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BY MAIL AND EMAIL

November 8, 2019

Marisa Lago
Chair
Department of City Planning
120 Broadway, 31st Floor
New York, NY 10271

Re: Resolution #2019AP/235-030-(2019)
Department of City Planning
Evaluation of Sexual Harassment Prevention and Response Practices
Audit Period: January 1, 2017 to December 31, 2018
Determination: **FINAL**

Dear Chair Lago:

On behalf of the members of the Equal Employment Practices Commission (EEPC), thank you for the continued cooperation extended to our staff. This document serves as a follow-up evaluation and Final Determination to the following:

Preliminary Determination Issued on: October 24, 2019
Response Received: November 1, 2019

Purpose

Chapter 35, Sections 815(a)(15) and (19) of the New York City Charter (Charter) calls for agency heads to ensure and promote equal opportunity for all persons in appointment, payment of wages, development, and advancement, and to establish measures and programs to ensure a fair and effective affirmative employment plan to provide equal employment opportunity (EEO) for minority group members and women.

Charter Chapter 36, Sections 830(a) and 831(d)(2) and (5) authorize the EEPC to audit, review, evaluate, and monitor the employment practices, procedures, and programs of city agencies and other municipal entities, hereinafter "entities," and their efforts to ensure fair and effective EEO for women and minority employees and applicants. Charter Sections 831(d)(2) and 832(c) authorize the EEPC to make a determination that any plan, program, procedure, approach, measure, or standard does not provide equal employment opportunity, require appropriate corrective action, and

monitor the implementation of the corrective action prescribed. The attachment contains the EEPC's final determination regarding the audit, review, and evaluation of the Department of City Planning's Sexual Harassment Prevention and Response Practices.

As the Department of City Planning falls within the EEPC's purview under Charter Chapter 36, Section 831(a), the EEPC is authorized to review, evaluate, and monitor the coordination and implementation of its affirmative employment programs of EEO and related practices. As indicated in our Preliminary Determination, the EEPC has adopted uniform standards¹ to this end. The purpose of this Final Determination, as authorized by Charter Chapter 36, Section 832(c), is to determine the sufficiency of the Department of City Planning's actions taken or planned thus far to correct areas of non-compliance identified in the EEPC's Preliminary Determination. Further, Chapter 36, Section 832(c) requires that: (1) the EEPC assign a compliance-monitoring period of up to six (6) months to monitor efforts taken to eliminate areas of non-compliance, if any; and (2) the agency respond in thirty (30) days and submit a report each month during this period on the progress of efforts taken to correct outstanding areas of non-compliance.

Next Steps

The assigned compliance-monitoring period is: December 1, 2019 to May 31, 2020. Correcting all outstanding areas of non-compliance without delay is highly encouraged and will serve to shorten this period.

If corrective actions remain: Corrective actions will be listed under the *Monitoring Required* section of the attached Final Determination. The EEPC requires that the agency head submit a signed response to this Final Determination. The signed response should indicate what steps the Department of City Planning has taken, or will take, to correct outstanding areas of non-compliance during the designated compliance-monitoring period. The Department of City Planning will be monitored monthly until all outstanding areas of non-compliance have been sufficiently corrected. The Department of City Planning is required to submit documentation that supports the implementation of each corrective action via TeamCentral, the EEPC's Automated Compliance-Monitoring System. Instruction on how to access and navigate TeamCentral is attached.

Final Memorandum: Upon the Department of City Planning's implementation of the final corrective action, if any, the EEPC requires that the Department of City Planning submit a final memorandum, signed by the agency head, that recognizes the EEPC's audit and reiterates commitment to equal employment practices. **Upon receipt of this final memorandum, the EEPC will issue a *Determination of Compliance*.**

If no corrective actions remain: In lieu of a response to this Final Determination, Department of City Planning must submit a final memorandum (See Next Steps, Final Memorandum). Upon the EEPC's receipt of the final memorandum, the Department of City Planning will be exempt from the abovementioned compliance-monitoring period.

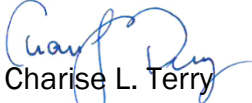
Conclusion

¹ The EEPC's uniform standards for auditing municipal entities and minimum standards for auditing community boards (collectively "Standards") are founded upon, and consistent with, federal, state, and local laws and regulations, and policies and procedures, including, but not limited to, the City of New York's *Equal Employment Opportunity Policy, Standards and Procedures to be Utilized by City Agencies 2014*; New York City Human Rights Law (NYC Administrative Code 8); New York State Human Rights Law (New York Executive Law, Article 15); New York State Civil Service Law §55-a; and the equal employment opportunity requirements of the New York City Charter.

This is the EEPC's Final Determination. Questions regarding next steps may be addressed to Jennifer Shaw, Esq., Executive Agency Counsel/Director of Compliance at jshaw@eepc.nyc.gov or 212-615-8942.

Thank you and your staff for your continued cooperation.

Sincerely,



Charise L. Terry
Executive Director

c: Sarah Goldwyn, Principal EEO Professional, Department of City Planning
Enclosed: TeamCentral Agency Manual

FINAL DETERMINATION

A response indicating progress of the Department of City Planning's efforts to correct outstanding areas of non-compliance, with supporting documentation, is due within 30 days.

The Equal Employment Practices Commission's findings and corrective actions required to remedy areas of non-compliance are based on the audit methodology, which included collection and analysis of the documents, records, and data provided; the EEPC's *Preliminary Interview Questionnaires* (PIQs) for EEO professionals and others involved in EEO program administration; and, if applicable, the *EEPC Employee Survey*; the *EEPC Supervisor/Manager Survey*; the *Annual EEO Plans* and *Quarterly EEO Reports* of the audited entity; and workforce data from the *Citywide Equal Employment Database System*. Additional research and follow-up discussions or interviews were conducted as appropriate.

After reviewing the optional response² (if applicable) to the EEPC's Preliminary Determination, our Final Determination is as follows:

Monitoring Required

The agency's implementation of the following required corrective actions will be monitored during the assigned compliance-monitoring period.

Corrective Action #1: Include in the complaint file a completed Complaint Intake Form, or a written complaint that captures facts (including pertinent dates) that identify the respondent(s) with reasonable specificity and provide the essence of the circumstances which gave rise to the complaint.

Agency Response: *"You have my full commitment that all standards and corrective actions identified in EEPC's Final Determination will be reviewed in detail for response during the subsequent 30-day review period. DCP is committed to working with the EEPC during the following mandatory compliance-monitoring period to ensure implementation of corrective measures that will expand DCP's practices for sexual harassment Prevention and Response Practices and advance our agency as a leader in best practices to reduce risk of sexual harassment for our employees."*

EEPC Response: The EEPC recognizes the Department of City Planning's commitment to implementing corrective action #1. To demonstrate compliance with this standard, please provide a redacted completed complaint file from subsequent to the period in review that includes a completed complaint intake form or written complaint. If there are no completed complaint files subsequent to the period in review, please provide documentation that demonstrates EEO professionals were directed to ensure that a completed complaint intake form or written complaint is included in each complaint file.

Corrective Action #2: Serve the respondent with a notice of the complaint that includes the respondent's right to respond to the allegations and right to be accompanied by a representative of his/her choice. Maintain in the complaint file documentation regarding the service of notice on the respondent.

Agency Response: *"You have my full commitment that all standards and corrective actions identified in EEPC's Final Determination will be reviewed in detail for response during the subsequent 30-day review period. DCP is committed to working with the EEPC during the following mandatory compliance-monitoring period to ensure implementation of corrective measures that will expand DCP's practices for sexual harassment*

² Excerpts are italicized.

Prevention and Response Practices and advance our agency as a leader in best practices to reduce risk of sexual harassment for our employees."

EEPC Response: The EEPC recognizes the Department of City Planning's commitment to implementing corrective action #2. To demonstrate compliance with this standard, please provide a redacted completed complaint file from subsequent to the period in review that contains a notice of the complaint provided to the respondent(s) that included the respondent's right to respond to the allegations and right to be accompanied by a representative of his/her choice. If there are no completed complaint files subsequent to the period in review, please provide documentation that demonstrates EEO professionals were directed to ensure that each respondent is provided with a notice of complaint that includes the respondent's rights and that the notice of complaint provided to each respondent is maintained in each complaint file.

Corrective Action #3: Take thorough notes, of words spoken and facts provided, during each interview. Include these notes in each complaint file.

Agency Response: *"You have my full commitment that all standards and corrective actions identified in EEPC's Final Determination will be reviewed in detail for response during the subsequent 30-day review period. DCP is committed to working with the EEPC during the following mandatory compliance-monitoring period to ensure implementation of corrective measures that will expand DCP's practices for sexual harassment Prevention and Response Practices and advance our agency as a leader in best practices to reduce risk of sexual harassment for our employees."*

EEPC Response: The EEPC recognizes the Department of City Planning's commitment to implementing corrective action #3. To demonstrate compliance with this standard, please provide a redacted completed complaint file from subsequent to the period in review that contains notes of words spoken and facts provided during each interview. If there are no completed complaint files subsequent to the period in review, please provide documentation that demonstrates EEO professionals were directed to ensure that notes of words spoken and facts provided during each interview are maintained in each complaint file.

Corrective Action #4: Issue a conclusive report within 90 days of the date the complaint was filed. Commence an investigation immediately if allegations raised sufficiently warrant an investigation.

Agency Response: *"You have my full commitment that all standards and corrective actions identified in EEPC's Final Determination will be reviewed in detail for response during the subsequent 30-day review period. DCP is committed to working with the EEPC during the following mandatory compliance-monitoring period to ensure implementation of corrective measures that will expand DCP's practices for sexual harassment Prevention and Response Practices and advance our agency as a leader in best practices to reduce risk of sexual harassment for our employees."*

EEPC Response: The EEPC recognizes the Department of City Planning's commitment to implementing corrective action #4. To demonstrate compliance with this standard, please provide a redacted completed complaint file from subsequent to the period in review that contains a conclusive report dated within 90 days of the date the complaint was filed. If there are no completed complaint files subsequent to the period in review, please provide documentation that demonstrates EEO professionals were directed to commence an investigation immediately if allegations raised sufficiently warrant an investigation and to ensure that each complaint file contains a conclusive report issued within 90 days of the date the complaint was filed.

Corrective Action #5: Generate at the end of each complaint investigation, a conclusive confidential report which includes a summary of the allegations and responses, a summary of the procedural history of the

investigation, a statement of the relevant facts gathered, a determination, a recommendation and documentation of the Agency Head's Review.

Agency Response: *"You have my full commitment that all standards and corrective actions identified in EEPC's Final Determination will be reviewed in detail for response during the subsequent 30-day review period. DCP is committed to working with the EEPC during the following mandatory compliance-monitoring period to ensure implementation of corrective measures that will expand DCP's practices for sexual harassment Prevention and Response Practices and advance our agency as a leader in best practices to reduce risk of sexual harassment for our employees."*

EEPC Response: The EEPC recognizes the Department of City Planning's commitment to implementing corrective action #5. To demonstrate compliance with this standard, please provide a redacted completed complaint file from subsequent to the period in review that contains a conclusive report that included a summary of the allegations and responses, a summary of the procedural history of the investigation, a statement of the relevant facts gathered, a determination, a recommendation and documentation of the Agency Head's Review. If there are no completed complaint files subsequent to the period in review, please provide documentation that demonstrates EEO professionals were directed to ensure that each complaint file contains a conclusive report generated at the end of the complaint investigation that includes a summary of the allegations and responses, a summary of the procedural history of the investigation, a statement of the relevant facts gathered, a determination, a recommendation and documentation of the Agency Head's Review.

Corrective Action #6: Establish and implement a policy whereby the agency head (or an approved direct report other than the General Counsel) reviews the principal investigator's conclusive report; issues a written/electronic determination adopting, rejecting, or modifying the recommended action; and signs each determination, via writing or electronically, to indicate it has been reviewed and adopted.

Agency Response: *"You have my full commitment that all standards and corrective actions identified in EEPC's Final Determination will be reviewed in detail for response during the subsequent 30-day review period. DCP is committed to working with the EEPC during the following mandatory compliance-monitoring period to ensure implementation of corrective measures that will expand DCP's practices for sexual harassment Prevention and Response Practices and advance our agency as a leader in best practices to reduce risk of sexual harassment for our employees."*

EEPC Response: The EEPC recognizes the Department of City Planning's commitment to implementing corrective action #6. To demonstrate compliance with this standard, please provide a redacted completed complaint file from subsequent to the period in review that contains a conclusive report signed by the agency head indicating it was reviewed and the recommended action was adopted, rejected, or modified. If there are no completed complaint files subsequent to the period in review, please provide documentation that demonstrates EEO professionals were directed to ensure that each complaint file contains documentation of the agency head's review of the conclusive report, and signature indicating adoption, rejection, or modification of the recommended action.

Corrective Action #7: Inform each complainant and respondent of the conclusion and outcome of their complaint investigation in writing as part of the agency's complaint procedure.

Agency Response: *"You have my full commitment that all standards and corrective actions identified in EEPC's Final Determination will be reviewed in detail for response during the subsequent 30-day review period. DCP is committed to working with the EEPC during the following mandatory compliance-monitoring period to*

ensure implementation of corrective measures that will expand DCP's practices for sexual harassment Prevention and Response Practices and advance our agency as a leader in best practices to reduce risk of sexual harassment for our employees."

EEPC Response: The EEPC recognizes the Department of City Planning's commitment to implementing corrective action #7. To demonstrate compliance with this standard, please provide a redacted completed complaint file from subsequent to the period in review that contains documentation notifying each complainant and respondent in writing of the conclusion and outcome of their complaint investigation. If there are no completed complaint files subsequent to the period in review, please provide documentation that demonstrates EEO professionals were directed to ensure that each complainant and respondent are provided with written notice of the conclusion and outcome of their complaint investigation; and that the notices provided to each complainant and respondent are maintained in the complaint file.

Corrective Action #8: Ensure each internal discrimination complaint file contains a written determination of its outcome and corrective action(s) taken as a result.

Agency Response: *"You have my full commitment that all standards and corrective actions identified in EEPC's Final Determination will be reviewed in detail for response during the subsequent 30-day review period. DCP is committed to working with the EEPC during the following mandatory compliance-monitoring period to ensure implementation of corrective measures that will expand DCP's practices for sexual harassment Prevention and Response Practices and advance our agency as a leader in best practices to reduce risk of sexual harassment for our employees."*

EEPC Response: The EEPC recognizes the Department of City Planning's commitment to implementing corrective action #8. To demonstrate compliance with this standard, please provide a redacted completed complaint file from subsequent to the period in review that contains a written determination of its outcome and corrective action(s) taken as a result. If there are no completed complaint files subsequent to the period in review, please provide documentation that demonstrates EEO professionals were directed to ensure that each internal discrimination complaint file contains a written determination of its outcome and corrective action(s) taken as a result.

Corrective Action #9: Notify the complainant and respondent in writing when the investigation by the EEO professional has been transferred because of the filing of an external complaint.

Agency Response: *"You have my full commitment that all standards and corrective actions identified in EEPC's Final Determination will be reviewed in detail for response during the subsequent 30-day review period. DCP is committed to working with the EEPC during the following mandatory compliance-monitoring period to ensure implementation of corrective measures that will expand DCP's practices for sexual harassment Prevention and Response Practices and advance our agency as a leader in best practices to reduce risk of sexual harassment for our employees."*

EEPC Response: The EEPC recognizes the Department of City Planning's commitment to implementing corrective action #9. To demonstrate compliance with this standard, please provide a redacted completed complaint file from subsequent to the period in review that contains a written notice to the complainant and respondent that the investigation by the EEO professional was transferred because of the filing of an external complaint. If there are no completed complaint files subsequent to the period in review that were transferred because of the filing of an external complaint, please provide documentation that demonstrates EEO professionals were directed to ensure that each complainant and respondent is notified in writing when the investigation by the EEO professional has been transferred because of the filing of an external complaint.

Corrective Action #10: Establish and utilize a complaint tracking and monitoring system that permits the agency to identify the location, status, and length of time elapsed in the complaint investigation process, the issues and the bases of the complaints, the aggrieved individuals, and other information necessary to analyze complaint activity to identify trends.

Agency Response: "You have my full commitment that all standards and corrective actions identified in EEPC's Final Determination will be reviewed in detail for response during the subsequent 30-day review period. DCP is committed to working with the EEPC during the following mandatory compliance-monitoring period to ensure implementation of corrective measures that will expand DCP's practices for sexual harassment Prevention and Response Practices and advance our agency as a leader in best practices to reduce risk of sexual harassment for our employees."

EEPC Response: The EEPC recognizes the Department of City Planning's commitment to implementing corrective action #10. To demonstrate compliance with this standard, please provide documentation that demonstrates the utilization of a complaint tracking and monitoring system that permits the agency to identify the location, status, and length of time elapsed in the complaint investigation process, the issues and the bases of the complaints, the aggrieved individuals, and other information necessary to analyze complaint activity to identify trends.

Corrective Action #11: Where the agency's organizational structure necessitates multiple EEO professionals, select such individuals from different office locations and, where possible, from a variety of levels within the organizational structure. Appoint EEO professionals who are trained in EEO laws and procedures, and their responsibilities under the EEO Policy.

Agency Response: "DCP has completed the following actions to address... corrective actions identified in the preliminary determination:

Confirmation of DCP's EEO/Diversity and Inclusion Specialist's approval for attendance in an upcoming DCAS facilitated EEO Personnel Training, a two-day EEO investigation and compliance training scheduled for November 25th, 2019 and January 7th, 2020. The EEO/Diversity and Inclusion Specialist will also absorb the role of EEO Training Manager (see attached email confirmation)."

EEPC Response: The EEPC recognizes the Department of City Planning's commitment to implementing corrective action #11. The Department of City Planning submitted email confirmation to demonstrate that the EEO/Diversity and Inclusion Specialist is registered for training on the investigation and resolution of discrimination complaints. The Department of City Planning also reported that the EEO/Diversity and Inclusion Specialist will absorb the role of EEO Training Manager. The agency will be monitored to confirm the EEO/Diversity and Inclusion Specialist's completion of training on the investigation and resolution of discrimination complaints.

Corrective Action #12: Ensure that managers and supervisors are held accountable for enforcing the agency's sexual harassment prevention policies and complaint procedures. Document this expectation and its implementation.

Agency Response: "You have my full commitment that all standards and corrective actions identified in EEPC's Final Determination will be reviewed in detail for response during the subsequent 30-day review period. DCP is committed to working with the EEPC during the following mandatory compliance-monitoring period to ensure implementation of corrective measures that will expand DCP's practices for sexual harassment

Prevention and Response Practices and advance our agency as a leader in best practices to reduce risk of sexual harassment for our employees."

EEPC Response: The EEPC recognizes the Department of City Planning's commitment to implementing corrective action #12. To demonstrate compliance with this standard, please provide documentation (such as meeting sign-in sheets and agenda or a current managerial evaluation form that contains a pertinent rating) that shows that managers and supervisors were held accountable for their responsibility to enforce the agency's sexual harassment prevention policies and complaint procedures.

Corrective Action #13: Ensure the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

Agency Response: *"You have my full commitment that all standards and corrective actions identified in EEPC's Final Determination will be reviewed in detail for response during the subsequent 30-day review period. DCP is committed to working with the EEPC during the following mandatory compliance-monitoring period to ensure implementation of corrective measures that will expand DCP's practices for sexual harassment Prevention and Response Practices and advance our agency as a leader in best practices to reduce risk of sexual harassment for our employees."*

EEPC Response: The EEPC recognizes the Department of City Planning's commitment to implementing corrective action #13. Please provide documentation that demonstrates the agency's utilization of a managerial performance evaluation form that contains a rating for EEO that covers responsibilities and processes for assuring managers' ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner.

Corrective Action #14: Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports on efforts to implement the Plan within 30 days following each quarter. Include a breakout of sexual harassment complaint activity in each quarterly report.

Agency Response: *"You have my full commitment that all standards and corrective actions identified in EEPC's Final Determination will be reviewed in detail for response during the subsequent 30-day review period. DCP is committed to working with the EEPC during the following mandatory compliance-monitoring period to ensure implementation of corrective measures that will expand DCP's practices for sexual harassment Prevention and Response Practices and advance our agency as a leader in best practices to reduce risk of sexual harassment for our employees."*

EEPC Response: The EEPC recognizes the Department of City Planning's commitment to implementing corrective action #14. To demonstrate compliance with this standard, please submit to the EPPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports (that include a breakout of sexual harassment complaint activity) on efforts to implement the Plan within 30 days following each quarter.

Final Action: Upon the EEPC's determination that the entity does not require further review or monitoring: Distribute a memorandum signed by the agency head that re-emphasizes the commitment of agency administrators to the EEO program, including the prevention of sexual harassment, and informs employees of any changes to the agency's employment practices as a result of the EEPC's audit/monitoring. This final action is required to conclude the audit and monitoring process.



The EEPC thanks you and your staff for your continued cooperation.