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BY MAIL AND EMAIL

June 28, 2019

Eric Enderlin
President
Housing Development Corporation
110 William Street
New York, New York 10038

Re: Housing Development Corporation
Evaluation of Sexual Harassment Prevention and Response Practices
Audit Period: January 1, 2017 to December 31, 2018
Determination: **PRELIMINARY**

Dear President Enderlin:

On behalf of the members of the Equal Employment Practices Commission (EEPC), thank you and your agency for the cooperation extended to our staff thus far. This letter contains the EEPC's evaluation and preliminary determinations pursuant to the Housing Development Corporation's Sexual Harassment Prevention and Response Practices for the period covering January 1, 2017 to December 31, 2018.

Purpose

Chapter 36, Sections 830(a) and 831(d)(2) and (5) of the New York City Charter (Charter) 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 equal employment opportunity (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 Housing Development Corporation, hereinafter simply termed "agency" or "entity," falls within the EEPC's purview under Chapter 36, Sections 830(a) and 831(a) of the Charter, to review, evaluate, and monitor the coordination and implementation of affirmative employment programs of equal employment opportunity for any "city, county, borough or other office, administration, board, department, division, commission, bureau, corporation, authority, or other agency of government where the majority of the board members of such agency are appointed by the mayor or serve by virtue of being city officers or the expenses of which are paid in whole or in part from the city treasury..."

The purpose of this audit and analysis is to evaluate the subject matter referenced, not to issue findings of discrimination pursuant to the New York City Human Rights Law.

Scope

The EEPC has adopted uniform standards for auditing municipal entities¹ and minimum standards for auditing Community Boards (collectively “Standards”) to review, evaluate, and monitor entities’ employment and EEO-related practices, procedures, approaches, measures, standards, and programs. These standards are founded upon, and consistent with federal, state, and local laws and regulations, and policies and procedures to increase equal opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination. Corrective actions prescribed are consistent with the aforementioned parameters 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*, as amended (Citywide EEO Policy); the New York City Human Rights Law (New York City Administrative Code Title 8); New York State Human Rights Law (New York Executive Law, Article 15); the New York State Civil Service Law §55-a; and the equal employment opportunity requirements of the New York City Charter.

Policy and Plan Requirements

The aforementioned Standards require, at minimum, that mayoral entities distribute the Citywide EEO Policy; non-mayoral entities establish or adopt a comprehensive EEO policy; and Community Boards, which are comprised of members appointed by the respective Borough Presidents, adopt and distribute the corresponding Borough President’s EEO Policy.

Because the EEPC is authorized to review and recommend actions that each entity should consider including in its annual plan of measures and programs to provide equal employment opportunity, or Annual EEO Plan, entities are also required to incorporate the EEPC’s corrective actions in prospective Annual EEO Plans and programs.

Methodology

The EEPC communicates with EEO professionals (including, but not limited to, past or current EEO Officers, Deputy or Co-EEO Officers, EEO Counselors, EEO Trainers, EEO Investigators, Disability Rights Coordinators, Career Counselors, and 55-a Program Coordinators) and other employees identified as having involvement in EEO program administration such as the Principal Human Resources Professional and relevant Counsel.

The EEPC’s audit methodology includes review of the agency’s Annual EEO Plans and Quarterly EEO Reports; analysis of workforce and utilization data; and the collection and analysis of documents, records, and data an entity and its representatives provide in response to the Sexual Harassment Prevention and Response Preliminary Interview Questionnaires (PIQs). All PIQs contain requests to attach supporting documentation for the answer options selected.

EEO Professionals designated for online interviews are assigned a three-week deadline to complete and return the PIQs. The EEPC’s PIQ(s)/requests were sent to the Housing Development Corporation

¹ Corresponding audit/analysis standards are numbered throughout the document.

on February 11, 2019; the completed PIQ(s) were returned on March 1, 2019. Supporting documentation was attached. Additional requests for information were made on April 11, 2019.

The following determination indicates where the Housing Development Corporation has or has not complied, in whole or in part, with the established Standards.

Description of the Agency

The New York City Housing Development Corporation (henceforth referred to as HDC or "the Corporation") is a corporate governmental agency constituted as a public benefit corporation and established in 1971 under Article XII, Private Housing Finance Law. HDC encourages the investment of private capital through low-interest mortgage loans and provides safe and sanitary dwellings for families and persons whose housing needs cannot be met by unassisted private enterprise. Through the issuance of bonds and notes, provides construction and/or permanent financing for multifamily residential housing.

The corporation is composed of the Commissioner of the Department of Housing Preservation and Development as Chairperson, the Director of Management and Budget and the Finance Commissioner, all ex-officio; and four public members, two appointed by the Mayor, and two by the Governor. Members continue to serve until a successor has been appointed. (Source: The Green Book, 3/2019) According to the Corporation's *Affirmative Action Program for Women & Minorities September 2018 - August 2019*, the Corporation's headcount was 175 at the end of the period in review.

PRELIMINARY DETERMINATIONS AFTER AUDIT AND ANALYSIS

Following are the corresponding audit standards for each subject area along with the EEPC's findings and required corrective actions, where appropriate:

I. Issuance, Distribution and Posting of EEO Policies

Determination: The agency is in partial-compliance with the standards for this subject area.

1. Issue a Policy Statement or memorandum reiterating commitment to the prevention of sexual harassment annually.

✓ In December 2017 and 2018 the HDC President sent, via email to *HDCUsers* (all staff), the Corporation's annual *Commitment to Equal Employment Opportunity* statement, "...to emphasize my commitment to the principles and practices of equal opportunity in all of HDC's employment-related matters". The statement requested, "...that you please take some time to review HDC's EEO policy, which has been recently amended to be inclusive of the most updated list of protected classes in accordance with all applicable city, state and federal laws." The statement further asserted that the pages of the EEO policy "... contain our anti-harassment policy and complaint procedure, and include the names and contact information for HDC's EEO

professionals". (HDC's 2018 *Commitment to Equal Employment Opportunity* is attached as **Appendix 1.**)

2. Distribute/Post a paper or electronic copy of the Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies – or an agency Policy that conforms to city, state and federal laws against sexual harassment– for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency's EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.

✓ HDC's EEO policy, *Equal Employment Opportunity Non-Harassment and Complaint Procedure* (henceforth referred to as *EEO Policy* and attached as **Appendix 2**), was included as pages 2-16 and 2-17 of its employee handbook, and as a link within the Corporation's annual *Commitment to Equal Employment Opportunity* statement emailed to employees in December 2017 and 2018 (see § I.1 for further information). The EEO Policy included a brief description of the Corporation's discrimination compliant procedures. The *HDC Discrimination Complaint Procedure* (henceforth referred to as HDC's Complaint Procedure and attached as **Appendix 3**), that contained uniform procedures for investigating complaints, was accessible to employees via the *Employee Portal* section of the Corporation's intranet site. Employees were made aware of the location and accessibility of this and other EEO related policies during new employee orientation and during EEO/sexual harassment prevention training (detailed in § II.3). Contact information (name, title, email address and telephone number) for HDC EEO Professionals was included in the annual *Commitment to Equal Employment Opportunity* statement and the EEO Policy. Contact information for federal, state and local agencies that enforce laws against discrimination/sexual harassment was included in HDC's Complaint Procedure.

➤ The *HDC Discrimination Complaint Procedure* did not include the following stipulations as part of its uniform and responsive procedures for investigating discrimination/sexual harassment complaints: (1) in circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, or 30 days as set forth in HDC's Complaint Procedure, specify in the complaint file the reason for the delay and project a time frame for completion of the report; (2) notify the complainant and respondent of the delay; (3) provide the option to file a complaint anonymously and (4) 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. **Corrective Action Required.**

Corrective Action #1: Distribute/Post a paper or electronic copy of the Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies – or an agency Policy that conforms to city, state and federal laws against sexual harassment– for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency's EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.

II. Training for the Agency

Determination: The agency is in compliance with the standards for this subject area.

3. Establish and implement a training plan for new and existing employees to ensure that all individuals who work within the agency, including managers and supervisors, receive training on the prevention of sexual harassment as well as discrimination complaint and investigation procedures.

✓ In March 2017 HDC provided mandatory EEO training for all staff entitled, *NYC HDC EEO Training: Preventing Harassment*. The training was conducted by *Corporate Counseling Associates (CCA)*, a human resources consulting firm. In order to ensure inclusion of all staff members the training was conducted in five sessions (four for non-managerial staff and one for Managers). Training materials outline the goal of the training as being “...to reduce the risk of harassment by increasing our awareness about what constitutes harassment in order to prevent it.” The PowerPoint used to conduct the training showed the following subjects were covered: the definition of harassment, the federal state, and local laws that pertain to EEO and HDC’s EEO Policy. Training topics included *prevention is an organizational imperative, the financial and human impact of wrongdoing, the list of protected classes, retaliation, the internal complaint process and employee/manager’s roles/responsibilities*. The training also included case scenarios specific to the respective audiences (employee/manager). To ensure that all new hires also received training on the prevention of sexual harassment as well as discrimination complaint and investigation procedures, HDC’s new hire orientation PowerPoint presentation included the following topics: *Organizational Resource*, that included exploring the Corporation’s website and employee portal (intranet site where all HDC policies and procedures that pertained to sexual harassment and EEO were accessible to employees for the duration of the period in review); and *NYC HDC EEO Training: Preventing Harassment* (same as above).

Sign-in sheets confirm that 92% (or 161 of 175) of employees and managers completed the training in 2018. In addition to in-house training, training rosters indicate that during the period in review, 89% (or 157 of 175) employees completed, the Department of Administrative Services’ (DCAS) “*Sexual Harassment Prevention: What to Know About Unlawful and Inappropriate Behaviors in the Workplace*” by October 2018. (Subsequent to the period in review, in May 2019, HDC provided the EEPC an updated roster that indicates that 100% of its current headcount of 178 had completed the DCAS training).

III. Complaint and Investigation Procedures

Summary of Complaint Activity: The agency reported 1 internal and 0 external complaints were filed during the period in review.

Determination: The agency is in partial-compliance with the standards for this subject area.

4. 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.

✓ The complaint file included a completed *HDC Complaint of Discrimination Intake Form*. The two-page *HDC Complaint of Discrimination Intake Form* provided space to capture, the alleged basis of discrimination, who is alleged to have engaged in unlawful discrimination, when did alleged discrimination occur, location, witness(es), space to describe the alleged unlawful discriminatory conduct and more.

In addition, HDC's Complaint Procedure stated, "[t]he complainant should provide a statement of the facts, including pertinent dates, which constitutes the alleged discriminatory act(s). Any communication that is given to the Vice President (VP) of Human Resources (HR), [the Corporation's principal EEO Professional] or [EEO] Counselor that identifies the respondent(s) with reasonable specificity and provides the essence of the circumstances which gave rise to the alleged discrimination may be deemed an acceptable complaint."

5. Provide the option to file a complaint anonymously.

➤ HDC's did not demonstrate that employees were provided the option to file a complaint anonymously. **Corrective Action Required.**

NOTE: The EEOC recommends that the option to file a complaint anonymously be included in the Complaint Procedures. (See § I.2 for associated corrective action.)

Corrective Action #2: Provide the option to file a complaint anonymously.

6. 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.

✓ The *Investigation Process* section of HDC's Complaint Procedure included the following requirement "[a]fter being served with the notice and copy of the complaint, the respondent has the right to respond in writing. The respondent's right to respond shall remain in effect until the investigation process has ended. Respondents are encouraged to submit their written response as soon as possible after service.

➤ The complaint file did not include a notice of the complaint sent to the respondent. Furthermore, the *Preparation for the Investigative Interview Process* section of the EEO Investigative Report listed "for the record" the principal EEO Professional's introductory statements provided to "each of the parties", the statements included information such as "[e]xpress appreciation for the complainant's time and cooperation; [e]xplain the nature of what is being reviewed/inquired about" and to "[n]ote that the matter under inquiry is serious and that HDC has a commitment/obligation to inquire about it." Neither the complaint file nor the *EEO Investigative Report* demonstrated that the Respondent was informed of their right to respond to the allegations or the right to be accompanied by a representative of his/her choice. **Corrective Action Required.**

Corrective Action #3: 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.

7. Issue/maintain written confirmation when an internal complaint/mediation is terminated, withdrawn or resolved by agreement of the parties or EEO Office.

✓ Because the complaint was not terminated, withdrawn, or resolved by agreement of the parties, HDC's Complaint Procedure was used to measure compliance with this standard. The *Termination of Conciliation* section of HDC's Complaint Procedure included the following requirements "*The VP of HR [principal EEO Professional] must issue a written report confirming the termination of conciliation. Termination of conciliation efforts occurs when: (a.) the complaint is withdrawn; (b.) resolution is agreed upon by both the complainant(s) and respondent(s), and, if the terms of the resolution require agency action, the head of the agency or his/her designee...*" Furthermore, the Complaint Procedures stated, "*[w]hen a resolution is agreed upon, the terms of the resolution will be embodied in a written report that confirms the termination of conciliation. The report must be signed by the complainant(s) and respondent(s). Copies of the report will be given to the complainant(s) and respondent(s).*"

8. Take thorough notes, of words spoken and facts provided, during each interview. Include these notes in each complaint file.

✓ The *Investigative Interview Notes* section of the EEO Investigative Report included a summary of notes taken during each interview, along with the name of the interviewee and date of the interview.

9. 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.

✓ The *EEO Investigative Report* was issued 22 days after the complaint was filed. This is consistent with HDC's Complaint Procedure that stated, "*[t]he confidential written report shall be issued within 30 days of the date the discrimination complaint was filed, unless the time period is extended by mutual agreement of the VP of HR [principal EEO Professional] and the complainant*"; which also falls within the parameters of the EEPC's standard that the conclusive report be issued within 90 days.

10. In rare circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, specify in the complaint file the reason for the delay and project a time frame for completion of the report. Notify the complainant and respondent of the delay.

NOTE: Because the *EEO Investigative Report* was issued within 90 days of the date the complaint was filed, HDC's Complaint Procedure was used to determine compliance with this standard. HDC's Complaint Procedure did not include a stipulation that in circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, or 30 days as set forth in HDC's Complaint Procedure, it should be specified in the complaint file the reason for the delay and project a time frame for completion of the report and that the complainant and respondent should be notified of the delay. (See § I.2 for associated corrective action.)

11. 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.

✓ The complaint file contained a copy of the *EEO Investigative Report* that included the following sections: *Parties Involved and Background*, *Initial Report of the Incident*, *Preparation for the Investigative Interview Process*, *Investigative Interview Notes* (that delineated the date of the "In-Take Meeting" and the name of the person(s) interviewed), *Conclusions/Follow up Actions*, and *Final Action*.

12. Maintain complaint files in a secure area and ensure that they can be located and reviewed by the agency head, agency general counsel, and other appropriate staff identified by the agency head.

✓ In response to the EEPIC's PIQ, HDC reported that complaint files were stored in secured electronic file folders within the principal EEO Professional's office. In addition, HDC's Complaint Procedure included the following requirement "[a]ll complaints and documents related to complaints, including all documents related to the conciliation process will be treated confidentially, and will be retained by the VP of HR [principal EEO Professional]."

13. 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.

✓ HDC's Complaint Procedure stated, "[t]he President, Chief Operating Officer or Senior Vice President of Administration will sign off on all internal discrimination reports to indicate that they have been reviewed and whether recommendations, if any, have been approved and adopted".

➤ The complaint file did not include documentation that the President (or an approved direct report other than the General Counsel such as the *Chief Operating Officer or Senior Vice President of Administration*) reviewed of the *EEO Investigative Report*. **Corrective Action Required.**

Corrective Action #4: 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.

14. Inform each complainant and respondent of the conclusion and outcome of their complaint investigation in writing as part of the agency's complaint procedure.

✓ The *Actions* section of the *EEO Investigative Report* indicated that the principal EEO Professional met with the complainant and respondent to discuss the conclusion of the complaint investigation. However, the *Informing Parties of Outcome* section of HDC's Complaint Procedure included the following requirement “[c]ommunicate the decision to the parties, in writing (emphasis added), *in a discreet and confidential manner, indicating the conclusion reached; whether the misconduct alleged has been substantiated; and the agency's opposition to that kind of activity.*”

➤ The complaint file did not include documentation that the complainant and respondent were notified in writing of the conclusion and outcome of their complaint investigation. **Corrective Action Required.**

Corrective Action #5: Inform each complainant and respondent of the conclusion and outcome of their complaint investigation in writing as part of the agency's complaint procedure.

15. Ensure each internal discrimination complaint file contains a written determination of its outcome and corrective action(s) taken as a result.

✓ The complaint file contained a written determination of its outcome and corrective actions taken as a result via the *EEO Investigative Report*.

16. 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.

NOTE: Because the complaint file was not transferred due to the filing of an external complaint, HDC's Complaint Procedure was used to measure compliance with this standard. HDC's Complaint Procedure did not stipulate that when an investigation by the EEO professional is transferred because of the filing of an external complaint the complainant and respondent should be notified in writing. HDC should update its Complaint Procedure to include such a stipulation. (See § 1.2 for associated corrective action.)

17. 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.

➤ HDC did not establish or utilize a complaint tracking system during the period in review.

Corrective Action Required

Corrective Action #6: 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.

18. Ensure that the General Counsel assists the agency head in identifying and determining appropriate responses to sexual harassment; works with the principal EEO Professional in the implementation of the City's policies and procedures pertaining to sexual harassment; informs the principal EEO Professional when external complaints or litigation involving sexual harassment is brought against the agency; is available to consult on internal sexual harassment complaint investigations; and is responsible for the investigation of, and response to, external sexual harassment complaints.

✓ HDC's Complaint Procedure stated the following regarding the General Counsel's EEO related responsibilities "[t]he VP of HR [principal EEO Professional] should consult General Counsel when questions arise during the preparation of the written report, or at any other phase of the investigation; ...VP of HR should seek advice from General Counsel if a request for documents relating to a complaint is received"; and "[d]etermining the appropriate disciplinary action is often a difficult and sensitive matter with potential legal consequences. Therefore, General Counsel should be consulted for advice." Emails demonstrate that during the investigation of the complaint (referenced in § III), the principal EEO Professional consulted with the Associate General Counsel regarding the interview processes.

NOTE: As HDC reported no external complaints were filed during the period in review, further evaluation of HDC's implementation of this standard was impractical.

IV. Annual Review of Practices, Policies and Programs

Determination: The agency is in compliance with the standards for this subject area.

19. Ensure that the principal EEO Professional, HR Professional, and General Counsel, review the number of sexual harassment complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies.

✓ During the period in review HDC's EEO Committee, which consisted of the Corporation's five EEO Counselors, the principal EEO Professional (VP of HR), the Senior Vice President of Portfolio Management, a legal advisor (the Associate General Counsel of the Legal Division and/or the Senior Vice President/General Counsel (in the Associate General Counsel's absence)), met on a quarterly basis to discuss various EEO related matters. Some agenda items included: *HDC's Affirmative Action Plan and HDC Actions*, *HDC 2018 Training Plans*, *Reasonable Accommodations/FMLA requests*, *Hires*, *Separations*, *Promotions* and *Summary of Workforce*. Minutes from the January 30, 2019 meeting (covering the 4th quarter of 2018 (October 2018 to December 2018)) included several actionable items including ensuring the EEO Committee reviewed a job vacancy notice prior to posting it to "ensure the suitability of minimum qualifications and job requirements to avert the possibility of adverse impact", and that the principal EEO Professional was to meet with the respondent (to the EEO complaint referenced in § III) to discuss the outcome of the complaint investigation.

V. Responsibility for Implementation - EEO Professionals

Determination: The agency is in compliance with the standards for this subject area.

20. Appoint a principal EEO Professional to implement EEO policies and standards within the agency. Ensure the principal EEO Professional is trained regarding city, state, federal EEO laws; the requirements of the agency's EEO policies, standards and procedures; and the prevention, investigation, and resolution of discrimination and sexual harassment complaints.

✓ The principal EEO Professional (VP of HR), appointed in December 2016, completed the following DCAS Learning and Development (L&D) trainings that covered city, state and federal EEO laws and the prevention, investigation and resolution of discrimination and sexual harassment complaints: in 2016, *Structured Interviewing and Unconscious Bias*; in 2017, *EEO Investigative Workshop*, *Reasonable Accommodation Procedural Guidelines*, *Everybody Matters*, and *LGBT: Are you ready for the "T" - Creating an Inclusive Culture for Transgender*; and in 2018, *Sexual Harassment Prevention: What to Know About Unlawful and Inappropriate Behaviors in the Workplace* computer-based training. The principal EEO Professional completed the following U.S. Equal Employment Opportunity Commission (EEOC) trainings: *EEOC Excel Conference Including EEO Counselor Refresh Training* in 2017 and *Examining Conflicts in Employment Laws* in 2018. In 2018, the principal EEO Professional also completed *Addressing Sexual Harassment for Housing Providers*, a webinar presented by the law firm Ballard Spahr LLP, and *NYC HDC EEO Training: Preventing Harassment* presented by CCA.

21. Ensure that the responsibilities of the principal EEO Professional are competently discharged by providing adequate resources such as opportunities for continuing education and professional development, and/or support staff to meet EEO obligations.

✓ During the period in review, HDC's principal EEO Professional's support to meet EEO obligations included five part-time EEO Counselors, a Career Counselor and a legal advisor (the

Associate General Counsel or Senior Vice President/General Counsel). The EEO Counselors were responsible for receiving inquiries and complaints, conducting interviews during the investigation process, and reviewing intake processes and content with the principal EEO Professional to determine next steps. The principal EEO Professional remained abreast of EEO related matters by attending the EEOC's annual Excel Conference (in 2017 and 2018). EEO Counselors were encouraged to attend DCAS' *Best Practices*² meetings on an ongoing basis (typically monthly).

22. 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.

✓ In addition to the principal EEO Professional, during the period in review HDC had five part-time EEO Counselors. HDC's 175 employees (including the EEO Professionals) were all housed in the corporation's central office location. Each of the five EEO Counselors held dual titles and were selected from a variety of levels within the organizational structure: *Senior HR Generalist* from Human Recourses, *Senior Vice President and Treasurer* from the Office of the Treasurer, *REMIC Project Manager* from the Asset Management Division, *Vice President and Controller* from Accounting and Budget Division, and the *Senior Vice President and Chief of Staff* from the President's Office.

All EEO Counselors completed HDC's in-house training conducted by CCA that covered the definition of harassment, the federal state, and local laws that pertain to EEO and the NYC Housing Development Corporation's internal complaint process. In addition, all EEO professionals completed DCAS' online *Sexual Harassment Prevention: What to Know About Unlawful and Inappropriate Behaviors in the Workplace* training (see § II.3). The EEO Counselor/Senior HR Generalist also received a certificate of completion for *Leading Internal Investigation* from the Society for Human Resource Management in 2018.

23. Ensure that the principal EEO Professional works cooperatively and closely with the General Counsel in the implementation of policies and procedures concerning EEO and sexual harassment.

✓ As a member of the HDC's EEO Committee, the Associate General Counsel worked cooperatively with the principal EEO Professional to implement policies and procedures concerning EEO and sexual harassment during the period in review. HDC's EEO Committee was comprised of five EEO Counselors, the principal EEO Professional (VP of HR), the Senior Vice President of Portfolio Management, and Associate General Counsel (or the Senior Vice President/General Counsel in the Associate General Counsel's absence). The EEO Committee meeting agenda for October 2018 indicated the following items were discussed: HDC's

² The Office of Citywide Equity and Inclusion (OCEI) is formerly known as Citywide Diversity & EEO (CDEEO). CDEEO established a Diversity and EEO Best Practices Group, composed of EEO Officers and professionals from mayoral and non-mayoral agencies, to promote comprehensive and consistent EEO policies and diversity and inclusion best practices across City government.

Affirmative Action Plan and HDC Actions, EEO Complaints, and EEO Legislative and Regulatory Updates. In addition, HDC's Complaint Procedure required the General Counsel to work cooperatively with the principal EEO Professional on the investigation and resolution of EEO/sexual harassment complaints (see § III.18 for further details).

24. Assign the principal EEO Professional (or EEO-related designee) the responsibility to supervise the activities of EEO professionals, and ensure that: the policies against sexual harassment and complaint procedures are distributed/posted at all agency locations; employees/managers receive sexual harassment prevention training; EEO-related policies are made available in alternative formats (i.e., large print, audio recording and/or Braille) upon request; managers, supervisors and human resource professionals receive guidance on issues pertaining to sexual harassment; and allegations of sexual harassment are promptly investigated.

✓ HDC's Human Resources/Equal Employment Opportunity organization chart illustrated the EEO Office was headed by the principal EEO Professional, who supervised the EEO Counselors' EEO responsibilities, and reported to the Senior Vice President/ Chief of Staff for EEO responsibilities. HDC's President ensured that policies against sexual harassment and complaint procedures were distributed to all employees via the annual distribution of the Corporation's *Commitment to Equal Employment Opportunity* statement, which included an electronic link to the employee handbook that contained the EEO Policy and a brief summary of the Corporation's complaint procedure. The principal EEO Professional ensured that employees and managers received sexual harassment prevention training (attendance is detailed in § II.3). The Corporation reported that there were no requests for policies or procedures in alternate formats but reported that if requested they would be provided in the preferred format. Managers, supervisors and human resource professionals received guidance on issues pertaining to sexual harassment via training specifically designed for them that was conducted during the period in review (see § II.3 for details on the contents of the managers section of the training). During the period in review the principal EEO Professional was responsible for and conducted an investigation of an EEO complaint in conjunction with an EEO Counselor.

25. Ensure that the principal EEO Professional reports directly to the agency head (or a direct report other than the General Counsel) in order to exercise the necessary authority and independent judgment to fulfill EEO responsibilities.

✓ HDC's organization chart illustrated that the principal EEO Professional (VP of HR) reported to the Senior Vice President/Chief of Staff who was a direct report to the President of the Corporation.

26. Maintain documentation regarding directives or decisions between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional that impact the administration and operation of programs, policies or procedures concerning sexual harassment.

✓ During the period in review, Quarterly EEO Update meetings were held by the principal EEO Professional and the HDC President (or Chief of Staff in the President's absence). The purpose of the meetings was to review the EEO Committee meeting agenda and minutes for the review period (the previous quarter) to ensure that the agency head remained apprised of decisions that impacted the administration and operation of programs, policies or procedures concerning EEO and sexual harassment. As a result of one such review in February 2019 (for the review period of October 2018 to December 2018), the HDC President proposed that in consideration of the establishment of their own, city agencies' policies be reviewed.

VI. Responsibility for Implementation – Supervisors/Managers

Determination: The agency is in compliance with the standards for this subject area.

27. 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.

✓ HDC managers were informed of their responsibility for enforcing the Corporation's sexual harassment prevention policies and complaint procedures via in-house EEO training conducted by CCA (see § II.3). The PowerPoint presentation used to conduct the training entitled *NYC HDC EEO Training: Preventing Harassment* stated the following about the role of Managers: *"Immediately respond to all complaints brought to your attention by referral to the EEO Officer or Counselors, Contact the EEO Officer or Counselor with all possible complaints, remain neutral, refrain from investigating complaints on your own."* The employees' section of the *NYC HDC EEO Training: Preventing Harassment* presentation stated, *"[t]here are many avenues of support: For Filing a Complaint: EEO Officer, EEO Counselors, Managers or Supervisors"*.

28. 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).

✓ HDC's 2017/2018 managerial performance appraisal process was initiated by an email from the VP of Human Resources (principal EEO Professional) in August 2018, that included instructions, the evaluation period (July 1, 2017 through June 30, 2018), and the *Qualitative Performance Review (managerial/ Supervisory staff)* form to be utilized. Section VII of the form, entitled *"Equal Employment Opportunity (EEO)"* included the following yes/no questions: *"[d]id the employee decide all employment-related matters during the review period based on merit and equal consideration? and [d]id the employee treat all others in an impartial and equitable manner during the review period?"*

VII. Reporting Standard for Agency Head

Determination: The agency is in compliance with the standards for this subject area.

29. 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.

✓ HDC submitted to the EEPC is *Affirmative Action Program for Women & Minorities* for September 2016 to August 2017, September 2017 to August 2018 and September 2018 to August 2019.

NOTE: As a non-mayoral entity, the Housing Development Corporation is not required to submit quarterly reports on efforts to implements its annual plans.

30. 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.

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.

Summary of Corrective Actions:

The Housing Development Corporation has 7 required corrective action(s) at this time. This includes the aforementioned final action.

Conclusion

Pursuant to Charter Chapter 36, the Housing Development Corporation has the *option* to respond to this Preliminary Determination, but must respond to our Final Determination if corrective action is required. **Any response must be signed by the agency head and submitted to the EEPC's Executive Director.**

Optional Response to Preliminary Determination: If submitted, the Housing Development Corporation's optional response to the EEPC's Executive Director should indicate, with attached documentation, what steps have been or will be taken to correct outstanding areas of non-compliance,

and must be received in our office within 14 days from the date of this letter. No extensions will be granted for the *option* to respond to the Preliminary Determination.

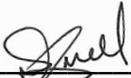
(Optional Conference) If requested, at the Optional Conference the EEPC will discuss the immediate steps that should be taken to correct outstanding areas of non-compliance and address questions regarding the Housing Development Corporation's implementation of the prescribed corrective action(s).

(No Response Option) If the Housing Development Corporation does not respond to this Preliminary Determination within 14 days, it will become the EEPC's Final Determination.

Mandatory Response to Final Determination: Following this Preliminary Determination, the EEPC will issue a Final Determination where we may modify or eliminate the corrective action(s) based on verified information submitted as part of the response to the Preliminary Determination; identify remaining corrective action(s) that require further monitoring to ensure implementation; and assign a mandatory compliance-monitoring period of up to 6 months for this purpose. Pursuant to Charter Chapter 36, upon receipt, the Housing Development Corporation must submit a response, signed by the agency head, to our Final Determination within 30 days. Your response to the Final Determination will initiate the compliance-monitoring period.

In closing, we want to thank you and your staff for the cooperation extended to the Equal Employment Practices Commission's EEO Program Analysts during the course of our audit and analysis.

Respectfully Submitted by,



Ilacia Zuell, Manager, EEO Analysis and Audit Unit

Approved by,



Charise L. Terry
Executive Director

c: Jennifer Shaw, Esq., Executive Agency Counsel/Director of Compliance, EEPC
Lois Bricken-McCloskey, Principal EEO Professional, HDC

APPENDIX 1

Housing Development Corporation

2018 Commitment to Equal Employment Opportunity



NEW YORK CITY
HOUSING DEVELOPMENT
CORPORATION

INTERNAL MEMORANDUM

Date: December 28, 2018
To: All HDC Staff
From: Eric Enderlin *EE*
RE: Commitment to Equal Employment Opportunity (EEO)

As we look forward to 2019, I want to emphasize my commitment to the principles and practices of equal opportunity in all of HDC's employment-related matters.

I ask that you please take some time to review HDC's EEO policy.

Specifically, I am committed to HDC's policy of equal opportunity for all employees and applicants for employment without regard for actual or perceived race, color, national origin, alienage or citizenship status, religion or creed, gender (including "gender identity" –which refers to a person's actual or perceived sex, and includes self-image, appearance, behavior or expression, whether or not different from that traditionally associated with the legal sex assigned to the person at birth), disability, pregnancy, age (18 and over), military status, prior record of arrest or conviction, marital status, partnership status, caregiver status, genetic information or predisposing genetic characteristic, sexual orientation, status as a victim or witness of domestic violence, sex offenses or stalking, unemployment status, consumer credit history and familial status.

HDC's full EEO policy can be found on pages 2-16 and 2-17 of the employee handbook. For your convenience, I have attached these pages to this memorandum.

These pages also contain our anti-harassment policy and complaint procedure, and include the names and contact information for HDC's EEO professionals. You are encouraged to speak to any of these trusted individuals regarding any questions or complaints:

EEO Officer: Lois Bricken-McCloskey (lmcloskey@nychdc.com; 212-227-2898)
EEO Counselors: Lydia Aponte (laponte@nychdc.com; 212-227-8114)
Cathleen Baumann (cbaumann@nychdc.com; 212-227-9681)
Mary John (mjohn@nychdc.com; 212-227-7011)
Jim Quinlivan (jquinlivan@nychdc.com; 212-227-7030)

Additionally, I'm pleased to inform you that HDC continues its commitment to ongoing training, to further strengthen our EEO Commitment and practices. This past year, such trainings included:

- At new hire training sessions, Lois Bricken-McCloskey, HDC's EEO Officer certifies that each new hire reviews and understands HDC's EEO policies and knows who to contact should a new hire have a question, concern or complaint
- Focused training for HDC staff in external facing roles regarding the prevention and avoidance of harassment when not at the office
- HR "touch base" meetings with HDC teams to reinforce and remind HDC employees regarding HDC's EEO policies. The key message for HDC staff at the sessions was "if you see or hear something, you must say something" and who to contact if necessary.

HDC's additional calls to action to prevent sexual harassment in the workplace included:

- Posting of the new NYC Commission on Human Rights Stop Sexual Harassment Act Notice and Fact Sheet in each of the HDC pantries and on the HDC employee portal
- Incorporating the published information sheet on sexual harassment into materials disseminated to new hires
- Requiring HDC staff and new hires to attend the DCAS sponsored interactive Sexual Harassment Prevention training compliant with the training content provisions of the NYC and NYS laws passed in May 2018.

In 2019, we look forward to ongoing diversity and inclusion-related trainings in the New Year.

I am extremely proud to lead an agency of such diversity and talent. I thank all of you for contributing to an environment which celebrates that diversity, nurtures that talent, and is supportive of one and all.

APPENDIX 2

Housing Development Corporation

*Equal Employment Opportunity Non-Harassment and Complaint
Procedure*

EQUAL EMPLOYMENT OPPORTUNITY NON-HARASSMENT AND COMPLAINT PROCEDURE

HDC is committed to a policy of equal opportunity for all employees and applicants for employment, without unlawful discrimination on the basis of actual or perceived race, color, national origin, alienage or citizenship status, religion or creed, gender (including "gender identity" –which refers to a person's actual or perceived sex, and includes self-image, appearance, behavior or expression, whether or not different from that traditionally associated with the legal sex assigned to the person at birth), disability, pregnancy, age (18 and over), military status, prior record of arrest or conviction, marital status, partnership status, caregiver status, genetic information or predisposing genetic characteristic, sexual orientation, status as a victim or witness of domestic violence, sex offenses or stalking, unemployment status, consumer credit history and familial status, in accordance with applicable federal, state and local law. HDC established a policy on Domestic Violence in the Workplace to identify and prescribe agency practices that will promote safety in the workplace and respond effectively to the needs of victims of domestic violence (see entire policy attached).

The EEO policy applies to all terms and conditions of employment including but not limited to hiring, placement, promotion, discipline, termination, layoff, transfer, leaves of absence, compensation and training.

In support of this policy, HDC expressly prohibits any form of employee harassment based on sex, race or any other protected classification. Improper interference with the ability of our employees to perform their expected job duties will not be tolerated.

Specifically, HDC prohibits:

- Unwelcome sexual advances;
- Requests for sexual favors;
- Offensive comments, jokes, innuendoes, gestures, or other racially, ethnically, sexually oriented or offensive conduct; and
- All other verbal or physical conduct of a sexual or otherwise offensive nature where submission to such conduct is made either explicitly or implicitly a term or condition of employment;
- Submission or objection to such conduct by an individual is used as the basis for employment decisions affecting such individual; and
- Such conduct has the purpose or effect of unreasonably creating an intimidating, hostile or offensive working environment.

❖ Complaint Procedure

It is the responsibility of each HDC employee and all members of the Corporation's management to create an atmosphere free of harassment, sexual or otherwise. In addition, it is the responsibility of each employee to respect the rights of his or her co-workers. If an employee experiences or observes any job-related harassment, or has a related complaint, or believes he or she has been treated in an unlawfully discriminatory manner, he or she must

promptly report the matter to any of the individuals listed below to ensure that the issue is handled properly*. It is the responsibility of HDC's employees who experience any job-related harassment to use the complaint procedure established for the purposes of preventing and correcting unacceptable workplace behavior.

Lois Bricken-McCloskey, EEO Officer
lmccloskey@nychdc.com
212-227-2898

Lydia Aponte, EEO Counselor & Disability Rights Coordinator
laponte@nychdc.com
212-227-8114

Cathleen Baumann, EEO Counselor
cbaumann@nychdc.com
212-227-9681

Jim Quinlivan, EEO Counselor
jquinlivan@nychdc.com
212-227-7030

Mary John, EEO Counselor
mjohn@nychdc.com
212-227-7011

Upon receipt of any such complaints, the individual with whom the complaint is filed shall, in conjunction with the appropriate member of the Human Resources division, undertake a prompt and thorough investigation of the allegations. All complaints must be put in writing by the complainant prior to investigation. Confidentiality will be maintained to the maximum extent possible and the nature of the complaint shall be provided to others on a need-to-know basis only. Should the investigation determine that an individual has engaged in harassing behavior or otherwise discriminated against an employee, disciplinary action up to and including discharge, will be taken against the offending employee.

The Corporation expressly prohibits any form of retaliatory action against any employee availing him/herself of the benefits of this procedure. However, if, after investigating any complaint of harassment or unlawful discrimination, the Corporation determines that the complaint is not bona fide, was made in bad faith or with malicious intent, or that an employee has provided false information regarding the complaint, disciplinary action, up to and including termination, may be taken against the individual who filed the complaint or gave the false information.

*Specific guidelines exist for complaints against members of the Executive Staff. Bring such complaints directly to Human Resources to be handled.

APPENDIX 3
Housing Development Corporation
The HDC Discrimination Complaint Procedure



THE HDC DISCRIMINATION COMPLAINT PROCEDURE

PURPOSE

These guidelines are designed to further the goals of: (1) resolving complaints of discrimination within HDC through a fair and prompt process of conciliation and/or investigation, and (2) taking immediate and appropriate corrective action to remedy unlawful discrimination in the workplace. HDC, may from time to time amend and revise these guidelines.

TIME PERIOD FOR FILING COMPLAINTS OF DISCRIMINATION

A complaint of discrimination based on actual or perceived race, color, national origin, alienage or citizenship status, religion or creed, gender (including “gender identity” – which refers to a person’s actual or perceived sex, and includes self-image, appearance, behavior or expression, whether or not different from that traditionally associated with the legal sex assigned to the person at birth), disability, pregnancy, age (18 and over), military status, prior record of arrest or conviction, marital status, partnership status, caregiver status, genetic information or predisposing genetic characteristic, sexual orientation, status as a victim, or witness of domestic violence, sex offenses or stalking, unemployment status, consumer credit history and familial status must be filed with the VP of Human Resources (VP of HR) or EEO Counselor (Counselor) within one year of the date the alleged discriminatory act(s) occurred.

HOW TO FILE A COMPLAINT OF DISCRIMINATION

Any person who believes that s/he has experienced discrimination has a right to file a formal complaint with several federal, state or local agencies, some of which are listed below. A person does not give up this right when s/he files a complaint with the agency EEO officer. The following federal, state and local agencies enforce laws against discrimination:

NEW YORK CITY COMMISSION ON HUMAN RIGHTS
100 Gold Street Suite 4600
New York, NY 10038
(212) 306-7560 voice
Web site: www.nyc.gov/html/cchr/home.html

NEW YORK STATE DIVISION OF HUMAN RIGHTS

163 West 125th Street, 4th Floor
New York, NY 10027
(212) 961-8650
(212) 961-8999 (TTY)

or

One Fordham Plaza, 4th Floor
Bronx, NY 10458
(718) 741-8400

or

55 Hanson Place, 3rd Floor
Brooklyn, NY 11217
(718) 722-2856
Web site:
www.dhr.ny.gov

UNITED STATES EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

New York District Office
33 Whitehall Street, 5th Floor
New York, NY 10004
(212) 336-3620 (voice); (212) 336-3622 (TTY)
Web site: www.eeoc.gov

In addition to filing with the agencies listed above, a person with a complaint alleging discrimination based on disability may file with:

UNITED STATES DEPARTMENT OF JUSTICE

Civil Rights Division
Disability Rights Section
New York Avenue Building
Washington, DC 20530
(202) 307-0663 (voice
and TDD)
Web Site
www.justice.gov/crt/index

A person with a complaint alleging discrimination based on citizenship or immigration status may file with:

UNITED STATES DEPARTMENT OF JUSTICE

Civil Rights Division

Office of Special Counsel for Immigration-Related Unfair Employment Practices

Office of Special Counsel

New York Avenue Building

950 Pennsylvania Avenue NW

Washington, DC 20530

Voice: (202) 616-5594, (202) 616-5525, (800) 255-7688

TDD (202) 616-5525, (800) 237-2515

Web site www.justice.gov/crt/about/osc

Please Note: There are statutory deadlines for filing complaints with each of these agencies. The deadline in some instances is as short as 180 days. Therefore, if you believe you have been discriminated against and wish to file a complaint with an external agency, to preserve your rights, promptly contact the City Commission on Human Rights, the State Division of Human Rights, the EEOC, the Department of Justice, or a private attorney for further guidance.

A complaint may be filed with the VP of HR or EEO Counselor in person, telephone or in writing.

The complainant should provide a statement of the facts, including pertinent dates, which constitutes the alleged discriminatory act(s). Any communication that is given to the VP of HR or Counselor that identifies the respondent(s) with reasonable specificity and provides the essence of the circumstances which gave rise to the alleged discrimination may be deemed an acceptable complaint. The VP of HR will determine whether the statement is an acceptable complaint of discrimination.

RIGHT TO MEET WITH THE VP OF HUMAN RESOURCES OR EEO COUNSELORS

When a person(s) feels that (s)he has experienced unlawful discrimination, (s)he has the right to meet privately with the VP of HR or EEO Counselor during office hours to discuss the complaint.

COUNSELING

When the person(s) meets with the VP of HR or Counselor, the VP of HR or Counselor will interview the person(s) to elicit the details of the complaint.

The VP of HR or Counselor will make the necessary inquiries to determine whether the complaint is EEO-related and will discuss the options available to the person(s). These options include:

- (a.) further actions the person(s) could take on his or her own behalf, for example, bringing the matter to the attention of his/her supervisor;
- (b.) conciliation by the VP of HR;
- (c.) investigation by the VP of HR; and/or
- (d.) referring the person(s) to appropriate personnel if the complaint is not EEO-related.

CONCILIATION AND MEDIATION

A) CONCILIATION PROCESS

The VP of HR shall attempt to conciliate the dispute with the parties and to reach an informal resolution of the complaint within forty-five (45) working days of receipt of the request for conciliation. In conducting conciliations, the VP of HR shall consult with the complainant(s), respondent(s) and other persons as appropriate.

Conciliation efforts to resolve the complaint shall not exceed forty-five (45) working days, unless this time period is extended by the VP of HR.

B) TERMINATION OF CONCILIATION

The VP of HR must issue a written report confirming the termination of conciliation. Termination of conciliation efforts occurs when:

- (a.) the complaint is withdrawn;
- (b.) resolution is agreed upon by both the complainant(s) and respondent(s), and, if the terms of the resolution require agency action, the head of the agency or his/her designee; or
- (c.) the VP of HR deems conciliation efforts unproductive.

When a resolution is agreed upon, the terms of the resolution will be embodied in a written report that confirms the termination of conciliation. The report must be signed by the complainant(s) and respondent(s). Copies of the report will be given to the complainant(s) and respondent(s).

When a resolution is not agreed upon, and/or the VP of HR determines that further conciliation efforts would be unproductive, the VP of HR shall issue to the parties a written notice confirming termination of conciliation, which shall inform the complainant(s) of his/her right to request an investigation of the complaint of discrimination.

INVESTIGATION PROCESS

(a.) The Complainant

The investigation begins immediately after The VP of HR or EEO Counselor: (1) receives either an oral or written complaint of discrimination, and (2) determines that the allegations in the complaint are sufficient to establish a case of unlawful discrimination.

The Investigator must indicate in the complaint the date the complaint is filed, and the time the complaint is filed.

The Investigator also must learn all facts concerning the alleged incident by speaking to

the complainant(s) and/or the person(s) who allege the matter.

A thorough interview must be conducted with the complainant(s) and/or the person(s) to supplement and clarify information contained in the complaint.

All questions should be asked in a non-judgmental manner. Never give the impression that you do not believe the person speaking and do not express an opinion as to whether something inappropriate occurred.

Speak with other persons who may have witnessed the treatment or behavior or incident in question, who may have been identified as having been subjected to similar conduct or who have information concerning any aspect of the alleged discriminatory conduct.

(b) The Respondent

After interviewing the complainant, witnesses and other appropriate persons who might provide information in support of the complainant's allegations, the investigator shall serve the respondent with a notice of complaint along with a copy of the complaint. The following information shall not be given to the respondent: the complainant's home address and telephone number, and the name(s), title(s), and division(s) of witnesses to the alleged discriminatory act(s).

After being served with the notice and copy of the complaint, the respondent has the right to respond in writing. The respondent's right to respond shall remain in effect until the investigation process has ended. Respondents are encouraged to submit their written response as soon as possible after service. Ask the respondent to list any persons who are likely to have relevant information about the incident and interview those persons.

CONFIDENTIAL WRITTEN REPORT

Once all the facts have been gathered as accurately as possible from the appropriate persons, the VP of HR must prepare a confidential written report on the complaint and must submit the report to the agency head for review.

The confidential written report shall be issued within 30 days of the date the discrimination complaint was filed, unless the time period is extended by mutual agreement of the VP of HR and the complainant.

In preparing the written report, the VP of HR should consider not only the evidence and actual statements of the parties and witnesses, but also their motive, if any, to fabricate and other conduct as reported by eyewitnesses. The VP of HR should consult General Counsel when questions arise during the preparation of the written report, or at any other

phase of the investigation.

If, based upon the facts, the VP of HR determines that the respondent(s) engaged in unlawful discriminatory behavior, (s)he must determine the most appropriate action to be taken in light of the facts and circumstances and make a written recommendation to the agency head.

Corrective Action

Where corrective action is recommended, determine the most appropriate action which might be taken in light of the facts and circumstances uncovered during the investigation. Disciplinary action should be taken in accordance with applicable provisions of law, rules and regulations or any relevant collective bargaining agreement.

Determining the appropriate disciplinary action is often a difficult and sensitive matter with potential legal consequences. Therefore, General Counsel should be consulted for advice.

INFORMING PARTIES OF OUTCOME

Communicate the decision to the parties, in writing, in a discreet and confidential manner, indicating the conclusion reached; whether the misconduct alleged has been substantiated; and the agency's opposition to that kind of activity. If the results of the investigation are inconclusive, do not indicate that the agency concludes that no discrimination occurred because that is tantamount to accusing the complainant of lying (unless such dishonesty has been established by clear and convincing evidence. If clear and convincing evidence of dishonesty exists, the agency must conclude and report to the parties that no discrimination occurred.)

CONFIDENTIALITY AND RECORD KEEPING

Every effort will be made to avoid the disclosure of the identity of parties and witnesses and information regarding a. complaint of discrimination, except to those who have a need to know. Parties and witnesses should be advised not to discuss the investigation with workplace colleagues or friends.

All complaints and documents related to complaints, including all documents related to

the conciliation process will be treated confidentially, and will be retained by the VP of HR. These records are not to be released to any third party without the written consent of both the complainant(s) and respondent(s), except as required by law. The VP of HR should seek advice from General Counsel if a request for documents relating to a complaint is received.

The President, Chief Operating Officer or Senior Vice President of Administration will sign off on all internal discrimination reports to indicate that they have been reviewed and whether recommendations, if any, have been approved and adopted.

This section does not preclude the placing of disciplinary documents in an employee's personnel file in accordance with the VP of HR's investigation and recommendation for corrective action.



July 11, 2019

Charise L. Terry
Executive Director
NYC Equal Employment Practices Commission (EEPC)
253 Broadway
Suite 602
New York, NY 10007

Dear Ms. Terry,

RE: Preliminary EEPC Audit response
NYC Housing Development Corporation (HDC)

Thank you for the courtesy extended by you and the EEPC staff during the audit, during the subsequent conference call, and now during this opportunity to provide a preliminary response.

HDC is fully committed to the principles of equal opportunity in all employment matters; and we are very proud of our diverse workforce. We appreciate the feedback included in your findings which will enable us to continuously improve.

Lois Bricken-McCloskey will remain your primary point of contact as HDC's Vice President of Human Resources and designated EEO Officer.

As both Senior Vice President and Chief of Staff and as a designated EEO Counselor, I work very closely with Lois and all HDC's HR and EEO team members. I am also a direct report of our agency head, Eric Enderlin, with whom I communicate regularly about all HR and EEO issues (including the progress of this audit). Eric is very engaged in this process, and our final audit response (following your final determination letter) will come directly from him.

HDC recognizes the importance of promoting EEO and in that spirit we are implementing your recommendations as best practices.

Our responses to your recommendations (for corrective actions numbered #1, #2, #3, #4, #5, and #6) follow:

Action Items #1 and #2: Update HDC's Discrimination Complaint Procedure

HDC has updated its Discrimination Complaint Procedure to include the following stipulations as part of its uniform and responsive procedures for investigating discrimination/sexual harassment complaints: (1) In circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, or 30 days as set forth in HDC's Complaint Procedure, specify in the complaint file the reason for the delay and project a time frame for completion of the report; (2) notify the complainant and respondent of the delay; (3) provide the option to file a complaint anonymously in the complaint procedures and (4) 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.

We have included the updated HDC Discrimination Complaint Procedure in **Attachment 1**.

The updates made to the document are in *italics* and the **Action Items** associated with the document change(s) are also listed in the document.

Investigation/Report Timeliness and Notification – page 6

Option to File a Complaint Anonymously – page 5

Filing of an External Complaint and Notification - page 1

Once the changes/updates and new language are approved by EEPC, we will work with our IT Department to repost the document to HDC's employee portal ensuring that all links from other major documents such as HDC's Employee Handbook are also updated.

Action Item #3: 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.

HDC will adhere to its Discrimination Complaint Procedure to serve the respondent with a notice of complaint along with a copy of the complaint after interviewing the complainant, witnesses and other appropriate persons who might provide information in support of the complainant's allegations.

The notice of complaint given to the respondent will be maintained in the complaint file documentation.

HDC updated its Discrimination Complaint Procedure to include in the notice of complaint to the respondent, the right to be accompanied by a representative of his/her/their choice (page 6).

Action Item #4: 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.

HDC's Discrimination Complaint Procedure in the Section entitled Confidentiality and Record Keeping states that the President, Chief Operating Officer or Senior Vice President and Chief of Staff will sign off on all internal discrimination reports to indicate that they have been reviewed and whether recommendations, if any, have been adopted, rejected or modified (page 8).

As previously reported to EEPC with supporting documentation, Lois Bricken McCloskey, Vice President, Human Resources and EEO Officer meets quarterly with the HDC President Eric Enderlin, Senior Vice President and Chief of Staff and EEO Counselor, Jim Quinlivan, Senior Vice President, Treasurer and EEO Counselor, Cathleen Baumann, First Executive Vice President and Chief Operating Officer, Richard Froehlich to review the EEO Committee's agenda and meeting minutes. EEO Complaints is a standard agenda item and reviewed with the EEO Committee and the Agency Head and others who attend this meeting.

Per EEPC's standards and recommendations, HDC has created a document that the Agency Head (or Senior Vice President and Chief of Staff as the Agency Head's designee) will sign in writing and/or send electronically to indicate in the EEO Complaint file that the conclusive report recommended action(s) is/are adopted, rejected or modified. HDC has created a form for this purpose provided in **Attachment 2**.

Action Item #5: Inform each complainant and respondent of the conclusion and outcome of their complaint investigation in writing as part of the agency's complaint procedure.

For the single complaint file under review, the principal investigator included in the Complaint File in the Conclusion and Actions section that she met with each of the individuals involved i.e., the complainant, the respondent and the witness to inform the parties of the conclusion and the actions to be taken.

As part of its investigative policy and procedures for future complaints, the principal investigator will inform each complainant and respondent of the conclusion and outcome of the complaint investigation in person and in writing.

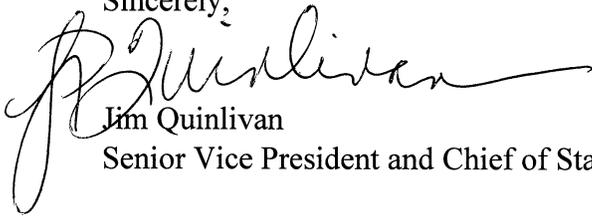
Action Item #6: Establish and utilize a complaint tracking and monitoring system that permits the agency to identify the location, status, and length of time elapsed in the complaint investigation process, the issues and the bases of the complaints, the aggrieved individuals, and other information necessary to analyze complaint activity to identify trends.

HDC has created a complaint tracking and monitoring database with the components listed in EEPC's recommendation. The tracking and monitoring document is included in **Attachment 3**.

Thank you again for your guidance and assistance throughout this process, and for this opportunity to provide a preliminary response. On behalf of HDC President Eric Enderlin and the senior leadership of HDC, we would like to close by again affirming the agency's commitment to the principles and practices of equal opportunity in all employment-related matters including those specifically focused on the prevention of sexual harassment in the workplace. We look forward to continuing those efforts so that we can sustain and build upon the diverse, thriving workforce we take so much pride in.

Please contact Lois Bricken-McCloskey (212 -227-2898) or me directly (212-227-7030) if you would like to discuss any of this information.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Quinlivan", with a long, sweeping horizontal stroke extending to the right.

Jim Quinlivan
Senior Vice President and Chief of Staff

cc: Ilacia Zuell, Manager, EEO Analysis and Audit Unit, EEPC
E. Enderlin, R. Froehlich, C. Baumann, T. Piekarski, S. Lipsyte, L. Bricken-McCloskey



Vacant
Chair

Angela Cabrera
Malini Cadambi Daniel
Elaine S. Reiss, Esq.
Arva R. Rice
Commissioners

Charise L. Terry
Executive Director

Judith Garcia Quiñonez, Esq.
Executive Agency Counsel/
Director of Learning and
Development

Jennifer Shaw, Esq.
Executive Agency Counsel/
Director of Compliance

253 Broadway
Suite 602
New York, NY 10007

212. 615. 8939 tel.
212. 676.2724 fax

BY MAIL AND EMAIL

July 18, 2019

Eric Enderlin
President
Housing Development Corporation
110 William Street
New York, New York 10038

Re: Resolution #2019AP/233-907-(2019)
Housing Development Corporation
Evaluation of Sexual Harassment Prevention and Response Practices
(BY CONSENT)
Audit Period: January 1, 2017 to December 31, 2018
Determination: **FINAL**

Dear President Enderlin:

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: June 28, 2019

Response Received: July 11, 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 Housing Development Corporation's Sexual Harassment Prevention and Response Practices.

As the Housing Development Corporation consents to 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 Housing Development Corporation'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: August 1, 2019 to January 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 Housing Development Corporation has taken, or will take, to correct outstanding areas of non-compliance during the designated compliance-monitoring period. The Housing Development Corporation will be monitored monthly until all outstanding areas of non-compliance have been sufficiently corrected. The Housing Development Corporation 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 Housing Development Corporation's implementation of the final corrective action, if any, the EEPC requires that the Housing Development Corporation 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, the Housing Development Corporation must submit a final memorandum (See Next Steps, Final Memorandum). Upon the EEPC's receipt of the final memorandum, the Housing Development Corporation will be exempt from the abovementioned compliance-monitoring period.

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.

Conclusion

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@eeepc.nyc.gov or 212-615-8942.

Thank you and your staff for your continued cooperation.

Sincerely,


Charise L. Terry
Executive Director

c: Lois Bricken-McCloskey Vice President, Human Resources, Principal EEO Professional

Enclosed: TeamCentral Agency Manual

FINAL DETERMINATION

A response indicating progress of Housing Development Corporation'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:

Agree

Regarding your responses to the following EEPC required corrective actions, we *Agree* based on documentation that is attached to your response.

Corrective Action #6:

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:

"HDC has created a complaint tracking and monitoring database with the components listed in EEPC's recommendation. The tracking and monitoring document is included in Attachment 3."

In addition to the aforementioned commitment, HDC updated and provided a copy of *The HDC Discrimination Complaint Procedure* that includes the following stipulation in the *Investigation Process* section: *"The principal investigator will also enter all required fields using HDC's EEO Complaint Tracking and Monitoring Database."* HDC provided a document that reflects the fields of information to be captured in *HDC's EEO Complaint Tracking and Monitoring Database*.

EEPC Response: The EEPC accepts HDC's response and supporting documentation (a sample of *HDC's EEO Complaint Tracking and Monitoring Database* and an updated draft of *The HDC Discrimination Complaint Procedure*) as demonstration that Corrective Action #6 has been implemented.

² Excerpts are italicized.

Monitoring Required

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

Corrective Action #1:

Distribute/Post a paper or electronic copy of the Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies – or an agency Policy that conforms to city, state and federal laws against sexual harassment– for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency's EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.

Agency Response: *"HDC has updated its Discrimination Complaint Procedure to include the following stipulations as part of its uniform and responsive procedures for investigating discrimination/sexual harassment complaints: (1) In circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, or 30 days as set forth in HDC's Complaint Procedure, specify in the complaint file the reason for the delay and project a time frame for completion of the report; (2) notify the complainant and respondent of the delay; (3) provide the option to file a complaint anonymously in the complaint procedures and (4) 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."* HDC provided a draft of the updated *HDC Discrimination Complaint Procedure* that included the aforementioned language.

EEPC Response: The EEPC recognizes the HDC's commitment to implement Corrective Action #1. Upon review of the proposed updates to *The HDC Discrimination Complaint Procedure*, the EEPC recommends the following edits: (1) to avoid ambiguity and because the agency's procedure requires investigations be completed in 30 days, the words "90 days, or" should be removed from the *Investigation Process* section; and (2) all references to the principal EEO Professional should be consistent, i.e. referencing either the *EEO Officer* or the *VP or HR*. Once finalized, the EEPC will review *The HDC Discrimination Complaint Procedure*, and demonstration of its distribution to employees, for compliance with this standard.

Corrective Action #2:

Provide the option to file a complaint anonymously.

Agency Response: *"HDC has updated its Discrimination Complaint Procedure to include the following stipulations as part of its uniform and responsive procedures for investigating discrimination/sexual harassment complaints: ...provide the option to file a complaint anonymously in the complaint procedures..."* HDC provided a copy of the updated *HDC Discrimination Complaint Procedure* that included the aforementioned language in the *Investigation Process* section.

EEPC Response: The EEPC recognizes the HDC's commitment to implement Corrective Action #2. Once finalized, the EEPC will review *The HDC Discrimination Complaint Procedure* for compliance with this standard.

Corrective Action #3:

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: *"HDC will adhere to its Discrimination Complaint Procedure to serve the respondent with a notice of complaint along with a copy of the complaint after interviewing the complainant, witnesses and other appropriate persons who might provide information in support of the complainant's allegations. The notice of complaint given to the respondent will be maintained in the complaint file documentation. HDC updated its Discrimination Complaint Procedure to include in the notice of complaint to the respondent, the right to be accompanied by a representative of his/her/their choice (page 6)."*

In addition to the aforementioned commitment, the section in *The HDC Discrimination Complaint Procedure* that stated, "[a]fter being served with the notice and copy of the complaint, the respondent has the right to respond in writing", was updated to include the following stipulation in the *Investigation Process* section: "...and the right to be accompanied by a representative of his/her/their choice." HDC provided a copy of the updated *HDC Discrimination Complaint Procedure* that included the aforementioned language in the *Investigation Process* section.

EEPC Response: The EEPC recognizes the HDC's commitment to implement Corrective Action #3. Once finalized, the EEPC will review *The HDC Discrimination Complaint Procedure* for compliance with this standard.

Corrective Action #4:

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: *"HDC's Discrimination Complaint Procedure in the Section entitled Confidentiality and Record Keeping states that the President, Chief Operating Officer or Senior Vice President and Chief of Staff will sign off on all internal discrimination reports to indicate that they have been reviewed and whether recommendations, if any, have been adopted, rejected or modified (page 8). As previously reported to EEPC with supporting documentation, Lois Bricken McCloskey, Vice President, Human Resources and EEO Officer meets quarterly with the HDC President Eric Enderlin, Senior Vice President and Chief of Staff and EEO Counselor, Jim Quinlivan, Senior Vice President, Treasurer and EEO Counselor, Cathleen Baumann, [and] First Executive Vice President and Chief Operating Officer, Richard Froehlich to review the EEO*

Committee's agenda and meeting minutes. EEO Complaints is a standard agenda item and reviewed with the EEO Committee and the Agency Head and others who attend this meeting. Per EEPC's standards and recommendations, HDC has created a document that the Agency Head (or Senior Vice President and Chief of Staff as the Agency Head's designee) will sign in writing and/or send electronically to indicate in the EEO Complaint file that the conclusive report recommended action(s) is/are adopted, rejected or modified. HDC has created a form for this purpose provided in Attachment 2."

In addition to the aforementioned commitment, HDC updated and provided a draft of *The Discrimination Complaint Procedure* that includes the following stipulation in the *Confidentiality and Record Keeping* section: "[t]he Agency Head (or Senior Vice President and Chief of Staff as the Agency Head's designee) will review the principal investigator's conclusive report and issue a signed written/electronic determination adopting, rejecting or modifying the recommended action(s)."

EEPC Response: The EEPC recognizes the HDC's commitment to implement Corrective Action #4. Upon review of the proposed updates to *The HDC Discrimination Complaint Procedure*, to avoid ambiguity, the EEPC recommends that *The HDC Discrimination Complaint Procedure* refer to the form that was created to document the agency head's review of the principal investigator's conclusive report by its specific name: *Agency Head EEO Complaint Review and Determination*.

The HDC Discrimination Complaint Procedure should also contain a directive that the completed *Agency Head EEO Complaint Review and Determination* form be included as the final page of the principal investigator's conclusive report and maintained in the respective complaint file. Additionally, because *The HDC Discrimination Complaint Procedure* assigns the responsibility of signing the *Agency Head EEO Complaint Review and Determination* form to specific titles, the EEPC recommends that the names of the individuals currently holding those titles be omitted from the form. Instead, the EEPC recommends that the names be populated in the form as the need arises. Once finalized, the EEPC will review *The HDC Discrimination Complaint Procedure* and the *Agency Head EEO Complaint Review and Determination* form for compliance with this standard.

Corrective Action #5:

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: "For the single complaint file under review, the principal investigator included in the *Complaint File* in the *Conclusion and Actions* section that she met with each of the individuals involved i.e., the complainant, the respondent and the witness to inform the parties of the conclusion and the actions to be taken. As part of its investigative policy and procedures for future complaints, the principal investigator will inform each complainant and respondent of the conclusion and outcome of the complaint investigation in person and in writing."

In addition to the aforementioned commitment, HDC updated and provided a draft of *The Discrimination Complaint Procedure* that includes the following stipulation in the *Informing Parties*



of Outcome section: “[c]ommunicate the decision to the parties, **in writing**, in a discreet and confidential manner, indicating the conclusion reached; whether the misconduct alleged has been substantiated; and the agency's opposition to that kind of activity.”

EEPC Response: The EEPC recognizes the HDC’s commitment to implement Corrective Action #5. Once finalized, the EEPC will review *The HDC Discrimination Complaint Procedure* for compliance with this standard.

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.



**RESOLUTION NO.
2019AP/233-907-(2019)
Housing Development Corporation
President Eric Enderlin
Evaluation of Sexual Harassment Prevention and Response Practices
DETERMINATION: FINAL**

S Y N O P S I S

Corrective Action(s): Total: 6
Period Audit Covered: January 1, 2017 to December 31, 2018
Preliminary Determination Issued: June 28, 2019 Response Received July 11, 2019
Final Determination Issued: July 18, 2019 Response Due August 17, 2019
Compliance-Monitoring : Required August 1, 2019 to January 31, 2020

Whereas, pursuant to Chapter 36, Sections 830(a) and 831(d)(2) and (5) of the New York City Charter (Charter), the Equal Employment Practices Commission (EEPC) is authorized to audit, review, evaluate, and monitor the employment procedures, practices and programs of city agencies and other municipal entities (hereinafter "entities") and their efforts to ensure fair and effective equal employment opportunity (EEO) for minority group members and women who are employed or seek employment, and to recommend practices, procedures, approaches, measures, standards, and programs to be utilized by such entities in these efforts; and

Whereas, pursuant to Charter Chapter 36, Sections 830(a) and 831(d)(2) and (5), the EEPC has adopted uniform standards for auditing agencies and municipal entities, and minimum standards for auditing community boards, to review, evaluate, and monitor entities' practices, procedures, approaches, measures, standards, and programs for compliance with federal, state, and local laws and regulations, and policies and procedures to increase equal opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), the EEPC may make a determination pursuant to Charter Section 831(d) whether any plan, program, procedure, approach, measure, or standard adopted or utilized by any municipal entity does not provide equal employment opportunity, and the EEPC's determinations of compliance or non-compliance and prescribed corrective action are required by, or consistent with federal, state, and local laws and regulations, and policies and procedures to increase equality of opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination; and

Whereas, the EEPC conducted an audit, review, and evaluation of the Housing Development Corporation's Evaluation of Sexual Harassment Prevention and Response Practices; and

Whereas, pursuant to the audit, review, and evaluation of the Housing Development Corporation's Evaluation of Sexual Harassment Prevention and Response Practices, the EEPC issued a Preliminary Determination, dated June 28, 2019, setting forth findings and the following corrective actions required to remedy areas of non-compliance:

1. Distribute/Post a paper or electronic copy of the Equal Employment Opportunity Policy,

Standards and Procedures to Be Utilized by City Agencies – or an agency Policy that conforms to city, state and federal laws against sexual harassment– for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency's EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.

2. Provide the option to file a complaint anonymously.
3. 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.
4. 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.
5. Inform each complainant and respondent of the conclusion and outcome of their complaint investigation in writing as part of the agency's complaint procedure.
6. 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.

Whereas, within a two-week deadline following the EEPC's Preliminary Determination, the entity submitted a preliminary response; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), after consideration, the EEPC issued a Final Determination on July 18, 2019, which indicated that the following areas required corrective action: no(s). 1 - 5; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), in the Final Determination, the EEPC assigned a monitoring period from August 1, 2019 to January 31, 2020, to determine whether the entity eliminated areas of non-compliance, if any; and

Whereas, in accordance with Charter Chapter 36, Section 832(c) the entity was required to respond in 30 days, and make monthly reports thereafter for a period not to exceed six months, on the progress of its efforts to correct outstanding areas of non-compliance; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), on July 18, 2019, the entity was required to issue a response to the EEPC's Final Determination; Now Therefore,

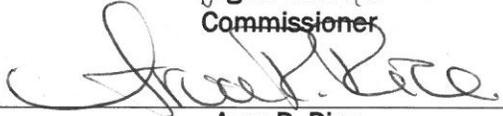
Be It Resolved, that pursuant to Charter Chapter 35, Sections 815(a)(15) and (19), which requires agency heads to ensure and promote equal opportunity for all persons in appointment, payment of wages, development, and advancement, and to establish measures and programs to

ensure a fair and effective affirmative employment plan to provide equal employment opportunity for minority group members and women, the EEPC approves the issuance of this Final Determination to President Eric Enderlin to assign compliance-monitoring.

Approved unanimously on September 12, 2019.



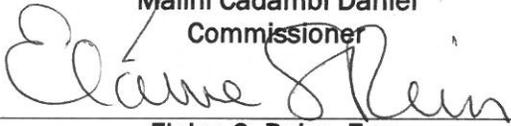
Angela Cabrera
Commissioner



Arva R. Rice
Commissioner



Malini Cadambi Daniel
Commissioner



Elaine S. Reiss, Esq.
Commissioner



Sasha Neha Ahuja
Chair



NEW YORK CITY
HOUSING DEVELOPMENT
CORPORATION

Jim Quinlivan
Chief of Staff

August 16, 2019

Charise L. Terry
Executive Director
NYC Equal Employment Practices Commission (EEPC)
253 Broadway
Suite 602
New York, NY 10007

Dear Ms. Terry,

RE: NYC Housing Development Corporation (HDC)
Evaluation of Sexual Harassment Prevention and Response Practices (BY CONSENT)
Audit Period: 1/1/2017 to 12/31/2018
EEPC Final Determination

This document serves as HDC's acknowledgement of EEPC's Final Determination.

We have updated HDC's Discrimination Complaint Procedure and the Agency Head EEO Complaint Review and Determination form in accordance with EEPC's response for Corrective Actions #1, #2, #3, #4 and #5.

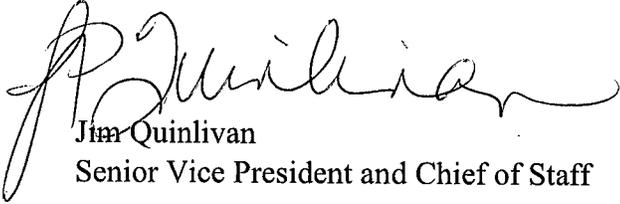
Lois Bricken-McCloskey, VP of HR and EEO Officer has distributed HDC's updated Discrimination Complaint Procedure to HDC staff as required by EEPC.

HDC has submitted documentation of the above updates and actions via EEPC's Team Central as requested.

On behalf of HDC President Eric Enderlin and the senior leadership of HDC, we would like to close by again affirming the agency's commitment to the principles and practices of equal opportunity in all employment-related matters including those specifically focused on the prevention of sexual harassment in the workplace.

Please contact Lois Bricken-McCloskey (212 -227-2898) or me directly (212-227-7030) if you would like to discuss any of this information.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Quinlivan". The signature is fluid and cursive, with a large initial "J" and "Q".

Jim Quinlivan
Senior Vice President and Chief of Staff

cc: Ilacia Zuell, Manager, EEO Analysis and Audit Unit, EEP
E. Enderlin, R. Froehlich, C. Baumann, T. Piekarski, S. Lipsyte, L. Bricken-McCloskey



Eric Enderlin
President

INTERNAL MEMORANDUM

Date: September 5th 2019
To: All HDC Staff
From: Eric Enderlin *EE*
RE: Final Memorandum re: Equal Employment Practices Commission (EEOC) Audit

I am pleased to inform you that HDC recently and successfully completed an audit by the New York City Equal Employment Practices Commission (the EEOC). The audit's scope was specific to HDC's Sexual Harassment Prevention and Response Practices. Based on our collaborative work with the EEOC during the audit, HDC has implemented several measures to further strengthen our EEO commitment and practices. These measures include the following:

- ✓ We have updated HDC's Discrimination Complaint Procedure, fully consistent with city, state and federal laws against sexual harassment. The updated procedures were distributed in a recent email to HDC staff, posted on the HDC employee portal, and attached to this memorandum.
- ✓ In quarterly meetings with Lois Bricken-McCloskey, HDC's EEO Officer, I review and sign off on all EEO-related matters (including any inquiries, investigations and resulting reports).
- ✓ To be consistent with city agency practices, HDC will utilize a complaint tracking and monitoring system to monitor any EEO related complaint activity helping us to identify any potential trends.

Through successful completion of the EEOC's audit, evaluation, and monitoring processes and the aforementioned enhancements, I reaffirm my commitment to ensuring that HDC's employment practices encourage and maintain a workplace free from unlawful discrimination and sexual harassment, and that all employees are aware of their rights and obligations under HDC's equal employment opportunity policies.

Once again, I ask that you please take some time to review HDC's EEO policy. HDC's full EEO policy can be found on pages 2-16 and 2-17 of the employee handbook accessible on HDC's employee portal and attached to this memorandum.

I am extremely proud to lead an agency of such diversity and talent. I thank all of you for contributing to an environment which celebrates that diversity, nurtures that talent, and is supportive of one and all.



**RESOLUTION NO.
2019AP/233-907-(2019)C32
Housing Development Corporation
President Eric Enderlin
Sexual Harassment Prevention and Response Practices
DETERMINATION: COMPLIANCE**

SYNOPSIS

Corrective Action(s)	Total: 6		
Period Audit Covered	January 1, 2017 to December 31, 2018		
Preliminary Determination Issued	June 28, 2019	Response Received	July 11, 2019
Final Determination Issued	July 18, 2019	Response Received	August 16, 2019
Compliance-Monitoring	Required	August 1, 2019 to January 31, 2020 without extension	

Whereas, pursuant to Chapter 36, Sections 830(a) and 831(d)(2) and (5) of the New York City Charter (Charter), the Equal Employment Practices Commission (EEPC) is authorized to audit, review, evaluate, and monitor the employment procedures, practices and programs of city agencies and other municipal entities (hereinafter "entities") and their efforts to ensure fair and effective equal employment opportunity (EEO) for minority group members and women who are employed or seek employment, and to recommend practices, procedures, approaches, measures, standards, and programs to be utilized by such entities in these efforts; and

Whereas, pursuant to Charter Chapter 36, Sections 830(a) and 831(d)(2) and (5), the EEPC has adopted uniform standards for auditing agencies and municipal entities, and minimum standards for auditing community boards, to review, evaluate, and monitor entities' practices, procedures, approaches, measures, standards, and programs for compliance with federal, state, and local laws and regulations, and policies and procedures to increase equal opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), the EEPC may make a determination pursuant to Charter Section 831(d) whether any plan, program, procedure, approach, measure, or standard adopted or utilized by any municipal entity does not provide equal employment opportunity, and the EEPC's determinations of compliance or non-compliance and prescribed corrective action are required by, or consistent with federal, state, and local laws and regulations, and policies and procedures to increase equality of opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination; and

Whereas, the EEPC conducted an audit, review, and evaluation of the Housing Development Corporation's Sexual Harassment Prevention and Response Practices; and

Whereas, pursuant to the audit, review, and evaluation of the Housing Development Corporation's Sexual Harassment Prevention and Response Practices, the EEPC issued a Preliminary Determination, dated June 28, 2019, setting forth findings and the following corrective actions required to remedy areas of non-compliance:

1. Distribute/Post a paper or electronic copy of the Equal Employment Opportunity Pre Standards and Procedures to Be Utilized by City Agencies – or an agency Policy that conform city, state and federal laws against sexual harassment– for use by managers, supervisors, legal, human resources and EEO professionals. Include, or attach as addenda: uniform responsive procedures for investigating discrimination/sexual harassment complaints, current contact information for the agency’s EEO professionals as well as federal, state and agencies that enforce laws against discrimination/sexual harassment.
2. Provide the option to file a complaint anonymously.
3. 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.
4. 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.
5. Inform each complainant and respondent of the conclusion and outcome of their complaint investigation in writing as part of the agency's complaint procedure.
6. 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.

Whereas, within a two-week deadline following the EEPC’s Preliminary Determination, the entity submitted a preliminary response; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), after consideration, the EEPC issued a Final Determination on July 18, 2019, which indicated that the following areas required corrective action: no(s). 1-5; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), in the Final Determination, the EEPC assigned a monitoring period from August 1, 2019 to January 31, 2020, to determine whether the entity eliminated areas of non-compliance, if any; and

Whereas, in accordance with Charter Chapter 36, Section 832(c) the entity was required to respond in 30 days, and make monthly reports thereafter for a period not to exceed six months, on the progress of its efforts to correct outstanding areas of non-compliance; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), on August 16, 2019, the entity issued a response to the EEPC’s Final Determination; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), the Housing Development

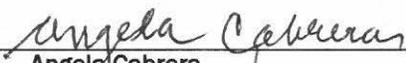
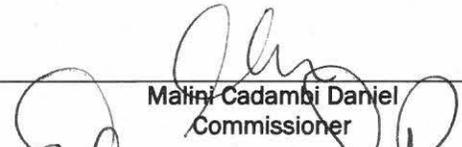
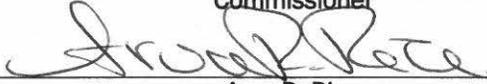
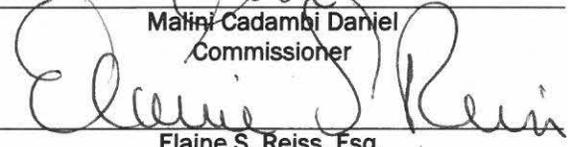
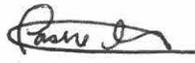
Corporation was monitored until August 20, 2019; and

Whereas, pursuant to Charter Chapter 35, Sections 815(a)(15) and (19), which requires 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 for minority group members and women, the President submitted a copy of a memorandum to staff dated September 5, 2019, which recognized the EEPC's audit and reiterated commitment to the Housing Development Corporation's equal employment practices; Now Therefore,

Be It Resolved, that the Housing Development Corporation has satisfied the equal employment standards set by the EEPC pursuant to its authority under New York City Charter Chapters 35 and 36; and

Be It Resolved, that the EEPC's Board of Commissioners approves the issuance of this Determination of Compliance to President Eric Enderlin of the Housing Development Corporation.

Approved unanimously on September 12, 2019.

 _____ Angela Cabrera Commissioner	 _____ Matini Cadambi Daniel Commissioner
 _____ Arva R. Rice Commissioner	 _____ Elaine S. Reiss, Esq. Commissioner
 _____ Sasha Neha Ahuja Chair	



**NYC
Equal Employment
Practices Commission**

Sasha Neha Ahuja
Chair

Angela Cabrera
Malini Cadambi Daniel
Elaine S. Reiss, Esq.
Arva R. Rice
Commissioners

Charise L. Terry
Executive Director

Judith Garcia Quiñonez, Esq.
Executive Agency Counsel/
Director of Learning and Development

Jennifer Shaw, Esq.
Executive Agency Counsel/
Director of Compliance

253 Broadway
Suite 602
New York, NY 10007

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BY MAIL AND EMAIL

September 12, 2019

Eric Enderlin
President
NYC Housing Development Corporation
110 William St, 9th Floor
New York, NY 10038

Re: Resolution #2019AP/233-907-(2019)C32
DETERMINATION: Compliance

Dear President Enderlin:

On behalf of the members of the Equal Employment Practices Commission (EEPC), I write to inform you that pursuant to New York City Charter Chapter 35, Sections 815(a)(15) and (19), which requires 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, the EEPC's Board of Commissioners has approved the attached Determination.

Thank you and VP, Human Resources/EEO Officer Lois Bricken-McCloskey for the cooperation extended to the EEPC during the course of our review, evaluation, and monitoring of your agency's employment and EEO-related practices.

Sincerely,

Elaine S. Reiss, Esq.
Commissioner

c: Lois Bricken-McCloskey, Principal EEO Professional, HDC



EQUAL EMPLOYMENT PRACTICES COMMISSION

This

Determination of Compliance

is hereby issued to

NYC Housing Development Corporation

*for successful implementation of 6 of 6 required corrective action(s),
thereby achieving compliance with the Equal Employment Practices Commission's
Sexual Harassment Prevention and Response Practices Audit
from January 1, 2017 to this date.*

On this 12th day of September in the year 2019,

A handwritten signature in black ink, appearing to read 'Elaine S. Reiss', is written over a horizontal line.

Elaine S. Reiss, Esq., Commissioner

A handwritten signature in black ink, appearing to read 'Charise L. Terry', is written over a horizontal line.

Charise L. Terry, Executive Director

In care of President Eric Enderlin
and Principal EEO Professional Lois Bricken-McCloskey