

TESTIMONY OF BETTINA B. PLEVAN
PRESIDENT, ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK
BEFORE THE NEW YORK CITY CHARTER REVISION COMMISSION
MARCH 7, 2005

I am delighted to appear before the Charter Revision Commission today to present the views of the Association of the Bar, as developed by our Committees on Administrative Law and New York City Affairs, with regard to our recommendation that the position of Civil Legal Justice Coordinator be created within the City government.

The creation of such an office, with oversight jurisdiction of the New York City administrative tribunals, would improve the overall effectiveness and fairness of the City's administrative justice system.

Thousands of administrative hearings are conducted annually by New York City and its agencies in a variety of specialized tribunals established by both state and local laws. These tribunals employ approximately 500 administrative law judges and hearing officers, many on a per diem basis. We are advised that the annual operating cost of these tribunals, which mostly adjudicate violations as well as disciplinary matters, is in excess of \$22 million. We are further advised that the revenues collected by these tribunals, which include taxes, fees and fines, is projected at more than \$600 million for FY 2004.

While the proper functioning of these tribunals is essential to the City's administrative justice system, there is no means to ensure uniform standards that enhance due process and the delivery of justice. There is no formal standard code of conduct governing hearings, a matter of special concern where many of the litigants are appearing pro se and are not familiar with the rules of the agency before which they are appearing. There are also no uniform standards for hiring, training, and compensating hearing officers, certifying their continuing legal education requirements, and ensuring their independence. Moreover, there is no central source of information concerning the quality of hearings and their timeliness and outcome.

We propose the creation of the post of Civil Legal Justice Coordinator to be appointed by the Mayor. The Coordinator would be the analog to the Criminal Justice Coordinator and would advise and assist the executive branch in planning for increased coordination, cooperation and information sharing with respect to administrative tribunal policy, management, technology, enforcement and the establishment of uniform standards. The Coordinator also would review budget requests from all agencies for programs related to administrative tribunal management.

In addition to the quality of justice, among the benefits that could result from centralized coordination could be a better understanding of how individual agencies are using technology, whether targets for case dispositions (but not outcomes) are being met, and rates of collection for fines. Assemblage of such information inevitably would allow for targeted management improvement strategies and increased efficiency for the public.

Enforcement problems can arise due to the lack of central coordination. For example, currently, there is no established means by which one city agency can be informed of findings of violations by other agencies and the identities of those who have failed to pay fines imposed by other agencies. If all the records of violations and their results were linked, respective agencies could be made aware of adjudications by other departments. Hopefully, that would allow for greater collection and enforcement and parties not qualified would not be able to obtain undeserved licenses or permits.

The Civil Legal Justice Coordinator would be responsible for effecting coordination of administrative justice proceedings among the departments. The Coordinator could fashion centralized standards and lead the implementation of a code of professional conduct or ethics. We believe that such coordination would enhance accountability and advance the professionalization of the administrative law judge and hearing officer corps.

In some measure, we believe the coordination that this office can provide is analogous to that provided by the Office of Court Administration, which was created in 1977 to coordinate the administration of a very disparate court system. And, like the court system, the various administrative agencies must deal with common problems that would greatly benefit from coordination, such as those mentioned above, as well as the more general problems of serving a population with diverse language needs and overcoming the perception that the administrative tribunals are not “user friendly”.

We believe the position of Civil Legal Justice Coordinator may be, but need not be, the subject of charter revision. The Mayor currently has the authority to

establish such a position, as does the City Council by Local Law. We see no reason to wait until November to effectuate this necessary change.

The Association would welcome the opportunity to work with you to implement this important proposal. We also look forward to working with this Commission as it pursues its work. We look forward to provide further input, and to have the opportunity, as would the rest of the City, for a full and unhurried debate on any preliminary proposals the Commission issues.

Again, thank you for the opportunity to present this testimony.