting its meetings and hearings were informed of them, perhaps at the same time that any notice of a meeting or hearing is transmitted.’”

Board #12 Response: “Charter sec. 2800(h) requires that each community board ‘shall make [its] meetings and hearings available for broadcasting and cablecasting.’ This Charter requirement does not require that community boards themselves broadcast and/or cablecast all of their meetings and hearings. CB #12, M notifies its monthly calendar via e-blast, to all local cable producers. Cable’s attend and broadcast our meeting when there is an important discussion like the Inwood Rezoning. CB #12, M now has, since March 2020, a YouTube Channel and a Facebook Page where all its meetings are streamed and archived.”

Auditor Comment. We appreciate the efforts that the Community Boards have made so far and/or have committed to making to comply with the City Charter requirements for broadcasting and cablecasting meetings. We continue to urge all of the Community Boards to come into full compliance with these requirements. The Community Boards are required to “make such meetings and hearings available for broadcasting and cablecasting.” Furthermore, cable franchises require that channels be designated for governmental use. Therefore, the Community Boards should seek assistance from the City agencies that are responsible for assisting them and determine how they can leverage the channels that are supposed to be designated for public use to make their meetings and hearings meaningfully available to the public through broadcasting or cablecasting in accordance with their City Charter mandate.

Board #1, #2, #3, #5, #7, #9, #10, #11, and #12 Responses to Recommendations #1 through #4: Manhattan Community Boards #1, #2, #7, and #12 submitted written comments in response to certain draft report findings. However, Manhattan Community Boards #1, #2, #7, and #12’s written comments generally did not address the report’s recommendations.

Manhattan Community Boards #3, #5, #9, #10, and #11 did not submit written comments in response to the draft report.

Auditor Comment: With regard to recommendations #1 through #4, we reiterate that each of the Manhattan Community Boards should conduct public hearings each month in accordance with the City Charter, and if necessary, seek guidance on how to comply with this requirement, ensure that public notice of all general board meetings is given to news media outlets and posted in public locations, ensure that public notice of all public hearings is published in the official newspaper or in a newspaper having general circulation within the municipality, and take the necessary steps to ensure that all meetings and hearings are made available for broadcasting and cablecasting.

Manhattan Community Boards Did Not Fully Comply with City Charter and NYC Administrative Code Website Requirements

Most Boards Did Not Post Minutes of at Least Some Meetings on Their Websites

Chapter 70, Section 2800(d)(22) of the City Charter requires Community Boards to maintain a website, “[w]ith assistance and support from the department of information technology and telecommunications [DoITT] . . . that provides adequate public notice of upcoming meetings, minutes from past meetings for the past twelve months, and contact information for the board.”

Our audit found that each of the 12 Manhattan Community Boards maintained websites which provided adequate public notice of upcoming meetings and board contact information. However, based on our review of meeting minutes published on the websites for the period June 2019 through May 2020, 8 of the 12 Manhattan Community Boards did not post all required meeting minutes on their websites, as detailed in Table V below.

Table V

Analysis of Monthly Meeting Minutes
Published for the Period June 2019
through May 2020⁵

Month	Meeting Minutes Published on Manhattan Community Board Website? (Yes/No)											
	CB1	CB2	CB3	CB4	CB5	CB6	CB7	CB8	CB9	CB10	CB11	CB12
June 2019	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	No	Yes	Yes
July 2019	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
August 2019	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
September 2019	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
October 2019	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
November 2019	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
December 2019	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
January 2020	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	No	Yes
February 2020	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	No	Yes	No	Yes
March 2020	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
April 2020	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
May 2020	No	Yes	No	Yes	No	Yes	Yes	Yes	No	No	No Meeting	No
Total Meetings Conducted	8	8	8	8	8	8	8	8	8	8	7	8
Total Minutes Posted	7	8	7	8	0	8	8	8	6	6	5	7
Total Minutes Not Posted	1	0	1	0	8	0	0	0	2	2	2	1

After we presented our findings to the Manhattan Community Boards, Manhattan Community Board #1, #3, and #12 provided supporting documentation to show that the May 2020 general board meeting minutes, which were not posted on their websites during our initial review in June 2020, had been subsequently posted on their websites.

Some Community Board officials stated, without citing specific instances, that DoITT has not dedicated adequate resources to assist the Community Boards with their website and technical

⁵As previously stated, Community Boards are not required to hold public meetings and hearings in the months of July and August. Therefore, we excluded the months of July 2019 and August 2019 from our analysis. Additionally, due to the COVID-19 pandemic, we judgmentally excluded the months of March 2020 and April 2020 from our analysis. In total, we reviewed 8 months—June 2019, September 2019 through February 2020, and May 2020.

needs. Some Community Board officials also informed us that only one DoITT employee is assigned to assist all 59 Community Boards. Nevertheless, the boards that did not post all meeting minutes as required, limited or in some cases precluded the public's ability to review, online, discussions and deliberations from, and actions taken at, the boards' meetings.

Some Boards Did Not Maintain Websites with a Translation Feature

According to Section 23-801 of the NYC Administrative Code, websites maintained "by or on behalf of the city or a city agency shall include a translation feature for viewing the text of that website, wherever practicable, in languages other than English." In addition, the translation feature "shall be indicated by a means, other than or in addition to English, that is comprehensible to speakers of the seven most commonly spoken languages within the city as determined by the department of city planning."

However, our review of the Manhattan Community Board websites during July 2020 found that four of the 12 websites did not include a translation feature (Manhattan Community Boards #3, #5, #6, and #8). Manhattan Community Board #3 utilized a legacy website platform provided by DoITT which did not include a translation feature, and Manhattan Community Boards #5, #6, and #8 utilize website platforms provided by outside vendors which do not include a translation feature.

After we presented our findings to the Manhattan Community Boards, the District Manager for Manhattan Community Board #3 stated that the board was in the process of updating its website platform to a new DoITT website. Manhattan Community Board #3 has provided documentation confirming that its website has been updated to a new DoITT website platform as of November 16, 2021, and that it now contains a translation feature.

Furthermore, subsequent to our initial review of the website translation features in July 2020, Manhattan Community Board #8 added a translation feature to its website. As of the date of this report, Manhattan Community Boards #5 and #6 still do not have a translation feature on their website.

Consequently, people of the district who do not speak English may not be informed of issues affecting their community district and may not be able to participate in local government.

Boards Did Not Maintain Websites Fully Accessible to Persons with Disabilities

The NYC Administrative Code, Section 23-802 (a), states that "[t]he mayor or the mayor's designee shall adopt a protocol for websites maintained by or on behalf of the city or a city agency relating to website accessibility for persons with disabilities." According to the New York City Mayor's Office for People with Disabilities, in order to ensure that all City websites were accessible to persons with disabilities, "[t]he Web Content Accessibility Guidelines (WCAG) 2.0 Level AA standard was adopted."⁶

⁶ The WCAG was developed to provide "a single shared standard for web content accessibility that meets the needs of individuals, organizations, and governments internationally" and to "explain how to make web content more accessible to people with disabilities." As of July of 2021, the City of New York has adopted the Web Content Accessibility Guidelines (WCAG) 2.1 Level AA standard.

However, based on our review of Manhattan Community Board websites during October 2021, none of the 12 Manhattan Community Boards maintained a website that was fully accessible for persons with disabilities. The 12 Manhattan Community Board websites had a combined 349 errors—214 website accessibility errors and 135 contrast errors—as detailed in Table VI below.

Table VI

Manhattan Community Boards'
Website Accessibility and Contrast
Errors

Manhattan Community Board	# of Website Accessibility Errors	# of Contrast Errors	# of Total Errors
CB1	6	0	6
CB2	6	1	7
CB3	114	25	139
CB4	3	1	4
CB5	5	0	5
CB6	10	20	30
CB7	27	0	27
CB8	18	39	57
CB9	9	3	12
CB10	8	8	16
CB11	8	37	45
CB12	0	1	1
Total	214	135	349

The 349 website accessibility and contrast errors included, among other things, the following:

- Images missing alternative text. Without alternative text, the content of an image will not be available to screen reader users, which read aloud web pages for people who cannot read the text, or when the image is unavailable.
- Empty headers and links. An empty heading will present no information and may introduce confusion. If a link contains no text, the function or purpose of the link will not be presented to the user. This can introduce confusion for screen reader users and users only using the keyboard to navigate through the web content.
- Missing form labels which provide visible descriptions and larger clickable targets.
- Very low contrast between text and background colors, which can make it difficult for screen readers with low vision or color vision deficiency to read text.

Seven of the 12 Manhattan Community Boards utilize websites provided by DoITT which accounted for 200 of the 349 total accessibility and contrast errors (57.3 percent). The majority of those errors (139 of the 200) were from the website of Manhattan Community Board #3, which did not update its website to the new platform offered by DoITT until November 2021. Manhattan

Community Boards #1, #2, #4, #7, #10, and #12 utilize the updated website platform provided by DoITT and accounted for only 61 of the 349 total accessibility and contrast errors. The remaining five Manhattan Community Boards—#5, #6, #8, #9, and #11—utilize website platforms provided by outside vendors and accounted for 149 of the 349 total accessibility and contrast errors (42.7 percent).

After we presented our findings to the Manhattan Community Boards, some Manhattan Community Board officials stated that the accessibility of their websites is out of their control because the boards that use a DoITT website do not have the ability to make changes to their websites and it is ultimately DoITT's responsibility to ensure that websites are accessible.

Additionally, the District Manager for Manhattan Community Board #3 stated that, as of November 16, 2021, the Manhattan Community Board #3 website was updated to a new DoITT website platform. On November 18, 2021, we retested the updated Manhattan Community Board #3 website for website accessibility and contrast errors and found no website accessibility and contrast errors.

By not fully adopting the protocols required to make their websites accessible for persons with disabilities, the 12 Manhattan Community Boards increased the risk that people within their districts with disabilities may not be informed of issues affecting their community district and able to fully participate in local government.

Recommendations

The Manhattan Community Boards should:

5. Post meeting minutes from meetings for the past 12 months on their websites; and

Board #4 Response: Manhattan Community Board #4 did not address this recommendation.

Board #6 Response: "CB6 adheres to this practice, and the audit finds CB6 fully compliant with this fundamental standard. Additionally, minutes from our meetings going back several years can be found on an interactive database on our website. We will continue to maintain our compliance with this recommendation and to utilize today's technologies to achieve greater transparency and to more innovatively disseminate community board documents."

Board #8 Response: Manhattan Community Board #8 did not address this recommendation.

6. Contact DoITT and website platform vendors to ensure that their websites include a translation feature that allows the text of their website to be viewed in the seven most commonly spoken languages in the City and are fully accessible to persons with disabilities as per the WCAG 2.0 Level AA standard.

Board #4 Response: "To comply with New York City Charter and Administrative Code, Manhattan Community Board 4 (MCB4) has taken the following actions:

. . . . Contacted the Department of Information Technology and Telecommunications to correct all website accessibility and contrast errors."

Board #6 Response: “CB6 will work towards fulfilling this requirement; though, what ultimately would have been more helpful is for DoITT, or even any of the other agencies charged with supporting community boards to have raised this issue with us before and to make the required standards easy to find.”

Board #7 Response: “The Draft Report purports to fault CB7’s website for supposed failures in technology – specifically certain technical issues linked to accessibility by people with disabilities, and the availability of translation features.

CB7, like many Community Boards, is constrained to use the functionality and facilities provided to it by the NYC Department of Information Technology and Telecommunications (“DoITT”). Quite simply, we are a client of DoITT, and have the functionality it provides. The Draft Report fails adequately to accept that reality or indicate how it is that a Community Board should compensate for the alleged failings of the agency service provider.

The requirements relating to the compliance of the website with functionality for persons with disabilities and those needing translation services should properly be addressed to DoITT. They have no place in criticism of the client whose options are limited by the City services offered by the corresponding agency.”

Auditor Comment: The City Charter requires Community Boards to maintain a website, “[w]ith assistance and support from [DoITT].” Therefore, we reiterate our recommendation that the Community Boards should contact DoITT to ensure that their websites include a translation feature and are fully accessible to persons with disabilities in accordance with the applicable WCAG 2.0 Level AA standard.

Board #8 Response: “Community Board 8 commits to addressing all accessibility and contrast errors found on our website, cb8m.com. The CB8 staff will use the tools provided by the Comptroller’s office following the audit to identify these errors and will work with the DoITT and our website developer Pronto to make sure all errors are addressed in a timely manner.”

Board #1, #2, #3, #5, #7, #9, #10, #11, and #12 Responses to Recommendations #5 and #6: Manhattan Community Boards #1, #2, #7, and #12 submitted written comments in response to certain draft report findings. However, Manhattan Community Boards #1, #2, #7, and #12’s written comments generally did not address the report’s recommendations.

Manhattan Community Boards #3, #5, #9, #10, and #11 did not submit written comments in response to the draft report.

Auditor Comment. We appreciate the efforts that the Community Boards have made so far and/or have committed to making to comply with the City Charter requirements for posting and translating meeting minutes and information on their websites. We urge all of the Community Boards to come into full compliance with these requirements. With regard to recommendations #5 and #6, we reiterate that each of the Manhattan Community Boards should post meeting minutes from meetings for the past 12 months on their websites, and contact DoITT and website platform vendors to ensure that their websites include a translation feature that allows the text of their website to be viewed in the seven most commonly spoken languages in the City and are fully accessible to persons with disabilities in accordance with the applicable WCAG 2.0 Level AA standard.

DETAILED SCOPE AND METHODOLOGY

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The scope of this audit covered the period of July 1, 2019 through September 30, 2021.

To gain an understanding of the rules, regulations, policies and procedures with which the Manhattan Community Boards must comply when conducting public meetings and hearings, and maintaining a website, we reviewed the following: the New York City Charter Chapter 70, Sections 2800(d)(22) and 2800(h); the New York City Administrative Code, Sections 23-801 and 23-802(a); the New York City Community Boards Handbook 2015; the New York State Department of State, Committee on Open Government, Open Meetings Law; the New York State Department of State, Committee on Open Government, Open Meetings Law Advisory Opinions #3834 and #4895; the New York State Department of State publication titled “*Conducting Public Meetings and Public Hearings*”; and the Manhattan Community Board bylaws.

To gain an understanding of the 12 Manhattan Community Boards’ procedures relating to public meetings and hearings, and maintaining a website, we issued and received responses to a questionnaire from each board. The questionnaire included questions regarding conducting public meetings and hearings, public notice, public participation, broadcasting and cablecasting of public meetings, and training, guidance, and support from external parties.

To determine whether the 12 Manhattan Community Boards conducted required monthly meetings and public hearings, we requested and obtained general board meeting minutes and public hearing minutes from July 2019 through November 2020. We did not include the months of July 2019, August 2019, July 2020, and August 2020 as part of our analysis since boards are not required to meet during the months of July and August. Further, we did not include the months of March 2020 and April 2020 due to the COVID-19 pandemic. Therefore, we reviewed a total of 11 months. We reviewed meeting agendas and minutes to determine whether a meeting and hearing were held each month as required.

To determine whether the 12 Manhattan Community Boards provided adequate public notice of its September 2021 general board meetings and hearings, we reviewed each board website and other materials to determine where and how the boards were providing public notice of meetings. We also requested and obtained detailed information regarding where, when, and how each board provides public notice of meetings and hearings through the questionnaire.

To determine whether the 12 Manhattan Community Boards set aside time to hear from the public at public meetings, we conducted unannounced observations of the September 2020 monthly general board meeting. We observed the September 2020 general board meeting through the remote virtual platform provided by the board and determined whether the board set aside time to hear from the public during the meeting.

To determine whether the 12 Manhattan Community Boards made general board meetings and hearings available for broadcasting and cablecasting during Fiscal Year 2020, we requested each

board to provide information about whether and how meetings and hearings are broadcasted and cablecasted.

To determine whether the 12 Manhattan Community Boards maintained websites, we reviewed the Manhattan Borough President's Office website, the Green Book Online, and conducted internet searches on Google to identify each board website address. For each board that maintained a website, we determined whether the website provided verifiable board contact information.

To determine if the 12 Manhattan Community Boards maintained websites which included a translation feature that is comprehensible to speakers of the seven most commonly spoken languages within the City, we reviewed each board website as of July 2020. We determined whether each board website: (1) contained a translation feature and the number of languages which were available to translate; and (2) had the ability to translate to the seven most commonly spoken languages within the City.

We reviewed each board website to determine whether the 12 Manhattan Community Boards maintained websites which contained meeting minutes from past meetings for the past 12 months. In June 2020, we reviewed each of the 12 Manhattan Community Board websites to determine whether and to what extent the boards published meeting minutes from past meetings for the past 12 months. We did not include the months of July 2019 and August 2019, as part of our analysis since boards are not required to meet during the months of July and August. Further, we did not include the months of March 2020 and April 2020 due to the COVID-19 pandemic. Therefore, we reviewed meeting minutes for a total of eight months (June 2019, September 2019 through February 2020, and May 2020).

To determine whether the 12 Manhattan Community Boards maintained websites which were fully accessible for persons with disabilities, we utilized the Web Accessibility Evaluation Tool as recommended by the Web Content Accessibility Guidelines (WCAG) 2.0 Level AA. In January and February 2021, we used the Web Accessibility Evaluation Tool to evaluate each board website and determine whether and to what extent the board websites contained accessibility errors and/or contrast errors.

The above tests, while not projectable to their respective populations wherever a sample was used, provided a reasonable basis for us to evaluate the 12 Manhattan Community Boards' controls over public meetings and hearings, and maintaining a website.

APPENDIX

Summary of Findings Related to Public Meetings and Hearings and Website Content

Manhattan Community Board	Complied with Requirements (Yes/No)											
	Meetings and Hearings						Website Content					
	Held Meetings Each Month	Held Hearings Each Month	Made Meetings and Hearings Available for Broadcasting on the Radio or Internet	Made Meetings and Hearings Available for Cablecasting	Provided Adequate Public Notice via Media and Physical Posting	Set Aside Time to Hear from Public	Maintained a Website	Adequate Public Notice of Meetings and Hearings	Meeting Minutes for the Past 12 Months	Board Contact Information	Translation Feature	Fully Accessible to Persons with Disabilities
CB1	Yes	No	Yes	No	Yes	Yes	Yes	Yes	No	Yes	Yes	No
CB2	Yes	No	Yes	No	No	Yes	Yes	Yes	Yes	Yes	Yes	No
CB3	Yes	No	No	No	No	Yes	Yes	Yes	No	Yes	No	No
CB4	Yes	No	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No
CB5	Yes	No	Yes	No	No	Yes	Yes	Yes	No	Yes	No	No
CB6	Yes	No	Yes	No	No	Yes	Yes	Yes	Yes	Yes	No	No
CB7	Yes	No	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No
CB8	Yes	Yes	Yes	No	No	Yes	Yes	Yes	Yes	Yes	No	No
CB9	Yes	No	Yes	No	Yes	Yes	Yes	Yes	No	Yes	Yes	No
CB10	No	No	Yes	No	No	Yes	Yes	Yes	No	Yes	Yes	No
CB11	No	No	No	No	No	Yes	Yes	Yes	No	Yes	Yes	No
CB12	Yes	No	Yes	No	No	Yes	Yes	Yes	No	Yes	Yes	No



The City of New York
Manhattan Community Board 1
Tammy Meltzer CHAIRPERSON | Lucian Reynolds DISTRICT MANAGER

December 17, 2021

Marjorie Landa
Deputy Comptroller for Audits
1 Centre Street, Room 1100
New York, NY 10007

Re: Audit report on the Twelve Manhattan Community board NYC Administrative Code requirement for public meeting, hearings and for websites FK21-075A

Dear Deputy Commissioner Landa:

Thank you for sending us a copy of the draft report. We appreciate the opportunity to review this document prior to completion of the final report. It is encouraging that CB 1 was found to be in compliance for the majority of this audit. However, there are sections of the audit report that are missing information that was forwarded to your office. Specifically, public hearings that were held from September 2019 to November 2020. These documents were forwarded to your office on November 10, 2021. Furthermore, other sections contained incorrect findings which we request are updated with correct information and should be satisfied with the following:

- CB 1 uses LinkNYC to post all our meetings including public hearings. Below is the link we use to publicize every meeting:
<https://linklocal.typeform.com/to/qWEllt>
- We have held monthly public liquor license hearings, which are posted using the LinkNYC link above, and each establishment is required to post the hearing information on their storefronts. For more information see:
<https://www1.nyc.gov/site/manhattancb1/applicants/liquor-licenses.page>
- Board meeting minutes for May 2020 are on our website and were forwarded to your office two times. Once on November 3, 2021 and again on November 10, 2021.
<https://www1.nyc.gov/site/manhattancb1/archives/monthly-full-board-meeting-minutes.page>

- CB 1 has been using WebEx to hold meetings since April of 2020. The ability to share a streaming feed to cable news networks is a native feature and would happily be provided if asked. CB 1 will include language about this offering on future agendas and on our website.

Please confirm the final report will be updated with the noted information to correct the record showing our full compliance.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Meltzer", with a long horizontal flourish extending to the right.

Tammy Meltzer
Chairperson

CC: Lucian Reynolds

Jeannine Kiely, *Chair*
Susan Kent, *First Vice Chair*
Valerie De La Rosa, *Second Vice Chair*
Bob Gormley, *District Manager*



Antony Wong, *Treasurer*
Eugene Yoo, *Secretary*
Ritu Chattree, *Assistant Secretary*

COMMUNITY BOARD NO. 2, MANHATTAN

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Greenwich Village ✦ Little Italy ✦ SoHo ✦ NoHo ✦ Hudson Square ✦ Chinatown ✦ Gansevoort Market

December 17, 2021

By Electronic Mail

Marjorie Landa
Deputy Comptroller
Audits, Accountancy & Contracts
NYC Office of the Comptroller
One Centre Street
New York, NY 10007

Re: Audit Report FK21-075A

Dear Ms. Landa:

In response to your letter, dated December 6, 2021, requesting comments regarding the recommendations contained in Audit Report FK21-075A (Audit Report on the Twelve Manhattan Community Boards' Compliance with New York City Charter and New York City Administrative Code Requirements for Public Meetings and Hearings, and for Websites), we wish to submit the following comments:

1. Boards Did Not Consistently Conduct Monthly Public Hearings

The Audit determined that Manhattan Community Board 2 did not conduct any public hearings between September 2019 and November 2020. It is our position that this determination is incorrect. In fact, we contend that Manhattan Community Board 2 (CB2) held public hearings in *every* month during this period.

The Audit states "...the Manhattan Community Boards that this report cites as not having conducted a required public hearing each month did not provide evidence that they held topic-specific hearings (during a committee meeting or other meeting) in which the public was given an opportunity to express their views on a particular matter." However, in an email to the Comptroller's Office dated November 16, 2021, District Manager Bob Gormley submitted evidence that Manhattan CB2 had conducted public hearings. In said email, DM Gormley forwarded a link to the Manhattan CB2 calendar. The calendar states at the top of the page, "Public Hearings are noted with asterisks...." Scrolling back through the months covered by the audit, there are dozens of examples of Manhattan Community Board 2

conducting public hearings which "...provide[d] members of the public with an opportunity to express their views concerning a particular subject..." (New York State Department of State, Committee on Open Government, Open Meetings Law, Advisory Opinion #3834).

Based on the submitted evidence, we respectfully request that Audit Report FK21-075A be amended to credit Manhattan Community Board 2's public hearing record.

2. Most Boards Did Not Provide Adequate Public Notice of Meetings and Hearings

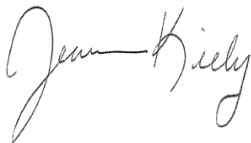
The Audit states that Manhattan Community Board 2 "reported that they do not post notices in public locations." We do not know where this misinformation was obtained. In fact, as evidenced by the Public Notice flyer that was attached to the aforementioned November 16, 2021 email to the Comptroller's Office, Manhattan CB2 does post paper flyers at multiple locations (on lampposts) every month to notify the public of our public hearing agenda. In addition, Manhattan CB2 maintains an up-to-date monthly calendar of public hearings and meetings on its website, emails its monthly calendar to a list of more than 4,500 constituents and sends a paper calendar, which identifies all public hearings, to approximately fifty constituents each month.

The one area in which Manhattan CB2 was delinquent is in a failure to post a paper notice of our monthly full board meeting. When DM Gormley inquired about this requirement at the Exit Conference, he was told it could be met by posting such a flyer on the lamppost outside the Manhattan CB2 office. This requirement will be met every month in the future.

Based on the submitted evidence, we respectfully request that Audit Report FK21-075A be amended to credit Manhattan Community Board 2 with providing adequate public notice of meetings and hearings.

We are disappointed that the Comptroller's Draft Audit Report did not credit the evidence cited above when it was sent to your office (in the November 16, 2021 email) following the issuance of the Preliminary Draft Audit Report and the Exit Conference. Hopefully, that oversight will be remedied in the Final Audit Report. If you have any questions, please feel free to call DM Gormley at 212-979-2272 or email him at bgormley@cb.nyc.gov.

Sincerely,



Jeannine Kiely
Chair
Manhattan Community Board 2



Bob Gormley
District Manager
Manhattan Community Board 2

c: Hon. Gale Brewer, Manhattan Borough President



CITY OF NEW YORK
MANHATTAN COMMUNITY BOARD FOUR

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LOWELL D. KERN
Chair

JESSE R. BODINE
District Manager

December 17, 2021

Marjorie Landa
Deputy Comptroller for Audit
Office of the Comptroller
1 Center Street, Room 1100
New York, New York 10007

[REDACTED]
Assistant Director
Office of the Comptroller
1 Centre Street, Room 1100
New York, New York 10007

Re: Audit Report on the Twelve Manhattan Community Boards' Compliance with New York City Charter and New York City Administrative Code Requirements for Public Meetings and Hearings, and for Websites

Dear Ms. Landa and [REDACTED]:

To comply with New York City Charter and Administrative Code, Manhattan Community Board 4 (MCB4) has taken the following actions:

- #1. Provide public notice and conduct a public hearing at the beginning of every monthly full board meeting.
- #2. List on all meeting agendas and notices that meetings and hearings are available for cablecasting.¹
- #3. Contacted the Department of Information Technology and Telecommunications to correct all website accessibility and contrast errors.

MCB4 believes by taking these actions it will comply with the New York City Charter and Administrative code.

Sincerely,

A handwritten signature in cursive script that reads "Jesse Bodine".

Jesse Bodine
District Manger
Manhattan Community Board 4

Enclosure:

cc: Lowell D. Kern, Chair, Manhattan Community Board 4
Gale A. Brewer, Manhattan Borough President

¹ Letter from NYC Law Department letter to Manhattan Community Boards (enclosed)



THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007

GEORGIA M. PESTANA
Corporation Counsel

STEPHEN LOUIS
Chief
Division of Legal Counsel
Room 6-238
Tel: (212) 356-4020
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slouis@law.nyc.gov

To the District Managers of Manhattan Community Boards 1-12:

You have written to this office seeking advice regarding the conclusions of a draft report issued by the New York City Comptroller's office, dated December 6, 2021, entitled "Audit Report on the Twelve Manhattan Community Boards' Compliance with New York City Charter and New York City Administrative Code Requirements for Public Meetings and Hearings, and for Websites" (hereinafter "Draft Report"). The portions of the report with which you express concern relate to (a) the conduct of monthly public hearings by community boards, (b) the noticing of community board meetings and hearings, and (c) the broadcasting and cablecasting of community board meetings and hearings.

A. Monthly Public Hearings of Community Boards

Section 2800(h) of the New York City Charter (hereinafter "Charter") provides that "[e]xcept during the months of July and August, each community board shall meet at least once each month within the community district and conduct at least one public hearing each month." That subdivision further provides that, "[a]t each public meeting, the [community] board shall set aside time to hear from the public." In addition, Charter sec. 2800(d)(3) provides that each community board shall "[a]t its discretion, hold public or private hearings or investigations with respect to any matter relating to the welfare of the district and its residents[.]" The Draft Report states, at pages 9-10, that the public hearings of community boards must be separate and distinct from their public meetings, and that they must be devoted to one or more specific subjects.

The Charter provides little guidance on the conduct of community board hearings. There is no requirement of law that a community board's monthly public hearing be held on a different date from its public meeting, or that it be devoted to a specific subject or subjects. However, many public hearings conducted by City agencies, such as rulemaking hearings, ULURP hearings or revocable consent hearings, are by their nature limited to a single subject or set of related subjects. In addition, it is highly desirable that community boards follow substantially similar practices in conducting their public hearings, so that members of the public are afforded as

uniform opportunity to be heard in all community districts. Therefore, it is recommended that community boards take into account the following when conducting their public hearings:

1. If a community board holds its public hearing on the same day as its public meeting, the public hearing be held before rather than after the public meeting, so that community board members can be informed of the interests and concerns of residents of the community district and take them into account in their deliberations during the public meeting.
2. The public hearing be referred to as such, and not as a “public session”, in the agenda, notice and other materials issued by the community board.
3. In the portion of the agenda devoted to the public hearing, the community board list certain discrete subjects with regard to which it would be interested the hear the views of members of the public, making clear that those in attendance may speak on other subjects as well, to the extent they relate to the affairs of the community district. The subjects listed in the agenda may vary from month to month, depending on events.

Finally, it is our view that meetings of community board committees, at which members of the public are allowed to speak, do not qualify as community board hearings. The Charter provisions cited above intend that the public hearings of a community board be conducted by the entire body and not by a subset of members whose concerns and jurisdiction are limited.

B. Noticing of Community Board Meetings and Hearings

Charter sec. 2800(h) provides that [e]ach [community] board shall give adequate public notice of its meetings and hearings.]” Further, the New York State Open Meetings Law, to which all community boards are subject, requires that:

1. Public notice of the time and place of a meeting scheduled at least one week prior thereto shall be given or electronically transmitted to the news media and shall be conspicuously posted in one or more designated public locations at least seventy-two hours before such meeting.
2. Public notice of the time and place of every other meeting shall be given or electronically transmitted, to the extent practicable, to the news media and shall be conspicuously posted inn one or more designated public locations at a reasonable time prior thereto.

New York State Public Officers Law (“POL”) sec. 104. The Draft Report states at page 13 that certain Manhattan community boards do not provide notice to the news media as required by these provisions, while others do not post their notices in a public location.

The Charter provides limited guidance as to the noticing of community board meetings and hearings. Instead, we can look to the requirements of the Open Meetings Law. According to that statute, community board notices must be (1) transmitted (electronically or otherwise) to news media outlets, and (2) posted in a public location. The “posting” of a notice, as commonly understood, refers to its placement in a physical location. Since community board meetings and

hearings, to our knowledge, are normally scheduled at least a week in advance, these requirements must be met at least 72 hours before the meeting/hearing.

In our view, the news media notice requirement of the Open Meetings Law is satisfied if a community board electronically transmits its notices to newspapers or other news outlets which are published or issued regularly and are intended to be read, heard or viewed by the general public. Their publication may be partly or entirely electronic. Community newspapers or borough-wide news outlets are ideal for this purpose. It is important to note that a community board is responsible only for notifying a newspaper or news outlet of its meetings/hearings. It is not responsible for ensuring that the notice is published or aired. See POL sec. 104(3) (“[t]he public notice provided for by this section shall not be construed to require publication as a legal notice”). When a community board notices one of its hearings, it is also advisable (though not required) that the notice also be published in New York City’s official publication, the City Record, even though this is not considered a newspaper or news outlet.

With regard to the public posting requirement, a community board need only place a paper notice of its meeting/hearing in a place that is accessible to the general public. It is advisable that the location be chosen so that the notice will be seen and attended to by those passing it.

It may be noted that the notice requirements of the Charter and Open Meetings Law are very basic. They do not require explicitly that the notice provide the agenda of a meeting or hearing. However, in view of the purpose and function of community boards, the Charter’s requirement that a community board provide “adequate notice” of its meetings and hearings should be read to include a reasonably detailed agenda.

C. Broadcasting and Cablecasting of Community Board Meetings and Hearings

Charter sec. 2800(h) requires that each community board “shall make [its] meetings and hearings available for broadcasting and cablecasting.” The Draft Report states, at page 14, that community boards should obtain access to a cable channel designated for government use pursuant to Charter sec. 1063(a), indicating that, at least with regard to cablecasting, community boards must act directly to satisfy the requirement.

In our view, the Charter requirement under discussion does not require that community boards themselves broadcast and/or cablecast all of their meetings and hearings. However, we believe that the Charter contemplates that a community board do more than passively allow reporters or anyone else in attendance to broadcast and/or cablecast those events. The Charter requirement would be satisfied, in our view, if a community board ensured that organizations or individuals likely to be interested in broadcasting or cablecasting its meetings and hearings were informed of them, perhaps at the same time that any notice of a meeting or hearing is transmitted.

If you would like to discuss further any of the matters presented in the Draft Report, please let me know. In addition, you may seek advice and assistance on any matter concerning

community boards from the Mayor's Community Assistance Unit and from Adele Bartlett, general counsel to the Manhattan Borough President.

Sincerely,

STEPHEN LOUIS
Chief
Division of Legal Counsel

cc:

KYLE ATHAYDE
CHAIR

MARK THOMPSON, FIRST VICE CHAIR
SANDRO SHERROD, SECOND VICE CHAIR



JESÚS PÉREZ
DISTRICT MANAGER

BRIAN VAN NIEUWENHOVEN, TREASURER
CLAUDE L. WINFIELD, ASST. TREASURER
MATT BONDY, SECRETARY
VACANT, ASST. SECRETARY

THE CITY OF NEW YORK
MANHATTAN COMMUNITY BOARD SIX
211 EAST 43RD STREET, SUITE 1404
NEW YORK, NY 10017

December 17, 2021

Marjorie Landa
Deputy Comptroller for Audit
Office of the Comptroller
1 Centre Street, Room 1100
New York, NY 10007

Dear Ms. Landa:

Please accept the following as Manhattan Community Board 6's (CB6) formal response to the six meeting practices recommendations issued in *Audit Report on the Twelve Manhattan Community Boards' Compliance with New York City Charter and New York City Administrative Code Requirements for Public Meetings and Hearings, and for Websites* (FK21-075A):

Recommendation 1 calls for community boards to “conduct public hearings each month in accordance with the New York City Charter Chapter 70, Section 2800(h) and, if necessary, seek guidance on how to comply with this requirement by contacting the New York City Law Department as well as the other City agencies tasked with providing assistance to the Community Boards—the Manhattan Borough President’s Office, the Civic Engagement Commission, and the Mayor’s Office Community Affairs Unit.”

CB6’s response to Recommendation 1: This recommendation represents a complete reversal of the Comptroller’s previous audit of Manhattan community boards’ meeting practices. The Comptroller’s 2012 *Audit Report on the Manhattan Community Boards’ Compliance with Meeting and Public Hearing Rules and Regulations* (MD12-080A) found that “all 12 Manhattan Community Boards adhered to the provisions set forth by the Charter and NYS’s OML ...” Consequently, the report made no recommendations. Additionally, the 2012 audit report found that “... meetings were held and that time was allotted to allow members of the public to voice their issues and concerns. ... Section 2800(h) of the Charter mandates that ‘At each public meeting, the board shall set aside time to hear from the public.’” This is the way CB6 and all other community boards have interpreted the Charter since the 2012 audit and for many years before that. And CB6 conducted its meetings accordingly during the audit period, including holding two formal public hearings. I know of no other community board in the city that interprets the City Charter as literally as this audit does. CB6 can work

towards changing its meeting practices in order to conform with the impractical interpretation of this audit, but it is concerning to us, that our compliance with the *City Charter* seems to be entirely dependent on the interpretation the auditing team uses in any given year.

Recommendation 2 calls for community boards to “ensure that public notice of all general board meetings is given to news media outlets and posted in public locations.”

CB6’s response to Recommendation 2: CB6 has labored under the misapprehension that we were fully in compliance with the posting requirement, as all of our meetings are posted on the LinkNYC console screens that are visible by tens of thousands of people throughout all corners of our district. CB6 will continue to post its meetings on LinkNYC, as it is a wide-reaching medium. But since the interpretation is that a paper notice of our meetings must be placed in a physical location, we will do this moving forward. Additionally, the one or two media outlets that would be interested in following CB6 meetings are subscribed to our newsletter and weekly e-blasts, which always feature information about our upcoming meetings and links to our website calendar. They attend our meetings when a particular agenda item is of interest to them. However, if it would make our compliance more explicit, CB6 will send a dedicated email to our local news media outlets with our meeting information.

Recommendation 3 calls for community boards to “ensure that public notice of all public hearings is published in the official newspaper or in a newspaper having general circulation within the municipality and includes the date, time and place of the hearing, and a brief statement of its purpose.”

CB6’s response to Recommendation 3: The twelve Manhattan Community Boards sent a letter to the New York City Law Department seeking guidance on this and other recommendations included in the draft audit report. In a letter received on December 14, 2021, the Law Department’s guidance is as follows: “It is important to note that a community board is responsible only for notifying a newspaper or news outlet of its meetings/hearings. It is not responsible for ensuring that the notice is published or aired.”

Recommendation 4 calls for community boards to “take the necessary steps to ensure that all meetings and hearings are made available for broadcasting and cablecasting, including but not limited to, determining how to obtain access to channels dedicated for governmental use, identifying the associated costs, and allocating or seeking the necessary resources to comply with the City Charter mandate.”

CB6’s response to Recommendation 4: The twelve Manhattan Community Boards sent a letter to the New York City Law Department seeking guidance on this and other

recommendations included in the draft audit report. In a letter received on December 14, 2021, the Law Department's guidance is as follows:

“In our view, the Charter requirement under discussion does not require that community boards themselves broadcast and/or cablecast all of their meetings and hearings. However, we believe that the Charter contemplates that a community board do more than passively allow reporters or anyone else in attendance to broadcast and/or cablecast those events. The Charter requirement would be satisfied, in our view, if a community board ensured that organizations or individuals likely to be interested in broadcasting or cablecasting its meetings and hearings were informed of them, perhaps at the same time that any notice of a meeting or hearing is transmitted.”

Given the fact that community boards are understaffed and under-resourced, a point that is suggested by the audit report's Table I, we will follow the guidance of the Law Department in our fulfilment of this recommendation. But it is also important to emphasize a particular point that the audit report makes on this matter—that by not broadcasting our meetings on television or cable, community boards “increased the risk that the public may not have been informed of issues affecting their district and thereby may have limited the public's ability to participate in local government.” The audit report makes this ludicrous claim while CB6 (and other community boards) makes available all of its meetings since the pandemic—which includes the audit period—on YouTube, which means that our meetings are available in real-time and via recordings after the fact to all our district's residents and quite literally to everyone in the world with access to the internet. Yet the audit report claims that we and other community boards have put at risk the public's ability to be informed and to participate in their local government. This finding betrays the fact that, yes, certain sections of Chapter 70 of the *City Charter* need to be modernized to reflect technologies which are now almost two decades old, but also that the goal of this audit is to make sure community boards are conducting outreach as they might have done 40 years ago, rather than to actually recognize compliance with good meeting practices using the tools of today.

Recommendation 5 calls for community boards to “post meeting minutes from meetings for the past 12 months on their websites.”

CB6's response to Recommendation 5: CB6 adheres to this practice, and the audit finds CB6 fully compliant with this fundamental standard. Additionally, minutes from our meetings going back several years can be found on an interactive database on our website. We will continue to maintain our compliance with this recommendation and to utilize today's technologies to achieve greater transparency and to more innovatively disseminate community board documents.

Recommendation 6 calls for community boards to “contact DoITT and website platform vendors to ensure that their websites include a translation feature that allows the text of their website to be viewed in the seven most commonly spoken languages in the City and are fully accessible to persons with disabilities as per the WCAG 2.0 Level AA standard.”

CB6’s response to Recommendation 6: CB6 will work towards fulfilling this requirement; though, what ultimately would have been more helpful is for DoITT, or even any of the other agencies charged with supporting community boards to have raised this issue with us before and to make the required standards easy to find.

In conclusion, CB6 thanks you for the opportunity to respond to the Comptroller’s audit report. CB6 and I appreciate the often thankless work of the Comptroller’s Office and welcome meaningful feedback that allows our agency to refine our meeting practices to better and more innovatively serve the residents of Manhattan Community District 6. However, this audit suggests a fundamental lack of understanding of community board processes and offers very little in the way of solutions that would actually expand our outreach to the community or that even reflect the 21st century world in which our agencies exist. It also betrays the disjointed—and sometimes contradictory—landscape that community boards must navigate in the execution of our Charter-mandated duties. CB6 looks forward to working with the Comptroller’s Office and other relevant agencies to achieve a greater and more consistent understanding and implementation of meeting practices standards and requirements. Should you have any questions for me, please do not hesitate to contact me by phone at (212) 319-3750 or by email at Jesus.Perez@CBSix.org.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Jesus Perez', with a stylized flourish at the end.

Jesús Pérez
District Manager

Cc: Hon. Gale A. Brewer, Manhattan Borough President

COMMUNITY BOARD 7 Manhattan

December 27, 2021

Office of the Comptroller of the City of New York
One Centre Street
New York, NY 10007

Attn: Marjorie Landa
Deputy Comptroller for Audit

Re: Response to the December 6, 2021, Draft Audit Report of the Twelve
Manhattan Community Boards' Compliance with the
New York City Charter and Administrative Code Requirements
For Public Meetings and Hearings, and for Websites

Dear Staff of the Office of the Comptroller:

On behalf of Community Board 7/Manhattan, its Members and Staff ("CB7"), I respectfully submit this letter in response to the Draft Report referenced above, which I will refer hereafter as the "Draft Report." This response supplements CB7's letter submitted in November 2021 in response to the undated Preliminary Draft Report.

In sum, the observations related, and conclusions reached in the Draft Report continue to ignore important facts, mischaracterize the conduct and operation of CB7, and fail to present fairly the compliance of CB7 with the cited requirements.

The central vice of the Draft Report, like the Preliminary Report, is the refusal to acknowledge that the criticisms of CB7 (and we believe other Manhattan Community Boards) are founded on the unsupportable proposition that differences in terminology should control over differences in practices. While CB7 may not refer to every opportunity to hear from the public as a "hearing," the public is fully engaged and given far more opportunities to be heard at CB7 committee and Full Board meetings than the cited laws and regulations require – a fact of which we are justly proud.

In addition, CB7's innovations during the pandemic actually increased opportunities for public engagement through our increased use of Zoom, YouTube and other online vehicles.

When viewed as a whole, even before considering the limited resources made available to Community Boards, CB7 should be seen as in full compliance with all key requirements.

CB7 Did Conduct Public Hearings as Contemplated by the Applicable Statutes

The Draft Report advances a factually incorrect conclusion relating to the obligation of CB7 to conduct public "hearings" as well as public "meetings" each month. The Draft Report, at page 9,

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accurately distinguishes between a “hearing” and a “meeting” based on the opportunity afforded the public at such gatherings to be heard by the Members of CB7 (or in the case of standing Committees, the Members of the Committee). The term “hearing” is used in the report to refer to sessions in which the public may be heard prior to the Board (or Committee) taking a vote or any other material action; the term “meeting” is used to refer to sessions where the public may be present without an opportunity to comment or be heard.

The Draft Report then leaps to the conclusion that CB7 has not held a single “hearing” in the period under audit. This is materially false.

In the first instance, CB7 conducted two ULURP public hearings that were denominated as such with respect to a project at 270 West 96th Street which involved, among other things, the proposed sale of City-owned property to facilitate the creation of both affordable and market rate housing on the site. Those hearings were conducted on November 20, 2019, and December 17, 2019. CB7 also held public hearings styled as such in connection with CB7’s adoption of the District Needs Statements and associated Statements of Budget Priorities for City Fiscal Years 2021 and 2022 on November 6, 2019 and November 4, 2020, respectively. The November 4, 2020 hearing was particularly well-attended on Zoom, with over 100 community members participating and approximately 20 speakers sharing their views.

Those were not the only public “hearings” conducted by CB7 during the period under audit, however, as a review of CB7’s Full Board minutes as well as any inquiry made of anyone present at such sessions can attest. It is not an overstatement to say that the individual chairing any part of a Full Board or Committee meeting during the period under audit (and for the many years prior and since) always turns to the public to provide an opportunity to comment and be heard prior to taking a vote on any matter.

CB7 provides this opportunity in multiple ways, including providing a digital Google Form sign-up sheet at the beginning of each meeting (through links in the chat) which allows the public to choose the item or items to which they want to speak during the Full Board Meeting; allows members of the public to digitally raise their hand to be recognized so that the chair will enable them to speak ad hoc; and enabling the public to post questions and comments in the Q&A and/or chat that are seen by all voting Board members and become part of the record. In addition, CB7 always offers a general opportunity to speak and be heard to the public on matters not related to a particular matter of business in a “public session” of the Full Board meetings, and each Committee agenda includes “new business” as an item, in which the Committee chairs entertain comments and input from the public on matters not related to the business before that Committee meeting.

The only possible explanation for the conclusion offered in the Draft Report is that because the CB7 Full Board minutes and Committee agendas do not use the term “hearing” to describe the portions of meetings in which the public is welcome to speak, those opportunities to speak must not have occurred. The facts reveal this to be false, and a requirement that a particular term be used in order to meet the obligations which CB7 readily welcomes is neither supported by the statutes cited in the Draft Report nor consistent with common sense.

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The Draft Report compounds its failure to comprehend the reality of CB7's meetings by citing the order of business at CB7's full Board meetings beginning with the onset of the use of the Zoom platform during the first lockdown in March 2020. Rather than focus on the ability of CB7 to pivot to a virtual platform seamlessly, the Draft Report incorrectly states that the switch from holding the general Public Session at the top of the full Board agenda to after the Business Session somehow deprived the public of the opportunity to be heard inherent in the public hearing requirement (Draft Report at page 7).

The Draft Report again fails to account for the opportunity afforded the public to comment on and be heard prior to the vote on each application considered in the Business Session. It similarly fails to account for the introduction in September 2020 and used continuously since of a Public Safety Session during which CB7 hears from as many of the Precinct Commanders in our District as are able to join, with a separate Q&A and public comment session immediately following the reports from law enforcement, so that the public interested in those matters can pose questions and hear responses in real time. The facts are that there are numerous opportunities for the public to be heard at the beginning, the middle, and the end of CB7 meetings and hearings.

Based on the foregoing comments shared in connection with the Preliminary Report, the Draft Report now inappropriately claims that CB7's multiple opportunities to invite the public to speak do not constitute "hearings" because they are not devoted to a pre-determined topic. Draft Report at 12. Leaving aside that public engagement is fostered, not inhibited, by not dictating the subject matter on which the public is engaged, the facts again contradict the conclusion with respect to CB7. Since September 2020, every Full Board meeting begins with a public safety update from our local NYPD precincts as noted above. Each of those updates is immediately followed by an opportunity for Q&A with the precinct commanders so that those with questions can be heard without having to wait to the end of the Full Board meeting.

By any definition, those are topic-specific opportunities for the public to be heard. While the statute and regulations cited do not support the interpretation used to dismiss the "hearings" held without a specific topic, CB7 is in fact in full compliance, nevertheless.

CB7 is dedicated to hearing from the public, and we exist and function to give life to that commitment. It is often the case that the public does not avail itself of the opportunity to be heard, and it occasionally happens that the Members of CB7 vote in a way that does not conform to the views of those who appear and testify. It is also the case that CB7 was among the first Community Boards Citywide to adapt to the Zoom platform and, with the deep support of the Manhattan Borough President's Office and BetaNYC, transfer all of our operations to that online platform from the first moments of the pandemic shutdown in March 2020. We conducted our Full Board and Committee meetings virtually and held information sessions and town hall comment sessions beyond the usual slate of meetings/hearings, including several that involved the public in numbers that far exceeded the usual attendance at even our most controversial in-person sessions. One such session involved 1,389 separate members of the public in attendance, and while no meeting could offer an open mic to such a crowd, we did provide over two hours to hear from the self-designated representatives of members of the public.

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These facts, along with the inappropriate methodology of gauging compliance with the various obligations based on whether a particular term is used to describe the gathering, should have been factored into the Draft Report, and would have led to the opposite conclusion to what the Draft Report purports to advance.

CB7 Livestreamed its Full Board Meetings

The Draft Report correctly notes that CB7, as is the case for most Manhattan Community Boards, does routinely livestream its Full Board meetings using the YouTube livestream function. CB7 did so prior to the switch to the Zoom online platform and continued to do so in simulcast through the Zoom and YouTube apps.

The Draft Report, however, also claims that none of the Manhattan Boards make the proceedings of their full Board meetings available through live cablecasting on cable television.

When viewed within the context of the current video market-place, the use of YouTube or other platforms for livestreaming reaches a far wider audience than would be achieved through the far more limited and antiquated platform of cable television. It is generally viewed as being more transparent and inclusive due to its availability and lack of cost. YouTube livestreaming, such as that employed consistently by CB7 for full Board meetings and since March 2020 for all Committee meetings as well, can be viewed via mobile phones, laptops, tablets, and most cable television platforms. The focus on the term cablecasting in isolation is thus not reflective of the compliance with the letter and spirit of the requirements achieved by CB7 and its sister Boards during the most trying of times. CB7 urges the office to update these standards to be more in-line with modern technology.

In addition, CB7 would be remiss if it failed to note that its compliance with livestreaming and broad dissemination of its meetings and hearings in real time was facilitated by the use of equipment lent to the Board by individual Board Members. Community Board operating budgets have not been updated or enhanced in over a decade. Only during the pandemic, when other costs were contained due to the absence of in-person meetings, was CB7 able to upgrade its servers and equipment, and purchase additional cameras and related functionality to be able to continue its livestreaming in a professional and inclusive way.

The only recommendation that should be drawn in the Draft Report, therefore, should be a strong endorsement of increasing the budget of all Community Boards to be able to afford the type of equipment, software and related peripherals needed to achieve the public access goals to which CB7 and other Community Boards are already committed.

Website Accessibility and Translation Features

The Draft Report purports to fault CB7's website for supposed failures in technology – specifically certain technical issues linked to accessibility by people with disabilities, and the availability of translation features.

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CB7, like many Community Boards, is constrained to use the functionality and facilities provided to it by the NYC Department of Information Technology and Telecommunications (“DoITT”). Quite simply, we are a client of DoITT, and have the functionality it provides. The Draft Report fails adequately to accept that reality or indicate how it is that a Community Board should compensate for the alleged failings of the agency service provider.

The requirements relating to the compliance of the website with functionality for persons with disabilities and those needing translation services should properly be addressed to DoITT. They have no place in criticism of the client whose options are limited by the City services offered by the corresponding agency.

Overall Conclusion

CB7 should be found to be in full compliance with each category of its operations purported to be measured by the Draft Report.

Respectfully submitted –



Steven Brown
Chair – Community Board 7/Manhattan



Mark Diller
Former Chair of CB7 during the period under audit

Russell Squire
Chair

Will Brightbill
District Manager



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**The City of New York
Community Board 8 Manhattan**

December 17, 2021

Marjorie Landa
Deputy Comptroller for Audit
1 Centre Street, Room 1100
New York, NY 10007

RE: Audit Report on the Twelve Manhattan Community Boards' Compliance with New York City Charter and New York City Administrative Code Requirements for Public Meetings and Hearings, and for Websites FK21-075A

Dear Deputy Comptroller Landa,

Below, please find Community Board 8 Manhattan's response to the Comptroller's Draft Audit Report on the Twelve Manhattan Community Boards' Compliance with New York City Charter and New York City Administrative Code Requirements for Public Meetings and Hearings, and for Websites.

With regards to Community Board 8 Manhattan (CB8), the Draft Audit Report found that:

1. "All 12 Manhattan Community Boards failed to conduct at least one public hearing each month."

The Draft Report outlines that CB8 held Monthly Public Hearings from September 2019 through May 2020, but then did not hold a Public Hearing following that date. In the Preliminary Draft Report, CB8 was only listed as having held Public Hearings in September 2019 and February 2020. Following the Preliminary Draft Report, the CB8 staff submitted documentation that showed our agency held public hearings every month during the audit's scope, but it was only reflected through May 2020 in the Draft Report.

Each month, CB8 holds Public Hearings on items such as SLA Liquor Licenses, LPC Certificates of Appropriateness, DOT Revocable Consents, and Board of Standards and Appeals and Department of City Planning applications. A breakdown of some of these hearings for each month is listed below with links to the meeting pages on our website.

June 2020

- On June 3, 2020, the CB8 Transportation Committee held a public hearing for a DOT Revocable Consent Application for 106 East 78th Street. Link here < <https://www.cb8m.com/event/17245/> >.
- On June 15, 2020, the CB8 Landmarks Committee held public hearings for LPC applications for 5-7 East 62nd Street, 793 Madison Avenue, and 680 Park Avenue. Link here < <https://www.cb8m.com/event/17265/> >.

July 2020

- On July 7, 2020, the CB8 Street Life Committee held public hearings for nine applications for establishments applying to the SLA. Link here < <https://www.cb8m.com/event/17497/> >.

- On July 8, 2020, CB8 held a public hearing for BSA Calendar No. 2020-48-BZ. Barry's Bootcamp at 237 East 86th Street. Link here < <https://www.cb8m.com/event/17488/> >
- On July 13, 2020, the CB8 Landmarks Committee held public hearings for LPC applications for 706-708 Madison Avenue, 702-704 Madison Avenue, 22 East 63rd Street, and 1083 Fifth Avenue. Link here < <https://www.cb8m.com/event/17494/> >.

September 2020

- On September 1, 2020, the CB8 Street Life Committee held public hearings for four applications for establishments applying to the SLA. Link here < <https://www.cb8m.com/event/17808/> >.
- On September 2, 2020, the CB8 Transportation Committee held public hearings for DOT Revocable Consent Applications at 106 East 78th Street and 16 East 94th Street. Link here < <https://www.cb8m.com/event/17811/> >.
- On September 14, 2020, the CB8 Landmarks Committee held public hearings for LPC applications for five LPC applications. Link here < <https://www.cb8m.com/event/17822/> >.

October 2020

- On October 6, 2020, the CB8 Street Life Committee held public hearings for five applications for establishments applying to the SLA. Link here < <https://www.cb8m.com/event/18004/> >.
- On October 15, 2020, CB8 held the public hearing for the FY22 Statement of District Needs and Budget Priorities. Link here < <https://www.cb8m.com/event/18085/> >.
- On October 19, 2020, the CB8 Landmarks Committee held public hearings for LPC applications for six LPC applications. Link here < <https://www.cb8m.com/event/18088/> >.

November 2020

- On November 12, 2020, CB8 held a public hearing on DCP Application N 210095 ZRY - Zoning for Coastal Flood Resiliency. Link here < <https://www.cb8m.com/event/18326/> >.
- On November 16, 2020, the CB8 Landmarks Committee held a public hearing for the LPC application for 107 Est 64th Street. Link here < <https://www.cb8m.com/event/18333/> >.

We ask your office to review those meetings for inclusion in the final report.

Going forward, CB8 will continue to dedicate time to holding at least one Public Hearing each month on a specific topic. Additionally, CB8 District Manager Will Brightbill would welcome the opportunity to work with the Comptroller's Office, Law Department, Manhattan Borough President's Office, the Civic Engagement Commission, and the Mayor's Community Affairs Unit to devise an agreed upon definition of a Community Board Public Hearing to dispel any potential ambiguity regarding compliance with the City Charter.

2. "Most Boards Did Not Provide Adequate Public Notice of Meetings and Hearings"

In addition to all of the digital outreach Community Board 8 currently does for our meetings and hearings and the posting of physical notices by applicants whose applications are the subjects of public hearings, CB8 will begin posting a physical notice for all public hearings and public meetings in a consistent location in our community. Until further notice, that location will be at the southeast corner of Park Avenue and East 59th Street in front of the Board Office.

3. "Boards Did Not Make Meetings and Hearings Available for Broadcasting and Cablecasting"

Community Board 8 will follow the guidance issued by the Law Department on December 14, 2021, regarding Broadcasting and Cablecasting of Community Board Meetings and Hearings. In the view of the Law Department, "the Charter requirement under discussion does not require that community boards

themselves broadcast and/or cablecast all of their meetings and hearings.” Further, they explain “the Charter requirement would be satisfied, in our view, if a community board ensured that organizations or individuals likely to be interested in broadcasting or cablecasting its meetings and hearings were informed of them, perhaps at the same time that any notice of a meeting or hearing is transmitted.”

4. “Boards Did Not Maintain Websites Fully Accessible to Persons with Disabilities”

Community Board 8 commits to addressing all accessibility and contrast errors found on our website, cb8m.com. The CB8 staff will use the tools provided by the Comptroller’s office following the audit to identify these errors and will work with the DoITT and our website developer Pronto to make sure all errors are addressed in a timely manner.

Sincerely,

Russell Squire

Russell Squire
Chair



Community Board 12 - Manhattan Washington Heights & Inwood

530 West 166th St. 6th Floor, New York, NY 10032

Phone: (212) 568-8500, Fax: (212) 740-8197

Website: www.nyc.gov/mcb12

Eleazar Bueno, Chairperson
Ebenezer Smith, District Manager

December 17, 2021

██████████
Audit Supervisor, Financial Audit Bureau
Office of New York City Comptroller Scott M. Stringer
1 Centre Street, 13th Floor North, New York, NY 10007

Dear Supervisor, ██████████:

I hope this letter finds you well. Community Board #12, M, hereby would like to formally response to the Audit Report Draft on the Twelve Manhattan Community Boards' Compliance with New York City Charter and New York City Administrative Code Requirements for Public Meetings and Hearings, and for Websites. FK21-0575A.

1. **Monthly Public Hearing.** The Charter provides little guidance on the conduct of community board hearings. There is no requirement of law that a community board's monthly public hearing be held on a different date from its public meeting, or that it be devoted to a specific subject or subjects. However, many public hearings conducted by City agencies, such as rulemaking hearings, ULURP hearings, or revocable consent hearings, are by their nature limited to a single subject or set of related subjects. Community Board 12, M, conducts its monthly meetings, except on July and August, on time, with a public agenda distributed in advance. It is the trade understanding that Public Hearings are reserved for ULURP applications, Budget Ranking, or in particular when it is warranted. Community Board #12, M respectfully disagrees with the Comptroller's Audit when it says that Community Board #12, M did not conduct a single public hearing during the audit time frame. Community Board 12, M held the following public hearings between September 2019 and November 2020:

1. Public Hearing on Budget Needs Ranking for FY 2021 on October 15, 2019
2. Public Hearing on Noise Complaints on August 4, 2020
3. Public Hearing on Budget Needs Ranking for FY 2022 on October 21, 2020

See attachments.

2. **Ensure that public notice of all general board meetings is given to news media outlets and posted in public locations.** Community Board #12, M provides adequate and consistent public notice of all its meetings to the general public, elected official, and new media as follow. The main
- 3.

Letter to [REDACTED]
December 17, 2021
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tool of public notification in CB #12, M is the monthly calendar. The calendar for each month is drafted in advance and review and approved by the Executive Committee each month. The CB #12, M calendar has the date, time, and place of each committee meeting, general meeting, or public hearing; in addition, the back of the calendar has the agenda items to be discussed by each committee on the following month. The CB #12, M monthly calendar is distributed as follow:

1. a hard copy of the calendar is physically posted on CB #12, M Bulletin Board,
2. A few dozens of the calendar are placed on the CB #12, M office front desk, and on the lobby of the building where CB #12, M office is located,
3. The monthly calendar is uploaded to the CB #12, M Webpage,
4. The CB#12, M calendar is e-blasted via Mailer Lite to a list of 1, 800 subscribers (these subscribers include journalists and directors of several media like Manhattan Times, Daily News, The City, NY1, El Diario La Prensa, and local cable program producers, and NYCLink).

The crafting and distribution of the CB #12, M Calendar happen every month before the meetings. In addition, the agenda of committee meetings and general meetings are sent in advance before the meeting and the same day of the meeting as a reminder.

4. **Posting notice on physical locations.** CB #12, M post consistently every month a hard copy of the calendar is on the CB #12, M Bulletin Board, a few dozens of the calendar are placed on the CB #12, M office front desk, and in the lobby of the building where CB #12, M offices are located.
5. **Make meetings and hearings available for broadcasting and cable casting.** Charter sec. 2800(h) requires that each community board "shall make [its] meetings and hearings available for broadcasting and cablecasting." This Charter requirement does not require that community boards themselves broadcast and/or cablecast all of their meetings and hearings. CB #12, M notifies its monthly calendar via e-blast, to all local cable producers. Cable's attend and broadcast our meeting when there is an important discussion like the Inwood Rezoning. CB #12, M now has, since March 2020, a YouTube Channel and a Facebook Page where all its meetings are streamed and archived.
6. **Publish Minutes on Website.** CB #12, M maintains all meetings minutes and resolutions updates. The draft said that CB #12, M does not maintain its meeting minutes for the last 12 months. We don't know when you check our website; but, CB #12, website is up today. Please review CB #12, webpage, and correct report.

I would like to respectfully request that based on this letter your correct the Audit reflecting that Community board #12, M does physically post notice of its meetings and that Community Board #12, M, maintain its minutes and resolutions up today in its website. If you have any questions regarding our responses, please let us know.

Sincerely,

Eleazar Bueno
Chairperson