

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

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In the Matter of the Application of

**JUMANNE D. WILLIAMS, individually as a bus rider
and as Public Advocate of the City of New York;
ROOPDAI JULIE DAVIS, as a bus rider, and on behalf
of a class of subway riders similarly situated;
RICHARD DAVIS, as a bus rider, and as President of
Local 100, Transport Workers Union of America;
JOHN PAUL PATAFIO, as Brooklyn Bus Department
Vice President of Local 100, Transport Workers Union
of America; and DONALD YATES, as MABSTOA
Department Vice President of Local 100, Transport
Workers Union of America;**

Index No.

**VERIFIED CLASS
ACTION PETITION**

Petitioners,

- against -

**JANNO LIEBER, as Chief Executive Officer of
THE METROPOLITAN TRANSPORTATION
AUTHORITY, and DEMETRIUS CRICHLLOW, as the
Interim President of the NEW YORK CITY
TRANSIT AUTHORITY,**

Respondents,

**For an Order Pursuant to Article 78 of the Civil
Practice Law and Rules, Sections 1204 and 1205 of the
Public Authorities Law**

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Petitioners, as and for their Verified Petition, by their assigned attorneys, allege as follows:

INTRODUCTION

1. This is an Article 78 proceeding for injunctive relief addressed to the non-emergency, long-term reduction of bus service throughout Brooklyn, Manhattan and the Bronx on bus routes operated by Respondent New York City Transit Authority (hereafter the “TA,” “NYCTA”, or “Transit Authority”), the Manhattan and Bronx Surface Transit Operating

Authority (MABSTOA), an NYCTA subsidiary, and by their parent agency, the Metropolitan Transportation Authority (“MTA”). These cuts began, without any public notice, on or about July 12, 2024; Respondents, upon information and belief, intend to keep in place, and potentially expand these cuts, until the Congestion Pricing Plan, put on hold by Governor Hochul and the MTA Board, is restored, if ever.

2. Petitioners assert, in summary, that:

(a) Sections 1205(4) and Section 1204(15) of the New York State Public Authorities Law require the TA to give 30 days’ notice of any non-emergency bus service reduction to the Mayor of the City of New York and to the NY City Council, which may request the conduct of public hearings in advance of those cuts.

(b) The Respondent TA, over the objection of Transport Workers Union of America Local 100 (“Local 100”) has decided not to assign drivers to 10% of bus runs out of depots in every part of Brooklyn, Manhattan, and the Bronx, where Local 100 represents bus drivers for purposes of collective bargaining;

(c) The Respondents have not notified the Mayor of NYC, or the NYC City Council in advance of these cuts, nor given the City Council the opportunity to request public hearings on the cuts.

(d) The planned reductions in service will increase the wait time between buses, and bus crowding at a time when passenger crowding presents an ongoing health hazard.

3. Petitioners seek a temporary restraining order requiring that the TA return to the coverage it had before July 12, 2024 (which we contend is the status quo) and an Article 78 injunction requiring the Respondents to notify the Mayor and the City Council about the service cuts, and allow the City Council 30 days to request that the Respondents hold public hearings on

the issue, and that if those public hearings are requested, to hold off on the any bus service cuts, and restore cuts already in place, until those hearings are held.

PARTIES

4. The Petitioners in this action are as follows:

(a) Jumaane Williams is the NYC Public Advocate and as a bus rider. The Public Advocate is a non-voting member of the New York City Council with the right to introduce and co-sponsor legislation. The Public Advocate also serves as an ombudsman for city government, providing oversight for city agencies, investigating citizens' complaints about city services, and making proposals to address perceived shortcomings or failures of those services. These duties are laid out in Section 24 of the NY City Charter.

(b) Roopdai Julie Davis is an 82-year-old resident of the Kensington community in Brooklyn, who rides MTA/ NYCTA buses on a daily basis and who sues on behalf of bus riders similarly situated; Ms.

(c) Transport Workers Union of Greater New York, Local 100 ("Local 100"), is a local labor union which represents, for purposes of collective bargaining, 36,000 operational, maintenance, and technical employees of the NYCTA and the MTA, including all Bus Drivers who work in Brooklyn, Manhattan, Bronx, and Queens. It is located at 185 Montague Street, Brooklyn, New York 11201. Local 100 sues by its President Richard Davis; by its Vice President for the Brooklyn NYCTA Bus Department, John Paul Patafio, and by its Vice President for the Manhattan and Bronx MABSTOA Bus Department, Donald Yates.

5. Respondent Metropolitan Transportation Authority (who is sued by its CEO, Patrick Foye) is a New York public authority which exists for the purpose of coordinating mass

transit throughout the southeastern part of New York State. Its subsidiaries include the TA, the Metro-North Railroad, and the Long Island Railroad. The MTA's principal office is located at 2 Broadway, New York, New York. Jano Lieber is the Chairman of the MTA Board, and President of the MTA. The MTA directly operates the MTA Bus Company, which operates buses on routes throughout Queens, NY.

6. Respondent New York City Transit Authority is a subsidiary of the Metropolitan Transportation Authority. It exists pursuant to the Public Authority Law of the State of New York for the purpose of providing subway and bus service throughout the City of New York. Together with a subsidiary authority known as the Manhattan and Bronx Surface Transit Operating Authority (MABSTOA) the NYCTA operates buses in Bronx, Manhattan, and Brooklyn. The TA's principal office is located at 2 Broadway, New York, New York. Demetrius Crichlow is the Interim President of the TA.

CLASS ACTION ALLEGATIONS

7. Pursuant to NY C.P.L.R. § 901, Petitioner Roopdai Julie Davis brings this action for injunctive and declaratory relief on their own behalf, and on behalf of all people similarly situated.

8. The class that Petitioner Roopdai Julie Davis seeks to represent consists of all subway users who use the F and C trains.

9. The claims asserted herein are solely for injunctive and declaratory relief for class members. Monetary damage claims are not included in this petition.

10. The people in the class are so numerous that joinder of all such people is impracticable and the disposition of their claims in a class action is a benefit to the parties and to the Court. See NY C.P.L.R. § 901-a(1).

11. Moreover, proposed class members share a well-defined community of interest with respect to both questions of law and fact involved because all suffer from the lack of statutory process which should be afforded to subway users and the public. See N.Y. C.P.L.R. § 901-a(2). Whether Respondents ignored the requirements of the Public Authorities Law Sections 1204 and 1205, are common questions of law relevant to all class members. Such common questions clearly predominate over any questions affecting individual class members.

12. Petitioner is an adequate class representative because she is directly impacted by Respondents' statutory failures. Petitioner Roopdai Julie Davis's claims are likewise typical of the claims of the classes as a whole because all Petitioners are similarly affected by Respondents' unlawful actions. See N.Y. C.P.L.R. § 901-a(3).

13. The interests of Petitioner Roopdai Julie Davis are not antagonistic, or in conflict with, the interests of the class as a whole. The attorneys representing the classes are highly trained, duly qualified, and very experienced in representing plaintiffs in civil rights class actions for injunctive relief. See N.Y. C.P.L.R. § 901-a(4).

14. By failing to give the required statutory notice, Respondents have acted and/or failed to act on grounds generally applicable to the class as a whole. Accordingly, an award of appropriate final declaratory and injunctive relief with respect to the classes as a whole is warranted, and the class action is superior to other available methods for the fair and efficient adjudication of the controversy. See N.Y. C.P.L.R. § 901-a(5).

RELEVANT STATUTES

15. Section 1205(4) of the Public Authorities Law (titled Rates of fare and levels of service provides:

4. From and after March first, nineteen hundred sixty-eight, no substantial or general change in the levels of service furnished upon the rapid transit

facilities or the omnibus line facilities of the authority shall be instituted except upon not less than thirty days' written notice to **the mayor and to the board of estimate.** (Emphasis added)

16. Section 1204(15) of the Public Authorities Law (titled General Powers) provides:

To exercise all requisite and necessary authority to manage, control and direct the maintenance and operation of transit facilities transferred to it for the convenience and safety of the public with power, in its discretion, to extend, modify, discontinue, curtail, or change routes or methods of transportation where the convenience and safety of the public would be served thereby or where existing routes or methods are inefficient or uneconomical; provided, however, that (except in cases of emergencies) at **least thirty days prior to any proposed modification, discontinuance, curtailment or change of any transit route or method of transportation, the authority shall give notice of its intention to the board of estimate and shall, upon request of such board within such period, conduct a public hearing thereon.** (Emphasis added)

FACTS RELEVANT TO ALL CLAIMS

17. Pursuant to its collective bargaining agreement with Local 100, Bus Drivers choose their job assignment, including the bus route (or run) on which they will work, and their start times and end times. A run may consist of 2 -8 trips from a starting location to a turnaround location, and back. There are not enough Bus Drivers employed by the TA, and its sister authority, the Manhattan and Bronx Surface Transit Operating Authority, or by MTA Bus Company to cover all runs without some drivers working overtime.

18. On a daily basis the MTA, NYCTA and MABSTOA employ about 7500 bus drivers. There are not enough bus drivers to cover all of the runs on the schedule. These runs, which the public relies on, are covered by drivers working overtime, generally as a sixth day of work. Each run starts and ends at one of the 20 depots that NYCTA, MABSTOA and MTA Bus have in Manhattan, Brooklyn, Queens, and the Bronx.

19. On June 7, 2024, NY State Governor Kathy Hochul announced that she was “pausing” a plan to institute tolls on cars entering Manhattan’s Central Business District, called Congestion Pricing, which was set to begin on June 30, 2024. That program was expected to pump about \$16.5 billion into the MTA’s Capital Budget over the next three years. As soon as the Governor put a pause on Congestion Pricing the MTA halted almost all aspects of its current capital program, and directed the NYCTA, MABSTOA and MTA Bus to cut their operating budgets, including by institution of a hiring freeze.

20. On or about July 12, 2024, the NYCTA, MABSTOA and MTA Bus commenced a new way to cut its operating budget; cutting between 5 and 10% the number of bus runs running out of each depot, so as to save bus driver pay, which on these cut runs, was generally paid at an overtime rate.

21. This new schedule results in an increase of 300 -400% of the number of uncovered bus runs throughout the course of each day at each depot. For illustrative purposes we annex the following NYCTA documents:

- a) Exhibit A – July 2, 2024, at East New York Depot;
- b) Exhibit B – July 5, 2024, at East New York Depot;
- c) Exhibit C – July 12, 2024, at East New York Depot;
- d) Exhibit D – July 2, 2024, at Jackie Gleason Depot;
- e) Exhibit E – July 5, 2024, at Jackie Gleason Depot;
- f) Exhibit F – July 12, 2024, at Jackie Gleason Depot;

These documents can be simply analyzed via this chart:

	July 2	July 5	July 12
East New York Depot	7	12	47
Jackie Gleason Depot	20	21	65

22. These are significant reductions during the course of the day, which have led to, and which will continue to cause greater passenger waiting time, and more crowded buses.

23. These cuts in service are occurring contrary to pronouncements of the MTA that the failure to implement the Congestion Pricing Plan will affect only its Capital Budget and that there will be no cuts in service. These numbers are likely to keep growing every day, because with a hiring freeze, the normal attrition process will result in fewer and fewer bus drivers, and a greater inability to cover runs without paying overtime pay.

24. Upon information and belief, at no time has the MTA or NYCTA noticed NYC Mayor Eric Adams or the successor to the Board of Estimate, the NY City Council (see discussion below), about the cuts in service, nor have they given the City Council the opportunity to request public hearings.

ARGUMENT

25. As we stated above, the Public Authorities Law at Section 1204 (15) provides, among the NYCTA's powers that is permitted, absent an emergency, to modify, discontinue or change any transit route unless, at **“least thirty days prior to any proposed modification, discontinuance, curtailment or change of any transit route or method of transportation, the authority shall give notice of its intention to the board of estimate and shall, upon request of such board within such period, conduct a public hearing thereon.”**

26. Additionally, Public Authorities Law Section 1205 (4) provides for 30 days' notice. Absent an emergency, to the Mayor. and the Board of Estimate.

27. These provisions limit the carte blanche power of the NYCTA, and its parent, the MTA, in making other than emergency cuts in service.

28. Subsequent to the codification of Sections 1204(15) and 1205 (4), the NYC Charter was amended so as to transfer the powers of the pre-1988 Board of Estimate (which has been declared unconstitutional by the US Supreme m Court in *Board of Estimate vs Morris*, 489 US 688 (1989), to the newly expanded NYC Council. Former NYC Corporation Counsel, Frederick A.O. Schwarz, authored the authoritative history of the creation of the new City Charter in Frederick A.O. Schwarz Jr. and Eric Lane, *The Policy and Politics of Charter Making: the Story of New York City's 1989 Charter*, 42 N.Y.L. Sch. L. Rev. 723 (1998) Available at: https://scholarlycommons.law.hofstra.edu/faculty_scholarship/740 (Exhibit G). The article states:

The Powers of the New Council.

The Council was charged with exercising the City's legislative powers, as defined by state law and by the Charter. Prior to 1989, the Council shared budget enactment authority with the Board of Estimate. It had no responsibility for City zoning, land-use decision making, contracts, or franchises. 1. Lawmaking Powers The abolition of the Board of Estimate required distribution of its powers to other institutions of government. The assignment of the budget and zoning powers, both fundamentally legislative, to the Council was an obvious decision-consistent with our goals of empowering the legislature, making it more representative, and creating a more traditional legislative executive model. The difficult decisions were whether to allocate to the Council the Board's individual decision making on land use, contracts, and franchises. In land use, for example, the Board was charged with deciding all sorts of particular land-use issues, such as whether a special permit for a developer should be issued....

In the end, the position of the reform groups and the legal issues led us to allow the Council to "call-up" for review any land-use item if fifty percent of the Council voted to do so.

Pages 798-800.

29. It was clearly the intention of the drafters of Sections 1204(15) and 1205 (4), not only to assure that the Mayor be notified of service reductions, but that the penultimate governing body of the City, then the Board of Estimate, be imbued with the power to demand public hearings before any change occurred.

30. As set forth in the *NYPIRG v. Reuter*, 293 A.D.2d 160, 165 (A.D. 2d 2002), involving another section of PAL 1205 (the section addressed to station access) the statute was drafted to force the Respondents to hold public hearings, should the City so request, before undertaking cuts such as those at issue in this proceeding.

31. Sections 1204(15) and 1205 (4) are remedial in nature and that remedial statutes are to be interpreted liberally, not strictly and narrowly. See, *NYPIRG, supra* at 166; *Blanco v. Compaq Computer Corp.*, 90 NY2d 757, 766 (1997); *Enright v. Eli Lilly & Co.*, 77 NY2d 377, 392 (1991); *Patrolmen's Benevolent Assn. v. City of New York*, 41 NY2d 205, 214 (1976). And see McKinney's Statutes, Book 1 § 321, 341. It is a fundamental premise of statutory construction that construction should follow the general spirit and purpose of the underlying enactment. McKinney's, *supra* at § 96 and cases cited therein: "A court, in constructing a statute, should consider the 'mischief sought to be remedied' and should favor the construction which will 'suppress the evil and advance the remedy.'" *Lincoln First Bank v. Rupert*, 60 AD2d 193, 197 (4th Dept. 1977). A statute framed in language of general import not only may be deemed applicable to temporary existing evils but may be construed to meet those which subsequently arise. A century ago, a court stated:

"It cannot be claimed, however, that if by an act of the Legislature attempt is made to reach an evil then existing, and language is used in such act more comprehensive than necessary to reach the evil as then practiced, that such act cannot be made to apply to a new development of the evil, although within the letter of the statute, merely because the evil is practiced in a different form from that in which it was practiced at the time of the passing of the act."

Jerome Park Co. v. Board of Police of New York, 11 Abb. N.C. 342, 11 Daly 208.

32. The only real issue before this Court is whether the cuts being put in place here trigger the obligations of PAL Sections 1204(15) and 1205 (4). We submit that they do. In

NYPIRG v. Reuter, supra at 165, the Court stated that § 1205(5), a similar section addressed to closure of station entrances is a remedial statute which “should not be subject to unduly restrictive construction.” The court continued:

“As the legislative history confirms that the measure is a remedial statute, it should be interpreted broadly (*Blanco v. AT&T*, 90 NY 2d 757, 766) and should be liberally construed to carry out the reform intended and spread its beneficial effects as widely as possible. *Lesser v. Park 65 Realty Corp.*, 140 A.D.2d 169, 173 ... ‘A court, in construing a statute, should consider the mischief sought to be remedial and should favor the construction which will suppress the evil and advance the remedy.’” (*Lincoln First Bank v. Rupert*, 60 A.D.2d 193, 197.)

293 A.D.2d at 166.

33. Any argument by the TA that the “mere” elimination of _____ runs on a bus line, does not trigger its PAL requirement would not satisfy the remedial purposes of the statute. The Transit Authority’s and the MTA’s planned under the Public Authorities Law. Pursuant to §§ 1204(15) and 1205(4) the Transit Authority must provide formal written notice to the Mayor and the City Council, and the permanent changes cannot take effect for at least 30 days. And, if the City Council demands public hearings, they must be held. The Court cannot allow the TA to proceed without meeting these requirements.

34. Section 1204(15) of New York Public Authorities Law **also** provides that the NYCTA operates transit facilities “for the convenience and safety of the public.” New York Courts have repeatedly acknowledged the important statutory duty of the TA in this regard. *New York City Transit Authority v. Transport Workers Union of America*, 279 A.D.2d 474, 475 (2d Dept 2001); *New York City Transit Authority v. Transport Workers Union of America*, _____ A.D.2d _____, 721 N.Y.S.2d 544 (2d Dept 2001); *New York City Transit Authority v. Transport Workers Union of America*, 243 A.D.2d 567 (2d Dept 1997), affirming 1996 WL 653613 (Sup.

Ct. Kings Co. 1996); *New York City Transit Authority v. Transport Workers Union of America*, 220 A.D.2d 749 (2d Dept 1995). The cuts in runs will result in more wait time, no matter what the weather is, and more crowded buses, which, very clearly, will reduce public safety on the affected routes. The TA's planned cuts in service will have a serious impact on the safety and convenience of the riding public, in violation of the TA's statutory duty.

35. Petitioners request that the Court enjoin the TA from further implementation service cuts, and until it has any hearings required by the City Council.

36. All facts asserted in paragraphs 1-35 hereinabove are incorporated by reference in the Causes of Action set out below.

**AS AND FOR A FIRST
CAUSE OF ACTION**

37. The bus service cuts described above constitutes a reduction in service as contemplated by Sections 1204(15) and 1205(4) of the Public Authorities Law.

38. If allowed to continue with the elimination of employee assignments to the temporarily eliminated runs, and continue with the cuts in C Line Service, the MTA and NYCTA will have acted in violation of Public Authority Law §§ 1204(15) and 1205(4).

**AS AND FOR A SECOND
CAUSE OF ACTION**

39. Section 1204(15) of the New York Public Authorities Law provides that the TA and MTA operates transit facilities "for the convenience and safety of the public."

40. If allowed to implement the bus service cuts, the MTA and NYCTA will have acted in violation of Public Authority Law §§ 1204 (0, and 1205(5).without holding a public hearing, the MTA and NYCTA would violate its statutory obligation under Section 1204(15) of the Public Authorities Law to promote the "the safety and convenience of the public."

INJURY

41. Unless the Court enjoins the continuing cuts in bus service, without the proper notice to the Mayor and City Council and requires appropriate provisions for public safety caused by the permanent elimination of service, the petitioners, and the class of subway riders they represent will suffer immediate and irreparable injury.

PRAYER FOR RELIEF

WHEREFORE, petitioners pray that this Court:

1. Issue a Temporary Restraining Order enjoining continuation of the bus service cuts.
2. Issue an order, enjoining and restraining Respondents, their agents, attorneys, and assigns from continuing any bus service cuts, until they have acted in conformance with Section 1204(15) and 1205(4) of the Public Authorities Law; and granting such other and further relief as is just and equitable, including an award of Petitioners attorney’s fees and costs.

Dated: New York, New York
July 16, 2024

ADVOCATES FOR JUSTICE,
CHARTERED ATTORNEYS
Attorneys for Petitioners

By: /s/ Arthur Z. Schwartz

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VERIFICATION

ARTHUR Z. SCHWARTZ, an attorney at law, affirms, that I am an attorney at law, and Assistant to the President of Local 100, Transport Workers Union of Greater New York. I am fully familiar with the facts of the dispute involving the elimination of bus runs by MTA and NYCTA. I have read the Petition, and the same is true to my knowledge, information, and belief. I make this verification under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document may be filed in an action or proceeding in a court of law.

Dated: July 16, 2024

Arthur Schwartz

ARTHUR Z. SCHWARTZ