SUPREME COURT OF THE STATE OF NEW YORK

FOR THE

COUNTY OF NEW YORK, CIVIL PART

IN THE MATTER OF THE APPLICATION OF **MULTICULTURAL BUSINESS COALITION, INC., individually and on behalf of its members, and FRANK GARCIA solely in his official capacity as Chairman of the Multicultural Business Coalition, Inc., KENNETH ROLDAN solely in his official capacity as President of the Multicultural Business Coalition, Inc., MARK JAFFE solely in his official capacity as General Counsel of the Multicultural Business Coalition,** **Petitioners,** **For a Declaratory Judgment Pursuant to Article 78 of Civil Practice Law and Rules,** *-against-* **ZOHRAN K. MAMDANI solely in his official capacity as Mayor of the City of New York, and THE CITY OF NEW YORK,** **Respondents.**	**Index No.: _____** **VERIFIED PETITION**

TO THE SUPREME COURT OF THE STATE OF NEW YORK, COUNTY OF NEW YORK

The Petitioners, MULTICULTURAL BUSINESS COALITION, INC ("MBC"), FRANK GARCIA, KENNETH ROLDAN, MARK JAFFE, by and through lead counsel, CIVIL RIGHTS CONSORTIUM, respectfully show to this Court and allege as follows:

PRELIMINARY STATEMENT

(1) The Petitioners move for relief pursuant to Rule 7801 of the New York Civil Practice Law and Rules.

(2) This Petition is for a judgment enjoining the Respondents' New York City Groceries Program ("NYC-GP"), until the Respondents have undertaken the necessary land use review, study and analysis when dealing with controversial and consequential economic development plans necessary to protect Petitioners' members, many of them smaller grocery stores/bodega/supermarkets who have invested their own private capital, (hereinafter referred to as "grocery stores" or "grocers") operating in vicinity of the NYC-GP where the member grocery stores are predominately owned by minority groups, inclusive of Hispanic, Arab and Asian owned. In spite of the obstacles before them, these business groups have been extraordinarily successful at providing healthy food options for their respective communities. Further, NYC-GP, in absence of that underlying necessary study and analysis would effectively work to constitute and be tantamount to further exclusion of minorities that have overcome disproportionate obstacles to their success.

(3) Accordingly, for the reasons more fully set forth below, Petitioner respectfully requests that the Court issue a decision permanently enjoining the Respondents-Defendants' NYC-GP.

PARTIES

(4) Petitioner-Plaintiff the MBC is a not-for-profit entity with thousands of business members, hundreds of whom own small grocery stores in the City of New York.

(5) Petitioner-Plaintiff FRANK GARCIA is the Chairman of the MBC.

(6) Petitioner-Plaintiff KENNETH ROLDAN is the President of the MBC.

(7) Petitioner-Plaintiff MARK JAFFE is General Counsel of the MBC.

(8) Respondent-Defendant Zohran K. Mamdani is the Mayor of the City of New York.

(9) Respondent-Defendant City of New York is a political subdivision of the State of New York, who owns the underlying below market-rate grocery stores.

FACTUAL BACKGROUND

(10) Zohran K. Mamdani, Mayor of the City of New York, ran his campaign to be Mayor of the City of New York, on an affordability agenda.

(11) One of the core pledges of Mr. Mamdani's affordability agenda was the opening of five (5) municipal grocery stores.

(12) In doing so, Mr. Mamdani pledged to open municipal grocery stores that would sell food items well below the market rate, selling staple food items as much as thirty percent (30%) below market rate.

(13) The NYC-GP does not appear to meaningfully regulate the affordability on a need base method.

(14) Therefore, the deeply discounted food times would be available to uber rich New Yorkers and homeless New Yorkers, just the same, without more.

(15) The overwhelming consensus, regardless of class or party affiliation, is that affordable food is an excellent idea. There is virtually no doubt or debate in that regard.

(16) However, the legal issues before the Court, both in this case, and the related case, arises because

(a) The current municipal grocery structure ("CMGS"), is a classic example of contemporary globalization which began in the 1980s, with the increasing spread of the United States version of capitalization and neoliberalism; and

(b) The CMGS has resulted in smaller grocery stores in New York City, predominately owned by minority groups that are historically excluded by the

City of New York from economic opportunities; and

(c) The NYC-GP markedly departs from the CMGS in a way that smaller grocery stores, predominately owned by minority groups that are historically excluded by the City of New York from economic opportunities cannot; and

(d) The NYC-GP has not undertaken a study and proper review that would be modeled after the New York City's City Environmental Quality Review (CEQR) law to analyze the adverse effects of the proposed development the NYC-GP may have on smaller grocers, many of which are predominately owned by minority groups that are historically excluded by the City of New York from economic opportunities;

(e) The NYC-GP has not undertaken a study and proper review of the baseline data, neighborhood needs, and supermarket access using foundational city studies like the Going to Market Study (a foundational study by city agencies identifying the citywide shortage of full-line grocery stores in low income areas) and the Supermarket Needs Index under the FRESH Program (an interactive mapping tool created by the Department of City Planning to pinpoint underserved community districts and to assess the implications of lack of access to supermarkets on the quality of life for neighborhood residents, and begins to identify barriers to access and opportunities for encouraging the development of supermarkets in underserved areas). These reports evaluate local food deserts and track program impact.

(17) It is beyond debate that the municipal grocery stores, five (5) in total, openly compete with grocery stores at large, including members of the MBC, who are members of groups historically discriminated against, and who run grocery stores barely making profits, in some instances not operating in the red.

(18) There is no existing evidence that the Respondents have undertaken any studies and/or any serious analysis before its current arbitrary site selection, of the effect that said competition will have on businesses, many of which are owed by minority groups that are historically excluded by the City of New York from economic opportunities.

(19) For example, the NYC-GP La Marqueta site is surrounded by a considerable number of successfully run predominately Hispanic and Korean owned supermarkets, with whom La Marqueta will be in competition.

(20) Therefore, many minority members of the MBC cannot compete with the municipal grocery stores, and therefore, will be put out of business resulting in further exclusion of minority groups that are historically excluded by the City of New York from economic opportunities.

(21) The Respondents-Defendants' establishment of the municipal grocers, coming without any studies, threatens to further exclude immigrant and minority business owners from opportunities, for the same reason the City has long refused to allow Walmart to open any stores in the City of New York. *Exhibit 2*.

(22) The Respondents-Defendants' municipal grocery stores have pledged to sell food items 30% below the market-rate, a rate the rivals or exceeds Walmart discounts.

(23) Therefore, the Petitioners-Plaintiffs move to permanently enjoin the opening of the municipal grocery stores in absence of studies and analysis.

ARGUMENT

POINT ONE

THE RESPONDENTS' RUNNING OF FIVE MUNICIPAL GROCERY STORES IS ARBITRARY AND CAPRICIOUS, IN BAD FAITH, AND EXCEEDS THE SCOPE OF MUNICIPAL AUTHORITY.

(24) The Respondents-Defendants' establishing and operating the underlying municipal grocery stores is violative of the contours of Rule 7803 of the Civil Practice Law and Rules.

(25) For purposes of Article 78 proceedings, a petitioner may make the following claims: (a) that a body or an officer failed to perform a duty enjoined upon it by law; (b) that a body or an officer proceeded, or is proceeding or about to proceed in excess of its authority; and (c) that a determination was made in violation of lawful procedure that was arbitrary and capricious or an abuse of discretion. *CPLR § 7803*.

(26) In considering whether a determination was arbitrary and capricious, the Court must inquire as to whether the determination was arbitrary, unreasonable, irrational, or indicative of bad faith. *Scherbyn v. Wayne-Finger Lakes Bd. Of Coop. Educ. Servs., 77 N.Y.2d 753, 758, 573 N.E.2d 562, 565, 570 N.Y.S.2d 474, 477 (1991).*

(27) An action is arbitrary, where such action is without sound basis in reason and is generally taken without regard to the facts. *Matter of Pell v. Board of Educ. of Union Free School Dist. No. 1 of Towns of Scarsdale & Mamaroneck, Westchester County., 34 N.Y.2d 222, 231,*

313 N.E.2d. 321, 356 N.Y.S.2d 833 (1974).

(28) Bad faith is shown where the action is either unsupported or supported by conflicting evidence. *Matter of Higgins v. La Paglia, 281 A.D.2d 679 (N.Y. App. Div. 2001); Wilson v. City of New York, 2011 N.Y. Slip Op. 30150(U)(N.Y. Sup. Ct., January 20, 2011).*

(29) Bad faith is also demonstrated where the action at issue is taken under truly questionable circumstances where the basis for such issue action is clearly questionable. *Kroboth v. Sexton, 160 A.D.2d 126, 560 N.Y.S.2d 6 (N.Y. App. Div. 1990).*

(30) Here, the Respondents, having failed to study the discriminatory effects of the underlying municipal grocery stores, have exceeded the scope of any municipal authority.

(31) Furthermore, it is clear that the Respondents, despite pursuing a seemingly noble ambition, have, nonetheless, acted without sound basis in reason, and without a study without regard to material effects of further historical exclusion.

(32) Respondents' opening of the underlying municipal grocery stores, an act that is diametrically opposed to the City's longstanding reasons for refusing to allow Walmart to operate grocery stores in the City: that the fallout from allowing Walmart to operate deep discount business, while bringing "affordability," further enriching a multibillion-dollar business, would eliminate an untold amount of opportunity for minority businesses, and small business at large.

(33) That conflict in the City's position underscores the bad faith action to open the municipal grocery stores, *without undertaking necessary studies and analysis*, underscoring the truly questionable nature of the municipal grocery store program.

(34) Therefore, the Court should decide that the Respondents NYC-GP should be permanently enjoined from operating the municipal grocery stores, in absence of undertaking necessary studies and analysis.

CONCLUSION

The Petitioners will rely upon the foregoing for purposes of arguing that their petition for permanent injunctive relief should be granted.

Dated: August 21, 2026
Westchester, New York

E. Dubois Raynor, Jr.
E. Dubois Raynor Jr.
Attorneys for the Petitioners

SUPREME COURT OF THE STATE OF NEW YORK

FOR THE

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IN THE MATTER OF THE APPLICATION OF MULTICULTURAL BUSINESS COALITION, INC., individually and on behalf of its members, and FRANK GARCIA solely in his official capacity as Chairman of the Multicultural Business Coalition, Inc., KENNETH ROLDAN solely in his official capacity as President of the Multicultural Business Coalition, Inc., MARK JAFFE solely in his official capacity as General Counsel of the Multicultural Business Coalition, **Petitioners-Plaintiffs,** **For a Declaratory Judgment Pursuant to Article 78 of Civil Practice Law and Rules,** ***-against-*** **ZOHRAN K. MAMDANI solely in his official capacity as Mayor of the City of New York, and THE CITY OF NEW YORK,** **Respondents-Defendants.**	**Index No.: _____** **VERIFICATION**

STATE OF NEW YORK }
SS.:
COUNTY OF NASSAU }

I, KENNETH ROLDAN, being duly sworn says: I am the petitioner in the proceeding herein; I have read the annexed Verified Petition, know the contents thereof and the same are true to the best of my knowledge, except as to those matters therein which are stated to be alleged on information and belief, and as to those matters, I believe them to be true.

Kenneth Roldan, President
Multicultural Business Coalition, Inc., Petitioners-Plaintiffs

Sworn to before me on this 21st day of August 2026.

Signature and Seal of Notary Public

MICHELLE LAMARCHE
NOTARY PUBLIC, STATE OF NEW YORK
NO. 01LA6151730
QUALIFIED IN NASSAU COUNTY
MY COMMISSION EXPIRES AUGUST 21, 20

SUPREME COURT OF THE STATE OF NEW YORK

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Petitioners-Plaintiffs,

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-against-

ZOHRAN K. MAMDANI solely in his official capacity as Mayor of the City of New York, and THE CITY OF NEW YORK,

Respondents-Defendants.

VERIFICATION

STATE OF NEW YORK }
SS.:
COUNTY OF New York

I, FRANK GARCIA, being duly sworn says: I am the petitioner in the proceeding herein; I have read the annexed Verified Petition, know the contents thereof and the same are true to the best of my knowledge, except as to those matters therein which are stated to be alleged on information and belief, and as to those matters, I believe them to be true.

Frank Garcia, Chairman
Multicultural Business Coalition, Inc., Petitioners-Plaintiffs

Sworn to before me on this 21 day of August 2026.

Signature and Seal of Notary Public

SARAI MARIE F VAZQUEZ
Notary Public - State of New York
NO. 01VA6178036
Qualified in New York County
My Commission Expires Nov 19, 2027

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SUPREME COURT OF THE STATE OF NEW YORK

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STATE OF NEW YORK }
SS.:
COUNTY OF New York

I, MARK JAFFE, being duly sworn says: I am the petitioner in the proceeding herein; I have read the annexed Verified Petition, know the contents thereof and the same are true to the best of my knowledge, except as to those matters therein which are stated to be alleged on information and belief, and as to those matters, I believe them to be true.

Mark Jaffe, General Counsel
Multicultural Business Coalition, Inc., Petitioners-Plaintiffs

Sworn to before me on this 24 day of August 2026.

Signature and Seal of Notary Public

SARAI MARIE F VAZQUEZ
Notary Public - State of New York
NO. 01VA6178036
Qualified in New York County
My Commission Expires Nov 19, 2027

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