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TESTIMONY OF SENATOR BILL PERKINS | PROPOSED RULE BY THE NEW YORK CITY HUMAN RESOURCES ADMINISTRATION (HRA)—MUNICIPAL ID PROGRAM

As the Senator representing the 30th Senatorial District—encompassing Harlem, Washington Heights and the Upper West Side—the proposed rulemaking relative to our City’s first-ever universal Municipal ID Program is exceedingly important to the communities I have the honor of serving. I wholeheartedly agree with the fundamental basis of the underlying law and it is my earnest desire that this program is embraced by all, thrives in practice and serves as another substantial step in bringing individuals, families and whole immigrant communities out of a shadowy exile created and exacerbated by forces beyond their control.

I resoundingly concur with the great majority of the proposed rulemaking under consideration and do believe that HRA has done a very good job building upon the legislation passed by The New York City Council (Intro 253) and signed into law by Mayor Bill de Blasio (Local Law 35/2014). For instance, I think it was a prudent decision to not charge a fee for this card, to, in essence, make this a free and universally accessible benefit; in addition—the outreach that is scheduled to occur borough-by-borough—at our public libraries and through a mobile unit is also a positive and productive step. Lastly, the progress recently announced relative to “exclusive benefits” for ID holders at many of our iconic and longstanding cultural institutions is another boon, especially with respect to marketing the program.

However, after reviewing both the text of the law and of the proposed Rule, I note several important concerns that must be directly addressed by HRA. These concerns include, without limitation:

Expanding The Universe Of Accepted Documentation. The range of documents enumerated to establish both Identity and Residency are numerous but it is not exactly clear to me that they are totally exhaustive. We know for this program to function as intended, the list must be as sweeping in scope as possible. I have a specific concern with respect to individuals/families who may live in rent stabilized and/or rent subsidized residences where they are tripled or quadrupled up with others. In this situation they are often not the tenant of record and legally speaking cannot be, thus they often will not

have a mailing address or other distinguishing information and, resultantly—they may be discouraged from applying at all and/or they will not qualify under the rules with respect to those who have no permanent home or who are homeless. We must be certain that our system is entirely universal and that no one who presents a legitimate case for an ID slips through the cracks. I implore HRA to address the specific type of situation described above as well as those who may be similarly situated—and to keep an active ear and keen mind open to other possible types of documents and demonstrable evidence that can be accepted as proof of Identity and Residency.

Confidentiality Concerns. For better or worse, HRA has followed the text of the law exactly with respect to the most essential issue of confidentiality. As I understand it, there are four categories of exceptions where an applicant's information will be disclosed: (1) The individual (or parent or legal guardian) authorizes so in writing; (2) A court order compels it; (3) A City agency requests it for additional benefits determination; and/or (4) A law enforcement agency serves a judicial subpoena or judicial warrant for it. While these categories appear relatively narrow on the face of things, in practice, especially for the first few years of this program, the confidential information shared by individuals may be kept on file for at least two years and possibly longer. I am very concerned that retaining this information, as opposed to destroying it immediately upon confirmation, will: (1) Have a chilling effect on applications, particularly with reference to those who we want to apply for this card in short order and (2) Lead to the abuse of the above enumerated exceptions to confidentiality—particularly with respect to judicial subpoenas—by overzealous law enforcement officials seeking to commence immigration proceedings; and (3) The longer the information is retained, the greater the likelihood that it may be used to profile individuals, based upon certain characteristics, such as their last name, presumed country/region of origin and presumed religious affiliations, such as the Muslim faith. Too many in the African immigrant community are already familiar with this type of insidious profiling; thus, our Municipal ID Program must preserve and protect confidentiality at all costs. Concerning judicial subpoenas, we see the practice of profiling and blanket subpoenaing all the time with respect to New York State Department of Motor Vehicles (DMV) and voting records; this program must be categorically different and more rational if it is to work efficaciously. It is my understanding that the original draft of the Municipal ID legislation called for a higher level of confidentiality by ensuring that documents were retained only long enough to confirm and process applications. It would be wise, not to mention propitious, for HRA to return to this reasonable standard.

Fraud. There appears to be no additional specific rulemaking on the issue of fraud within the proposed draft rules. I have a basic concern with the potential counterfeiting of cards relative to the Municipal ID Program; in fact, I have heard reports that individuals are already “setting up shop” and distributing/selling counterfeit cards to unsuspecting individuals. I urge HRA and related agencies—such as the New York City Police Department—to address this matter with all due diligence. Furthermore, I implore

HRA to proactively conduct specific and affirmative outreach to combat fraud and educate everyone on the official roll-out of this vital program.

Outreach. Within the rulemaking, I would have preferred to see definitive plans and details for outreach to specific communities—a few examples include, but are not limited to: those with limited English proficiency, those who are homeless, banks and related financial institutions and private institutions that may be in a position to accept this card for various purposes. In addition, I wholeheartedly believe that additional institutions must be included in outreach efforts, including: (1) A range of community based organizations at the grassroots level who have intricate and longstanding connections in our immigrant enclaves; (2) The Consulate Offices of various countries that are housed here in our City; and (3) High Schools across the City, which in my view—should serve as additional access sites for those interested in applying for the Municipal ID card—so the general public may have an additional and important access point to pertinent information. This is particularly appropriate given that HRA’s rulemaking specifically designates individuals as young as 14 as eligible applicants.

Acceptance At Financial Institutions. The text of the authorizing legislation specifically states that, at a minimum, the City shall seek to promote and expand acceptance of the Municipal ID at banks and other public and private institutions. Inexplicably, the rulemaking does not expand upon this requirement in detail, in any fashion. This is concerning because there is a natural and exceedingly important nexus between an individual having an ID, becoming “bankable” and commencing on the road to financial empowerment. We do not want these cards to become static entities—we want them to open every door; cultural institutions are a fine start but banks are essential as well. Therefore, I strongly recommend that HRA go into greater detail concerning effective outreach and conclusive acceptance plans for banks and related financial institutions.

In sum, I believe that HRA is maintaining a strong connection to the enabling legislation and has, in fact, improved on it in numerous ways. Conversely, and of the utmost importance are the issues that still need diligent work, including: Expanding the universe of accepted documentation, addressing persistent confidentiality concerns—specifically the prospect of holding onto the information of applicants for years on end—which may incentivize aggressive judicial subpoenaing and lead to profiling, the persistent issue of fraud, working to guarantee acceptance of the card at banks and making sure outreach is as robust as absolutely possible, including connecting with community based organizations, Consulate Offices and High Schools in this cardinal effort.