New York City Commn. on Racial Equity v Adams
2026 NY Slip Op 31816(U)
April 27, 2026
Supreme Court, New York County
Docket Number: Index No. 161269/2025
Judge: Phaedra F. Perry-Bond
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 35

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THE NEW YORK CITY COMMISSION ON RACIAL EQUITY, Petitioner-Plaintiff,	INDEX NO.	161269/2025
- v -	MOTION DATE	08/19/2025, 10/10/2025
ERIC ADAMS, AS MAYOR OF THE CITY OF NEW YORK, MURIEL GOODE-TRUFANT, AS CORPORATION COUNSEL OF THE CITY OF NEW YORK[1] Respondents-Defendants.	MOTION SEQ. NO.	001 002

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DECISION + ORDER ON MOTION

HON. PHAEDRA F. PERRY-BOND:

The following e-filed documents, listed by NYSCEF document number (Motion 001) 1 through 17, 24, and 26 through 30

were read on this motion to/for ARTICLE 78 (BODY OR OFFICER).

The following e-filed documents, listed by NYSCEF document number (Motion 002) 18 through 23, and 25 through 30

were read on this motion to/for DISMISSAL.

Appearances Of Counsel

Petitioner-Plaintiff: Emery Celli Brinckerhoff Abady Ward & Maazel, LLP (Andrew G. Celli, Jr., Esq. & Hafsa S. Mansoor, Esq.)
Respondents-Defendants: New York City Law Department (Julie Rubenstein, Esq., John Kilgard, Esq., and Nicholas Ciappetta, Esq.)

Opinion of the Court

Upon consideration of the parties' filings, and after oral argument which took place on April 7, 2026, Respondents-Defendants' cross-motion and motion[2] to dismiss Petitioner-Plaintiff's causes of action seeking declaratory judgment and Article 78 relief are denied.

[1] Although there was a change in administration during this action, attorneys for the new administration represent that the Mayor's position with respect to the threshold issues raised has not changed.
[2] In motion sequence 001, Respondents-Defendants cross-move to dismiss the Article 78 claims. In motion sequence 002, Respondents-Defendants move to dismiss the declaratory judgment cause of action.

I. Background

A. Creation of CORE and Charter Mandated Deadlines

Petitioner-Plaintiff, the New York City Commission on Racial Equity ("CORE") is a new and independent commission created by the New York City electorate's decision to amend the Charter of the City of New York (the "Charter") in November of 2022. The results of that ballot initiative are codified in § 3404(a) of the Charter, which provides "[t]here shall be established a commission on racial equity, the purpose of which is to enable community members with equity expertise or lived experience relevant to the goal of equity to propose priorities for racial equity in city decision-making and policy and assess performance towards those priorities."

CORE's powers and duties are enumerated in § 3404(i). Specifically, CORE is required to propose community equity priorities for inclusion in citywide and agency racial equity plans "in accordance with the equity planning schedule established by section 3403." CORE must "track and publicly report on agency and city-wide compliance with the racial equity planning process as established by subdivisions b and c of section 3403" and must "receive complaints about agency conduct that may have the effect of exacerbating racial equity disparities and make recommendations to agencies to address such complaints where appropriate." CORE also has the duty to propose modifications to priorities and strategies of citywide and agency racial equity plans, and has the power and duty to "propose specific strategies to address patterns of inequitable behavior or policy as identified through the receipt of complaints from the public." Finally, CORE must respond to requests of City Council regarding racial equity concerns.

Section 3403 of the Charter provides mandatory deadlines to which CORE and the Mayor's office must abide by to timely release Charter mandated biennial racial equity plans. The process starts with CORE, who must by "October 1, 2023, and on or before October first of every second

year thereafter…make public…community racial equity priorities…and submit them to the mayor." The process then shifts to the Mayor's office, who pursuant to Section 3403(b) "shall issue a biennial preliminary citywide racial equity plan" to allow "an opportunity for feedback from the public and elected officials before publication of the final report." Pursuant to Section 3403(d)(2), the preliminary citywide racial equity plan must be completed "by January 16, 2024, and on or before January sixteenth of every second year thereafter."

Once the preliminary citywide racial equity plan (the "Preliminary Plan") is released, then by "February 15, 2024, and on or before February fifteenth of every second year thereafter" CORE provides a reply to the Mayor's Preliminary Plan. After taking into consideration CORE's reply to the Preliminary Plan, by "April 26, 2024, and by April twenty-sixth of every second year thereafter, the mayor shall make public the citywide racial equity plan (the "Final Citywide Racial Equity Plan") and submit it to the speaker of the council and the commission on racial equity." The deadlines were drafted to coincide with New York City's budget planning process so that those creating the budget would have certain data and metrics to consider when making budget decisions.

B. Charter Deadlines Are Violated

Mayor Eric Adams's administration disregarded the mandatory deadlines enacted by voters and set forth in Charter § 3403. The first step in publishing a citywide racial equity plan required CORE to publish its identified community racial equity priorities by October 1, 2023. Although the Charter was amended to include this deadline in December of 2022, Mayor Adams failed to select his seven appointed CORE commissioners until October 30, 2024.[3]

[3] Pursuant to N.Y.C. Charter § 3404(b), CORE consists of 15 members: seven members are appointed by the Mayor, five members appointed by the speaker of the city council, one member appointed by the public advocate, and one member appointed by the comptroller. The final member, who is the chair of the commission, is jointly appointed by the Mayor and speaker.

On November 20, 2024, less than one month after Mayor Adams appointed his commissioners, CORE submitted its Charter mandated racial equity priorities. The ball was then in Mayor Adams's court to release the already long overdue Preliminary Plan, but Mayor Adams repeatedly extended his own deadline to release the Preliminary Plan. Mayor Adams first promised the Preliminary Plan would be finalized by February 2025, and then unilaterally extended his deadline to March 2025.[4] By July 2025, the Preliminary Plan was still not released, and Mayor Adams's administration stated the release of the Preliminary Plan (and by implication, the Final Citywide Racial Equity Plan) were "delayed." The Mayor's office did not provide any further deadline for the preliminary plan's publication, which according to CORE was essentially a constructive refusal to publish the preliminary plan. Suffice to say, Mayor Adams completed his term without ever releasing the Preliminary Plan and Final Citywide Racial Equity Plan.

C. CORE Tries to Retain Counsel

By May 20, 2025, it was clear that Mayor Adams's inaction made it impossible for CORE to fulfill its mission and carry out its enumerated powers and duties. Therefore, CORE asked Corporation Counsel to permit CORE to sue Mayor Adams to compel the release of the Preliminary Plan. On May 21, 2025, Corporation Counsel denied CORE's request, stating CORE does not have the ability to sue the Mayor's office.

[4] After an unopposed motion to dismiss brought by the Department of Justice, Mayor Eric Adams's pending criminal case in the Southern District of New York was dismissed by decision and order of United States District Judge Dale E. Ho dated April 2, 2025 (*see United States v Adams*, 777 F.Supp.3d 185 [SDNY 2025]). In his Decision, Judge Ho wrote "[e]verything here smacks of a bargain: dismissal of the [i]ndictment in exchange for immigration policy concessions." Subsequently, the Adams administration's attempt to allow immigration and customs enforcement onto Riker's Island via executive order was halted by a Justice of this Court based on the appearance of a conflict of interest stemming from Mayor Eric Adams's supposed "bargain" (*see Council of City of New York v Adams*, 87 Misc.3d 995 [Sup. Ct., New York County 2025]). It is not lost on this Court that the failure to release a preliminary racial equity plan coincidentally took place around the time Mayor Adams was publicly offering to align with President Donald J. Trump's policy agenda, and overtly stating his criminal prosecution would prevent him from furthering President Trump's agenda. It is this precise situation that demonstrates why CORE is implicitly authorized to bring this lawsuit.

CORE sought independent counsel to sue on its behalf. On May 20, 2025, CORE asked the Office of Management and Budget ("OMB") to approve payment of independent counsel from unspent funds allocated to CORE in the 2025 fiscal year. On July 20, 2025, OMB denied CORE's request to use its unspent funds on the advice of Corporation Counsel. Meanwhile, on June 17, 2025, CORE asked the Office of the Comptroller (the "Comptroller") to authorize a procurement contract. On June 27, 2025, the Comptroller denied CORE's request because a contract could not be signed without Corporation Counsel's authorization.

On July 15, 2025, CORE retained counsel. On July 21, 2025, CORE's counsel sent a letter to Mayor Adams requesting the Preliminary Plan be published by August 4, 2025. No response to that letter was ever received.

D. CORE Sues; the Mayor and Corp. Counsel Move to Dismiss

On August 25, 2025, CORE sued Mayor Adams and his Corporation Counsel in this hybrid Article 78 declaratory judgment action. CORE asserts three causes of action. First, CORE seeks a writ of mandamus pursuant to CPLR 7803(1) and 7806, claiming the Mayor failed to perform the ministerial act of releasing and publishing the Preliminary Plan despite representations that the Preliminary Plan was drafted and reviewed. Second, CORE seeks a writ of mandamus pursuant to CPLR 7803 and 7806 directing the City of New York to pay CORE's attorneys' fees. CORE alleges that Corporation Counsel can only certify that it is conflicted out of representing CORE but does not have the authority to evaluate the merits of litigation to which it is conflicted. CORE alleges Corporation Counsel's interference with CORE's right to retain independent counsel to initiate this lawsuit was unlawful. Third, CORE seeks a declaration that the Mayor's unilateral determination to delay or halt the release of the Preliminary Plan is illegal, null, and void.

The Mayor and Corporation Counsel (collectively "Respondents") move to dismiss, arguing the Charter precludes this lawsuit, and that CORE lacks the capacity to sue. Respondents further argue CORE lacks standing because it has not alleged an injury. Finally, Respondents argue that Corporation Counsel must only approve lawsuits brought in good faith and in conjunction with the municipal body's official functions, which Respondents argue is not the case here.

In opposition, CORE argues that Respondents do not dispute that the Mayor's duty to release the Preliminary Plan is ministerial and mandatory. CORE argues Respondents misinterpret the Charter to state that no one, including CORE, can bring an Article 78 petition to force the Mayor to carry out ministerial acts mandated by the Charter. CORE argues it has standing because the refusal to publish the Preliminary Plan prevents CORE from carrying out its mission and enumerated duties. CORE argues the Mayor's refusal to publish the Preliminary Plan caused CORE to divert its own resources that could be used instead to advance its mission and the constituents it serves. CORE argues it has capacity because it is an independent non-mayoral agency whose mission has been rendered impossible by the Mayor's inaction. Finally, CORE argues the Charter does not preclude this lawsuit since the legislative history shows the 2022 Charter amendments were meant to prevent private citizens from suing the city based on the contents of the Final Citywide Racial Equity Plan.

E. The Change in Administration and Release of the Preliminary Plan

During the pendency of this lawsuit, on January 1, 2026, Mayor Eric Adams left office and Mayor Zohran Mamdani was inaugurated. Pursuant to Charter § 3403(d)(2), Mayor Mamdani was required to publish his Preliminary Plan by January 16, 2026, but he did not. Instead, on January 15, 2026, the day prior to the Charter mandated deadline, Mayor Mamdani publicly promised to release the Preliminary Plan within his first 100 days in office.

Despite the change in administration, Mayor Mamdani and Corporation Counsel's position on the motions to dismiss remained unchanged. On February 3, 2026, Respondents' attorneys at the New York City Law Department wrote to the Court stating "Respondents are confident that CORE's action is barred for the reasons set forth in their pending Motion and Cross-Motion to Dismiss" (*see* NYSCEF Doc. 27). Respondents asked the Court to hold the motions in abeyance to allow Mayor Mamdani more time to release the Preliminary Plan.

At that point, years had passed since voters enacted a Charter amendment requiring biennial citywide racial equity plans be published. Yet a Preliminary Plan had never been published. Therefore, this Court scheduled oral argument on March 4, 2026, but due to a calendaring error CORE failed to appear. Oral argument was then rescheduled to April 7, 2026. On April 6, 2026, the day before oral argument, Mayor Mamdani released his Preliminary Plan. At oral argument on April 7, 2026, in addition to the points raised in Respondents' motion to dismiss, Respondents argued the proceeding is moot since Mayor Mamdani released a Preliminary Plan. CORE opposed, arguing the exceptions to the mootness doctrine apply, and in any event, the issue of whether Corporation Counsel correctly denied CORE's right to retain independent counsel remains a live and unresolved controversy.

II. Discussion

A. Mootness Doctrine

As a threshold issue, the Court first addresses mootness and concludes the mootness doctrine does not dispose of this case. First, Mayor Mamdani's release of the Preliminary Plan does not moot CORE's second cause of action, which seeks to compel Corporation Counsel to approve CORE's retention of independent legal counsel. Any analysis as to whether Corporation Counsel properly denied CORE's right to retain legal counsel necessarily implicates the validity

of CORE's Article 78 and declaratory judgment causes of action against the Mayor. This includes an assessment of whether the Charter bars CORE's ability to bring this action, which was Corporation Counsel's alleged reason for denying CORE the ability to retain outside counsel. Because CORE's cause of action against Corporation Counsel remains a live controversy, and because that cause of action is inextricably intertwined with CORE's two other causes of action asserted against the Mayor, mootness does not preclude this lawsuit (*see, e.g. Dioso Faustino Freedom of Information Law Request v New York City*, 191 AD3d 504, 504-504 [1st Dept 2021] [while merits of petition were moot as a result of agency's voluntary release of records, petitioner's claims for fees and other costs is not moot]).

In any event, the Court finds the facts of this case fall within the exception to the mootness doctrine. As held by the Court of Appeals, an exception to the mootness doctrine exists where a an issue in a case shows "(1) a likelihood of repetition, either between the parties or among other members of the public; (2) a phenomenon typically evading review; and (3) a showing of significant or important questions not previously passed on, i.e., substantial and novel issues" (*see Matter of Hearst Corp. v Clyne*, 50 NY2d 707, 714-715 [1980]; *see also Liu v Ruiz*, 200 AD3d 68, 72 [1st Dept 2021]). The facts of this case have demonstrated a likelihood of repetition as both Mayor Adams and Mayor Mamdani have not met the mandatory deadlines proscribed by Charter § 3403(d). The Charter requires this process to repeat biennially, and considering the two mayors in office since § 3403 was enacted have both failed to meet required deadlines, the Court is satisfied that the issue presented here will likely repeat.

The timely release of the Preliminary Plan and the Final Citywide Racial Equity Plan is a phenomenon typically evading review because once CORE sues, the Mayor's office can easily evade review by releasing a Preliminary Plan or Final Citywide Racial Equity Plan prior to the

case being heard on the merits (*see, e.g. Crawford v Ally*, 197 AD3d 27, 32-33 [1st Dept 2021]; *In re Emmanuel B.*, 175 AD3d 49, 54 [1st Dept 2019]; *Coleman v Daines*, 79 AD3d 554, 560 [1st Dept 2010]). Indeed, in this case, Mayor Mamdani released the Preliminary Plan just one day prior to oral argument, making the phenomenon one that could easily be insulated from legal challenge.

Finally, this case certainly raises novel and important legal questions. At issue is the interpretation of recent amendments to the City Charter and whether a newly created governmental body has the right to sue to ensure its mission is accomplished. Moreover, whether CORE has a legal remedy to ensure equity plans are being published in a timely manner so that they may be considered during the creation of the city budget is important, especially considering the electorate overwhelmingly voted in favor of this process via ballot initiative, but the voters' will has been thwarted by mayoral inaction. Therefore, Respondents' mootness argument is unavailing.

B. Capacity

The next threshold issue is whether CORE has the capacity to bring this lawsuit; the Court finds it does. "[C]ourts will always be available to resolve disputes concerning the scope of that authority which is granted by the Constitution [or in this case, the Charter]" to other branches of government (*see King v Cuomo*, 81 NY2d 247, 251 [1993]). The capacity of government organs to seek judicial redress when the conduct of another branch of government "unlawfully interferes with or usurps" enumerated duties "is essential to protect the separation of powers and rights" of other branches (*see Silver v Pataki*, 96 NY2d 532, 542 [2001]).

Absent a clear legislative intent negating review, the Court may infer legislative authority to sue where the governmental body suing has policy-making authority and functional responsibility with respect to the subject matter sued upon (*see City of New York v City Civil Service Com'n*, 60 NY2d 436, 443-444 [1983]; *see also Green v Safir*, 255 AD2d 107, 107 [1st

Dept 1998], *lv. denied* 93 NY2d 882 [1999] [public advocate had right to commence Article 78 petition in furtherance of his independent duties under the New York City Charter]).

Capacity may be found where the petitioner seeks to vindicate its rights and obligations inherent to a statutory scheme involving the petitioner (*see Graziano v County of Albany*, 3 NY3d 475, 480 [2004] [election commissioner had capacity to sue county based on political imbalance on county board of elections where commissioner performed statutory function of safeguarding equal representation rights of his party]). This includes the right to sue where the named respondent's inaction prevents a petitioning entity from carrying out its own duties and obligations as required by ordinance (*see Citizen Review Bd. of City of Syracuse v Syracuse Police Dept.*, 150 AD3d 121, 126 [4th Dept 2017]).

Here, CORE has capacity because Charter § 3404 delegates to it policy-making authority and functional responsibility with respect to the subject matter of this lawsuit. Specifically, Charter § 3404(i)(2)(a) and (b) empower CORE to propose modifications to the Preliminary Plan and to "propose specific strategies to address patterns of inequitable behavior or policy as identified through the receipt of complaints from the public…." However, CORE has no ability to engage in this function or enumerated policymaking if the Mayor never releases the Preliminary Plan in the first place. Moreover, Charter § 3404(i)(3) empowers CORE to "[t]rack and publicly report on agency and citywide compliance with the racial equity planning process" but there is nothing to track or report if the Mayor completely refuses to engage in the racial equity planning process. Therefore, based on CORE's enumerated "[j]urisdiction, powers and duties" the Court finds implied legislative intent authorizing CORE to bring this proceeding.

Respondents argue that CORE lacks capacity because there is legislative intent negating review – specifically Charter § 1151-b, which states Chapter 78 of the Charter "is not intended to

create a direct or indirect right of action to enforce its terms." At oral argument, counsel for Respondents conceded that their interpretation of this clause to mean CORE is barred from bringing an Article 78 Petition to ensure the Mayor releases a Preliminary Report on time is "unprecedented....[t]here's no provision in the charter that contains such a broad prohibition on actions to enforce their terms." CORE argues Respondents' interpretation runs against the documented legislative intent, renders other provisions of the Charter meaningless, and is an incorrect textual reading of Charter § 1151-b.

"The primary consideration of courts in interpreting a statute is to 'ascertain and give effect to the intention of the Legislature'" (*see Sprint Communications Co., L.P. v City of New York Dept. of Finance*, 152 AD3d 184, 189 [1st Dept 2017] quoting *Riley v County of Broome*, 95 NY2d 455, 463 [2000]). In determining the intention of the Legislature, it is well established that a court may use legislative history to construe a statute no matter how clear the words of that statute may appear (*Sprint, supra* citing *New York State Bankers Assn. v Albright*, 38 NY2d 430, 437 [1975]). Jennifer Jones Austin, the chair of the Racial Justice Commission, which was responsible for developing the ballot measures, made clear § 1151-b "does not create a private right of action."[5] Ms. Austin further made clear that without the ballot proposals being "embed" in "the laws of this city, then we're going to be beholden to where a particular Mayor may sit on an issue, or where legislators may sit. And we won't get ahead." While Ms. Austin was clear that there is no private right of action created, she also made clear that the creation of CORE would ensure government was accountable and could not "sit on an issue" (such as publishing a Preliminary Plan).

[5] *See* Ethan Geringer-Sameth, *Arguments For and Against Questions 2-4 on the 2022 New York City Ballot, Racial Justice Proposals*, Gotham Gazette, Nov. 2, 2022, available at https://www.gothamgazette.com/city/11636-arguments-for-against-questions-2-3-4-2022-new-york-city-ballot-racial-justice/ (last accessed April 27, 2026).

The twenty-five second snippet of the podcast interview given by Ms. Austin which Respondents point to in support of their interpretation of § 1151-b is taken out of context. Respondents conveniently ignore Ms. Austin's following comment that the ballot initiative's purpose is to create a "commission comprised of everyday New Yorkers to hold New York City government accountable."[6]

Moreover, as held by the Court of Appeals, when interpreting a statute, the text must be read with "a sensible and practical over-all construction, which … harmonizes all its interlocking provisions" (*see Bank of America, N.A. v Kessler*, 39 NY3d 317, 325 [2023] quoting *Matter of Long v Adirondack Park Agency*, 76 NY2d 416, 420 [1990]). Respondents' proposed reading of § 1151-b would render §§ 3403-3404 meaningless, as the Mayor would theoretically be able to unilaterally violate the mandatory deadlines in § 3403 without any legal recourse, and by consequence the Mayor could render the powers and duties of CORE enshrined in § 3404 superfluous. Respondents' interpretation is neither sensible nor practical with the statutory scheme.

The more sensible reading which harmonizes the various provisions and gives effect to the legislative intent is to construe § 1151-b as barring a right of action by private citizens who feel aggrieved under Chapter 78 of the Charter. This is supported not only by the legislative history surrounding the amendments to the Charter as a result of the 2022 ballot initiatives, but also by § 1151-b's use of the word "create." An independent government entity's implied "right" to bring an Article 78 petition has been recognized long before Charter § 1151-b and is quintessential to the separation of powers doctrine. It was not "created" by the enactment of Chapter 78 (*Green v Safir*, 255 AD2d 107, 107 [1st Dept 1998], *lv. denied* 93 NY2d 882 [1999]).

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[6] *Max Politics Podcast: Racial Justice Proposals on the New York City Ballot*, (Oct. 14, 2022), https://www.gothamgazette.com/city/11621-max-politics-podcast-racial-justice-proposals-new-york-city-ballot at 34:00-35:00.

Simply, the drafters of Chapter 78 and § 1151-b could not have gone through the time and expense of amending the Charter through a ballot initiative, creating a commission, and writing several new lengthy charter provisions, only to lock the courthouse doors to the very same commission created to ensure the Mayor's administration is accountable under Chapter 78. Any sensible interpretation that harmonizes Charter § 1151-b with Charter §§ 3403-3404 leads to the conclusion that CORE is implicitly authorized to seek an Article 78 writ compelling the Mayor to abide by the mandatory deadlines set forth in Charter § 3403.[7]

C. Standing

The Court next addresses the threshold issue of standing and finds that CORE has sufficiently demonstrated its standing to bring this lawsuit (*see, e.g. Mixon v Grinker*, 157 AD2d 423 [1st Dept 1990]). "A CPLR article 78 petitioner challenging governmental agency action has the burden of establishing that it has standing to challenge that action; it satisfies that burden by establishing that it suffered an 'injury in fact,' and that the alleged injury falls within the zone of interests or concerns promoted or protected by a statute or other law" (*see New York Taxi Workers Alliance v New York City Taxi & Limousine Commission*, 248 NYS3d 137, 145 [1st Dept 2025]). As repeatedly held by the Court of Appeals, "standing rules should not be applied 'in an overly restrictive manner where the result would be to completely shield a particular action form judicial review'" (*see Matter of Stevens v New York State Div. of Criminal Justice Servs.*, 40 NY3d 505, 515 [2023] quoting *Matter of Sierra Club v Village of Painted Post*, 26 NY3d 301, 311 [2015]).

The injury here is not "founded on layers of speculation" but arises from mayoral disregard for Charter mandated deadlines, which has frustrated CORE from carrying out its mission and its

[7] This decision should not be read to mean there is broad implied authorization to sue granted to CORE. However, there is implied a narrow and limited authorization to sue the Mayor for a writ of mandamus to ensure CORE can carry out its enumerated duties and powers.

Charter delegated duties for years. The injury has already occurred and caused CORE to divert resources away from its mission to simply ask the Mayor's office to complete his Charter mandated responsibilities. CORE's injury is clearly within the zone of interests promoted by Charter §§ 3403-3404, as CORE is unable to carry out its enumerated duties and powers in those sections. By refusing to act in accordance with Charter § 3403(d)'s mandates, such that a Final Citywide Racial Equity Plan is not published in time to be considered during the budget process, the Mayor in essence illegally nullifies CORE's racial equity priorities which it identified and submitted to the Mayor pursuant to the Charter's mandate (*see also Silver v Pataki*, 96 NY2d 532, 539-540 [legislator had standing to challenge alleged unconstitutional use of veto power which nullified his vote]). Therefore, Respondents' arguments as to standing are without merit.

D. Failure to State a Claim

Finally, the motion to dismiss based on failure to state a claim is denied. Respondents' arguments as to this branch of the motion deal primarily with Respondents' interpretation of Charter § 1151-b, which they believe bars this action and negates any finding of capacity. However, this Court already rejected this argument in its analysis of whether CORE has capacity to bring this lawsuit. Respondents' reliance on *Sheehy v Big Flats Community Day, Inc.*, 73 NY2d 629 (1989) is unavailing as CORE does not seek to assert a private right of action but simply seeks to compel the Mayor to perform a ministerial act so that CORE can perform its own Charter delegated duties.

Lastly, Respondents' argument for dismissal of CORE's second cause of action, is without merit. Respondents argue Corporation Counsel has no obligation to approve independent counsel to pursue impermissible claims, but as discussed, CORE's claims are not "impermissible." Whether Corporation Counsel exceeded its authority by preventing CORE from obtaining outside

counsel in a matter where Corporation Counsel admitted there was a conflict of interest, and decided to represent the Mayor instead, cannot be resolved at this juncture (*see Cahn v Town of Huntington*, 29 NY2d 451, 455 [1972] [government entity or officer "possesses implied authority to employ counsel in the good faith prosecution or defense of an action undertaken in the public interest, and in conjunction with its or his (or her) official duties where the municipal attorney refused to act, or was incapable of, or was disqualified from, acting."]).

Accordingly, it is hereby,

ORDERED that Respondents' motion to dismiss CORE's third cause of action seeking declaratory judgment, and Respondents' cross-motion to dismiss the first and second causes of action for Article 78 relief are denied, and within thirty days of entry, Respondents shall file their Answer pursuant to CPLR § 7804(f); and it is further

ORDERED that CORE's petition is held in abeyance pending the filing of Respondents' Answer, and the parties shall contact the Court via e-mail upon the filing of Respondents' Answer so this Court can assess whether further oral argument is needed or whether the petition can be decided on submission; and it is further

ORDERED that within ten days of entry, counsel for CORE shall serve a copy of this Decision and Order, with notice of entry, on all parties via NYSCEF.

This constitutes the Decision and Order of the Court.

4/27/26
DATE

HON. PHAEDRA F. PERRY-BOND, J.S.C.

CHECK ONE:	☐ CASE DISPOSED	☒ NON-FINAL DISPOSITION	
	☐ GRANTED ☒ DENIED	☐ GRANTED IN PART	☐ OTHER
APPLICATION:	☐ SETTLE ORDER	☐ SUBMIT ORDER	
CHECK IF APPROPRIATE:	☐ INCLUDES TRANSFER/REASSIGN	☐ FIDUCIARY APPOINTMENT	☐ REFERENCE