



NEW YORK
CITY BAR

COMMITTEE ON ENVIRONMENTAL LAW

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New York State Department of Environmental Conservation
625 Broadway
Albany, NY 12233-0001
DACComments@dec.ny.gov

New York State Energy Research and Development Authority
17 Columbia Circle
Albany, NY 12203-6399

Re: The Need for More Environmental Justice Community Members from the New York City Region on the Climate Justice Working Group under the Climate Leadership and Community Protection Act

To Whom It May Concern:

We write on behalf of the New York City Bar Association's Environmental Law Committee. Our Committee is an active group of attorneys and law students interested in environmental justice and policy at the federal, state, and local level. The Committee's work includes researching and weighing in on important issues that have clear implications for the environment and the health and wellbeing of the people of New York City.

We respectfully urge you to appoint more environmental justice community members from the New York City region to the Climate Justice Working Group (Working Group) established pursuant to the Climate Leadership and Community Protection Act (CLCPA).¹

¹ We do not want to dictate the number of additional members that should be added and think that it would be appropriate to base the number on needs expressed by community members and activists.

About the Association

The mission of the New York City Bar Association, which was founded in 1870 and has over 23,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world.

ACCURATE DESIGNATION OF “DISADVANTAGED COMMUNITIES” UNDER THE CLCPA IS IMPORTANT

We fully support the CLCPA’s mandate that New York’s “disadvantaged communities” receive “no less than thirty-five percent of the overall benefits” of the State’s investments and spending on the green transition, as well as the legislation’s express goal to direct 40% of those investments to disadvantaged communities (§ 75-0117). Given the fact that the New York City region is so complex, diverse, and densely populated, and the sheer number of people living in disadvantaged communities downstate, we believe that the 40% goal should constitute a minimum in investments that go to disadvantaged communities.

The State’s draft map correctly designates many vulnerable communities, including East New York and the North Shore of Staten Island, as disadvantaged.² However, many other vulnerable communities in the New York City metropolitan region, including in Queens and Long Island, are not properly designated. These include Canarsie in Brooklyn, much of Southeast Queens, and Baldwin Harbor in Nassau County.³

As a means to more accurately identify disadvantaged communities in the New York City region, we believe the Working Group must include more people with lived experiences in those communities. Although the current process of selecting disadvantaged communities relies not only on databases for indicators such as race, income, and projected flooding risk, but also on the lived experiences of Working Group members, there are only three people on the Working Group who represent the New York City area.⁴ Together, 12.4 million people live in New York City, Nassau County, Suffolk County, and Westchester County. These residents constitute over 60% of the state’s 20.2 million people.⁵ We believe additional representatives on the Working Group with first-hand knowledge of the numerous disadvantaged communities in the New York City region, and the particularized experiences and needs of those communities, are essential to identify disadvantaged communities in need of CLCPA funding more accurately.

² Disadvantaged Communities Map, <https://climate.ny.gov/Our-Climate-Act/Disadvantaged-Communities-Criteria/Disadvantaged-Communities-Map>.

³ See Natalie Bump Vena, *Opinion: Which NY Communities Are Most Susceptible to Climate Change Harms? Weigh In By July 7*, City Limits (June 17, 2022), <https://citylimits.org/2022/06/17/opinion-which-ny-communities-are-most-susceptible-to-climate-change-harms-weigh-in-by-july-7/>; Samantha Maldonado, *Billions at Stake as NY Climate Law’s ‘Disadvantaged Communities’ Label Directs Flood of Funds*, The City (May 2, 2022), <https://www.thecity.nyc/2022/5/2/23054217/billions-ny-climate-law-disadvantaged-communities-flood>.

⁴ Climate Justice Working Group, <https://climate.ny.gov/Our-Climate-Act/Climate-Justice-Working-Group> (listing the following working group members from New York City: Eddie Bautista, Executive Director, NYC Environmental Justice Alliance; Sonal Jessel, Director of Policy, WEACT for Environmental Justice; and Elizabeth Yeampierre, Executive Director, UPROSE).

⁵ U.S. Census Bureau, Population, Census, April 1, 2020 for New York State, New York City, Nassau County, Suffolk County, and Westchester County, <https://www.census.gov/quickfacts>.

Unfortunately, it is insufficient to rely on the public comment process to check the disadvantaged communities map to ensure it matches actual conditions and needs on the ground. As you may know, attendance at downstate public hearings was very low.⁶ For example, only four people testified at the June 14, in-person public hearing regarding the disadvantaged communities criteria, held in Long Island City, NY. Those four people included a professor, a representative from ConEd, and a representative from the New York City Mayor’s Office of Climate and Environmental Justice. It is highly possible that the vast majority of New Yorkers do not know about the CLCPA or the draft map’s existence. Even for those who may know about it, the map itself is difficult to navigate, and it is very likely that the underlying data analysis would be intimidating to most New Yorkers.

THE CLCPA ALLOWS FOR ADDITIONAL MEMBERS TO BE ADDED TO THE WORKING GROUP

The executive branch has full discretion to add members, including additional environmental justice community members from the New York City region, to the Working Group under the CLCPA. The statute states that the Working Group shall be comprised of State agency representatives as well as “environmental justice community representatives,” with “at least three representatives from New York city [sic] communities, three representatives from rural communities, and three representatives from upstate urban communities” (§ 75-0111 (1) (a)). The statutory language makes clear that three is a minimum, and that the executive branch has full authority to increase the number of environmental justice community representatives on the Working Group as necessary.

Increasing downstate representation on the Working Group will help ensure the accuracy of the map’s final version as well as its future iterations. Adding representatives with relevant lived experiences is especially important to ensure the map’s accuracy for the New York City metropolitan region, because the Working Group’s solution for the map’s deficiencies—i.e., including all households making less than 60% of state median income as “disadvantaged,” regardless of geographic location⁷—will not help most excluded, vulnerable households downstate. Because of our region’s high cost of living, many families who make more than 60%

⁶ To incentivize community members to participate in the public comment process and make that process more informative, meaningful, and robust, we urge the State to allocate more resources toward outreach to better inform communities of when hearings will be taking place. The State also might consider allocating funding to make attendance at public hearings more affordable: for example, Washington State recently passed a law that provides stipends for people who participate in stakeholder groups. Wash. Senate Bill No. 5793, Concerning stipends for low-income or underrepresented community members of state boards, commissions, councils, committees, and other similar groups, 2021 WA S.B. 5793 (January 21, 2022), <https://lawfilesexternal.wa.gov/biennium/2021-22/Pdf/Bills/Session%20Laws/Senate/5793-S2.SL.pdf>.

⁷ New York State Climate Justice Working Group, Draft Disadvantaged Communities Criteria and List Technical Documentation, 11-12, <https://climate.ny.gov/-/media/Project/Climate/Files/Technical-Documentation-on-Disadvantaged-Community-Criteria.pdf>.

of state median income (\$32,748 for a single person; \$62,988 for a family of four⁸) still live with economic uncertainty.

We thank you for considering our recommendation to increase the number of Climate Justice Working Group members from the New York City area. We are very grateful for your work to advance climate justice in New York.

Respectfully,

Bethany Davis Noll, Co-Chair
Environmental Law Committee

Margaret Barry, Co-Chair
Environmental Law Committee

Cc:

Hon. Eric Adams, Mayor of the City of New York
Hon. Adrienne Adams, Speaker, NYC Council
Hon. Steve Englebright, Chair, NYS Assembly Environmental Conservation Committee
Hon. James F. Gennaro, Chair, NYC Council Environmental Protection Committee

**The Environmental Law Committee thanks committee member Dr. Natalie Bump Vena for her work on this letter.*

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⁸ EmPower New York Eligibility Guidelines, <https://www.nyserda.ny.gov/All-Programs/empower-new-york/eligibility-guidelines>.