



This Week in New York

Covering New York State and City Government

A Publication of Pitta Bishop & Del Giorno LLC

July 15, 2022 Edition



“Every record has been destroyed or falsified, every book rewritten, every picture has been repainted, every statue and street building has been renamed, every date has been altered. And the process is continuing day by day and minute by minute. History has stopped. Nothing exists except an endless present in which the Party is always right.”
-George Orwell, 1984-

In the News – New York State

Court of Appeals Chief Judge to Step Down August 31st

Janet DiFiore, the chief judge of the New York Court of Appeals, will step down at the end of August.

In a *NY Times* interview on Monday, Judge DiFiore, indicated that she was ready to pursue other opportunities after more than six years leading the Court. She was appointed in 2015 by then-Governor Andrew Cuomo. The former Westchester County district attorney was the second female chief judge, after Judith S. Kaye.

The chief judge of the Court of Appeals serves a 14-year term. The mandatory retirement age of judges and justices in New York State is 70 years of age.



Chief Judge DiFiore

“I’ve made my contribution,” she said, adding that she had no other job waiting, according to published reports. She indicated that there would be “another chapter in my professional career...What that is, at this very moment, I’m not certain.”

In her resignation letter, Judge DiFiore cited her work to ease case backlogs systemwide and delivering high-quality court services, even during the pandemic.

“The New York state courts not only remained open and functioning but were transformed from a massive, complex in-person operating system into an effective virtual model capable of meeting the demand for our services,” she wrote in her letter to her colleagues.

In April, Judge DiFiore wrote the majority opinion overturning New York’s Democrat-drawn congressional and state Senate lines, ruling the state Legislature did not follow the proper procedures for drawing the districts after a non-partisan panel failed to reach consensus.

Following her resignation announcement, published reports surfaced that Judge DiFiore is under investigation by the state's Commission on Judicial Conduct for improperly interfering in a disciplinary hearing. According to published reports, Judge DiFiore wrote an ex parte letter to Judicial Hearing Officer Phyllis Orlikoff Flug regarding the disciplinary hearing of Dennis Quirk, President of the Unified Court Officers Association. Both the Office of Court Administration and Judge DiFiore's lawyer indicated that her resignation was unrelated to any investigation, according to published reports.

The chief judge of the Court of Appeals, which has seven members, is New York's highest judicial post. Judge DiFiore will be replaced by an acting chief judge, selected by the six other judges on the court, until a successor is named by Governor Kathy Hochul and confirmed by the State Senate.

In addition to directing the Court of Appeals, the chief judge oversees the state's judicial system, which has a \$3 billion budget and includes more than 1,350 state judges, along with another 1,850 town and village judges and more than 14,000 nonjudicial employees.

Governor Hochul noted Judge DiFiore's leadership in a statement released following the judge's announcement.

"From the Westchester District Attorney's Office to the Court of Appeals, Chief Judge Janet DiFiore has dedicated her career to the people of New York. Chief Judge DiFiore's leadership of our state court system - especially during the unprecedented times of the COVID-19 pandemic - has been a critical asset. I thank Judge DiFiore for her years of service and look forward to reviewing the recommendations of the Commission on Judicial Nomination as we work to appoint new leadership to the Court."

Meanwhile, US Representative Hakeem Jeffries' issued a two-word statement in response to Judge DiFiore's announcement, "Good riddance."

In press inquiries, the Governor noted that the process to replace Judge DiFiore is "just getting underway," with the Judicial Commission tasked with the initial work.

"I am going to find someone who is a thoughtful individual," Governor Hochul said. "Someone who is well regarded in the legal community. And again, that process is just getting underway. I will not be engaged until much further down the road. The Judicial Commission will be soliciting applications."

According to published reports, the Governor indicated that she was open to different judicial philosophies and judges from different walks of life.

In the News – New York City

Mayor Unveils Phase One of "NYC Ferry Forward"

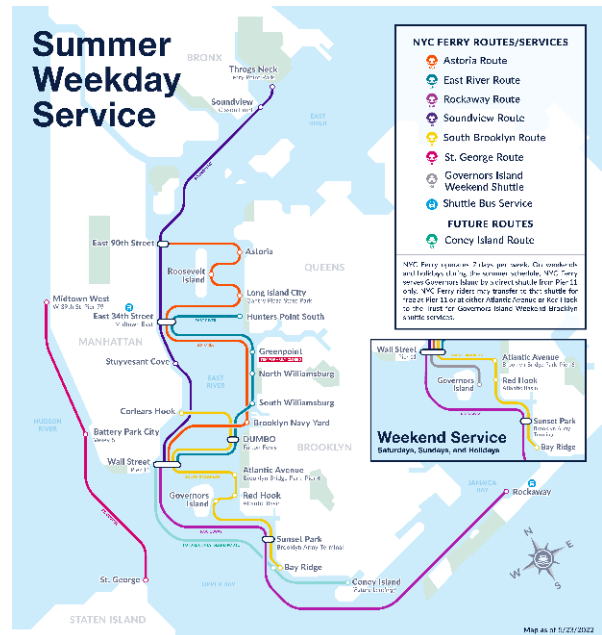
New York City Mayor Eric Adams this week unveiled "NYC Ferry Forward," his vision for a more equitable, accessible, and fiscally sustainable citywide ferry system. The plan includes a new NYC Ferry Discount Program — modeled after the city's Fair Fares program for subways and buses.

Starting in September, single ride fares will be \$4. A 10-trip pack will be available for \$27.50, maintaining the current rate of \$2.75 per ride for frequent riders. A discounted fare of \$1.35 will be available for low-income riders, senior citizens, and people with disabilities.

Mayor Adams will also eliminate the \$1.00 bike fee across the entire NYC Ferry system.

According to the Mayor, the new fare system will generate \$2 million in additional revenue, reducing the amount the city pays to subsidize rides.

Last week, City Comptroller Brad Lander issued a report citing that the city's subsidy of the system has doubled since its original estimate of \$6.60. In Fiscal Year 2021, the city subsidy amounted to \$12.88 per ride.



The Adams Administration also announced a new "Rockaway Rocket" line operating to provide beach-goers a direct ride to the seaside stop in Queens in the summer months. It will cost \$8 to reserve a seat. The shuttle will run on summer weekends and holidays from July 23 until Labor Day weekend, supplementing the current NYC Ferry service on the Rockaway route.

The Mayor also announced that the City will be seeking other revenue initiatives for NYC Ferry and will be opening bids for the ferry contract this summer. NYC Ferry will work to generate additional revenue by seeking new public-private sponsorship opportunities and developing a plan to maximize revenue from any underused vessels, including for film or TV productions.

New York City Economic Development Corporation (NYCEDC), which oversees NYC Ferry, will initiate a competitive, open bidding process for a new ferry operation contract this summer. This new contract will further allow the system to remain a permanent fixture of the New York City landscape.

The [NYC Ferry](#) system services more than 6 million riders across the five boroughs.



Office of Special Enforcement Files Suit Against Illegal Short-Term Rental Operation

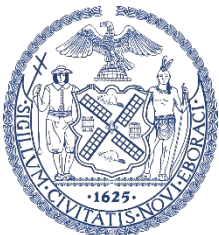
New York City Mayor Eric Adams and New York City Mayor's Office of Special Enforcement (OSE) Executive Director Christian J. Klossner this week announced a [new lawsuit](#) to shut down an illegal short-term rental operation at a building located in Turtle Bay.

According to the lawsuit, defendant Arron Latimer, building owner Apex Management and managing member Esther Yip used a number of LLCs to “run a complex and illegal” short-term rental operation at 344 East 51st Street utilizing online lodging websites, like Airbnb. The suit is the city's first lawsuit against a short-term rental operation identified using data obtained through the city's law requiring the platforms to report data on bookings.

Between January of 2018 and March of 2022, Airbnb records show that the platform disbursed \$2 million in payments to Latimer for short-term rentals at six buildings throughout the city, including at least \$987,729 from the building on East 51st Street. During this timeframe, Latimer used more than 26 distinct host accounts, operated more than 78 listings, conducted more than 2,200 transactions involving more than 6,500 guests.

New York City's [booking service data reporting law](#) requires online short-term rental platforms to periodically provide OSE with information about transactions for certain listings. These reports include the physical address of the short-term rental (as reported to the booking service by the host), the URL of the short-term rental listing, details pertaining to the scope of the short-term rental transaction, and information relating to the identity of the host, including contact information and associated bank accounts to which payouts were made.

New York City's [short-term rental registration law](#) — which goes into effect in January 2023 — will require rental hosts in New York City to register with the city and will prevent platforms, like Airbnb, from processing transactions unless the registration information matches a city database.



Bills Approved by the City Council

Introduction 465-A, sponsored by Council Member Tiffany Cabán, would require the Department of Health and Mental Hygiene (DOHMH) to annually report on the number of births and the number of abortions provided in the city each year, for both individuals who were residents of New York City at the time of such birth or abortion and for those who were not residents.

Introduction 466-A, also sponsored by Council Member Cabán as well as Public Advocate Jumaane Williams and Council Member Shahana Hanif, would prohibit city agencies from using city resources, including, but not limited to, time spent by employees and the use of city property, to detain persons for performing or aiding with abortions or to cooperate with or provide information to out-of-state entities related to abortions performed in New York state. The bill would also create a private right of action for any person detained in violation of this law.

Introduction 474-A, sponsored by Council Member Shahana Hanif as well as Public Advocate Williams, Council Members Nantasha Williams, Hudson and Cabán, would require the city to engage in a public education program regarding safe access to reproductive health care.

Introduction 475-A, sponsored by Council Member Shahana Hanif as well as Council Member Cabán, Public Advocate Williams, Council Members Farah Louis, Rivera, Hudson, and Amanda Farías, would create a private right of action for interference with reproductive or endocrine medical care.

Introduction 506-A, sponsored by Council Member Carlina Rivera (by the request of Bronx Borough President Vanessa Gibson), would require the city to include information in the public education program being created by Introduction 474-A above, about deceptive advertisements and misleading information provided by facilities in the City that falsely represent that they provide reproductive health services.

Introduction 507-A, also sponsored by Council Member Rivera as well as Council Members Jennifer Gutiérrez and Rita Joseph, would require DOHMH to provide FDA-approved medication for medication abortion, at no cost to a patient, at health clinics operated by DOHMH.

Briefs

Comptroller DiNapoli: Tax Cap Set at 2% in 2023

Highest Inflation Since Start of Local Tax Cap Will Impact Local Governments

Property tax levy growth will again be capped at 2% for 2023 for local governments that operate on a calendar-based fiscal year, according to data released this week by State Comptroller Thomas DiNapoli. This figure affects tax cap calculations for all counties, towns, and fire districts, as well as 44 cities and 13 villages.

"Allowable tax levy growth will be limited to two percent for a second consecutive year," Comptroller DiNapoli said. "Just as local governments are receiving their final round of federal funding under the American Rescue Plan Act, they are facing economic challenges that will likely drive costs higher than expected or planned, making it harder to adhere to the tax cap as they prepare their budgets for 2023."

Comptroller DiNapoli said given this year's inflation factor calculation of 7.17%, a majority of New York's counties, towns and calendar year cities and villages could see cost increases that exceed the amounts they are set to receive in their final round of American Rescue Plan Act (ARPA) funds.

This year's inflation factor is the highest since the tax cap was first implemented and more than triple the 2.3% inflation factor from the prior year.

PSC Approves New Rules for Customer Credits and Reimbursements

The New York State Public Service Commission (Commission) this week implemented new rules that require certain electric and gas companies to compensate residential and small business customers who have experienced widespread prolonged service outages.

“Our decision today provides a remedial payment framework for widespread and prolonged service outages,” said Commission Chair Rory M. Christian. “Consumers will now be eligible to receive compensation in the event of widespread service outages lasting longer than three days, which is good news for all consumers and will help ensure utilities do their best to restore service as quickly and as safely as possible.”

Specifically, the new law requires utility companies to provide residential customers with a credit of \$25 on the balance of their bill for each 24-hour period of service outage that occurs for more than 72 consecutive hours after a widespread prolonged outage. In addition, allowances are also provided for loss of food and medications.

The law applies to Consolidated Edison Company of New York, Inc.; Orange and Rockland Utilities, Inc.; Central Hudson Gas & Electric Corporation; The Brooklyn Union Gas Company d/b/a National Grid NY; KeySpan Gas East Corporation d/b/a National Grid; Niagara Mohawk Power Corporation d/b/a National Grid; New York State Electric & Gas Corporation (NYSEG); Rochester Gas and Electric Corporation; National Fuel Gas Distribution Corporation; Corning Natural Gas Corporation; Valley Energy, Inc., and Liberty Utilities (St. Lawrence Gas) Corp.

The Long Island Power Authority board will be considering the issue separately.

State Cannabis Control Board Approves Regulations for First Set of Dispensary Licenses

The State Office of Cannabis Management will launch its [application](#) for adult-use cannabis dispensary licenses next month following the approval of [regulations](#) outlining the requirements for the first set of provisional licenses. The initial dispensary licenses will be targeted toward justice involved individuals and certain nonprofit providers.

Licenses must demonstrate a business background as well as a qualifying cannabis-related offense or of a close family member prior to the approval of the state's recreational marijuana law. In addition, nonprofits that serve justice involved individuals and communities with historically high rates of arrest, conviction, incarceration, or other indicators of law enforcement activity for marijuana-related offenses that have at least two years of positive net assets or profit are eligible.

State Comptroller Audit Finds Lax Oversight of Medicaid Payments for Recipients with Third-Party Insurance Coverage

A State Comptroller audit released this week found that the State Medicaid program too often pays medical bills that a third-party insurer should have covered. Specifically, New York State Comptroller Thomas DiNapoli's auditors found that a lack of oversight by the state Department of Health (DOH) and the Office of the Medicaid Inspector General (OMIG) resulted in nearly \$300 million in pharmacy claims that Medicaid never tried to recover from patients' insurance providers.

Per federal law and state regulations, Medicaid is always the payer of last resort. If a Medicaid recipient has third-party health insurance (TPHI) coverage, then those third-party benefits must be exhausted before the Medicaid program is billed. To address instances where a TPHI should have paid instead of Medicaid, the DOH—in partnership with OMIG and Health Management Systems, Inc. (HMS)—utilizes post-payment reviews.

Between October 2015 and May 2020, auditors identified drug claims paid by Medicaid managed care plans totaling \$292 million for which HMS did not bill claims to TPHI carriers for recovery, despite the individuals having third-party drug coverage. Auditors presented a sample of 50 to OMIG and HMS for their review and asked for an explanation as to why they were not billed to the TPHI carrier. HMS was unable to determine why most of these claims—38 out of 50—were not recovered, and for another 9 out of 50, auditors found the explanations were not justified.

City Temporarily Suspends Liquor License Surcharge

Mayor Eric Adams this week signed legislation suspending the city's liquor license surcharge. Sponsored by New York City Councilmembers Keith Powers and Justin Brannan, the legislation suspends the city's 25 percent surcharge businesses pay on state liquor licenses for a year. The suspension is retroactive to June 1, 2022. It is estimated that the legislation will help businesses citywide save \$6.5 million over the next year.

Mayor Adams Appoints Eva Wong as Director of Mayor's Office of Community Mental Health, Brian Stettin as Senior Advisor for Severe Mental Illness

New York City Mayor Eric Adams this week announced the appointment of Eva Wong as director of the Mayor's Office of Community Mental Health (OCMH) and Brian Stettin as senior advisor for severe mental illness.

Eva Wong currently serves as a ParentCorps unit supervisor at the Center for Early Childhood Health and Development at NYU Langone Health. Wong leads the clinical direction of programming of more than 450 pre-K programs in partnership with the New York City Department of Education.

Wong has a Bachelor of Science degree in Mathematics with honors in Actuarial Science from the University of Waterloo and a Master of Arts degree with honors in Mental Health Counseling from Nyack College.

A graduate of City College of New York and the University of Texas School of Law, Stettin's previous public service includes service as counsel to the Health Committee of the New York Assembly and as special counsel to the New York State commissioner of criminal justice services, focusing on civil-law strategies to address neighborhood crime.

From 1999 to 2007, Stettin was an assistant attorney general in the Office of the New York Attorney General, serving in the Program Development and Public Integrity Units. In this role, Stettin drafted the original proposal of "Kendra's Law" in 1999.

Coming Up

New York State

Thursday, July 28th

The Role of State Authorities in Renewable Energy Development

Assembly Committees on Corporations, Authorities and Commissions & Energy & Environmental Conservation Virtual Hearing, 10 a.m.

New York City

No Meetings Scheduled.

"No man can be a good citizen unless he has a wage more than sufficient to cover the bare cost of living, and hours of labor short enough so after his day's work is done he will have time and energy to bear his share in the management of the community, to help in carrying the general load."

-Theodore Roosevelt-

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