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June 20, 2014  
Via ECF

The Honorable Analisa Torres  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

**Re: Floyd v. City of New York, No. 08 Civ. 1034**

Dear Judge Torres:

I write on behalf of Proposed Intervenor the Sergeants Benevolent Association (the "SBA") regarding the SBA's pending Motion to Intervene in this matter. See Dkt. No. 442. The SBA wishes to inform your Honor of a recent opinion in a case pending in the New York Supreme Court that bears on the issue of standing in this case. Specifically, in its opinion dated June 18, 2014 (the "Local Law 71 Opinion") in *The Patrolmen's Benevolent Association of the City of New York, Inc. et al. v. The City of New York et al.*, Index No. 653550/13 (the "Local Law 71 Lawsuit"), a copy of which is enclosed, the Supreme Court held that the SBA had standing to sue the City and the City Council to invalidate a law restricting police officers' use of the stop, question, and frisk procedure. Likewise, in the matter pending before Your Honor, the SBA has standing both to continue the appeal pending in the Second Circuit and to participate in the remedial process in this case.

By way of background, the Local Law 71 Lawsuit arose from the City Council's enactment of a local law providing for lawsuits against police officers accused of engaging in "bias-based profiling" in the conduct of investigatory stops. When the SBA and other police unions brought suit against the City Council to challenge the law on various constitutional grounds, the City Council argued that they lacked standing to sue because (1) the harm alleged was merely speculative, and (2) reputational harm is not sufficient to establish injury in fact.

In the Local Law 71 Opinion, the court rejected the City Council's argument that the harm was speculative, finding the argument "unavailing," and holding that "the chain of events that can lead to liability is immediate and not attenuated," even though no lawsuits had yet been brought under the law, because police officers were "subject to" the law and its potential consequences, and thus there was no question that it would affect them. Local Law 71 Opinion 10-11. Similarly, here, SBA members plainly are subject to both this Court's findings of wrongdoing, which explicitly disparage SBA members; and its ordered remedies, which SBA members will be required to implement and comply with in the field. Because specific SBA members were singled out in the Liability Opinion, and because specific remedies have been ordered in the Remedies Opinion, the chain of events leading to harm to police officers is immediate and not attenuated.



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The court in the Local Law 71 Lawsuit also rejected the City Council's argument that reputational harm to police officers does not establish standing. Holding unequivocally that "[a]s a matter of law, reputational harm is a cognizable injury in fact," the court dispensed summarily with the City Council's position to the contrary. Local Law 71 Opinion, 11-12 (emphasis added). Here, the allegations and the district court's findings that SBA members violated the Constitution and acted in disregard for civil rights is, without more, sufficient to give the SBA standing to continue the appeal in order to vindicate its members.

In sum, as the Local Law 71 Opinion demonstrates, the SBA has properly alleged that it has standing to intervene in this action, and Plaintiffs' assertion to the contrary is without merit. The SBA has sufficiently demonstrated injury in fact entitling it to participate in the District Court proceedings, and, as necessary, to continue the Second Circuit appeal. We respectfully request that the Court consider the court's analysis in the Local Law 71 Lawsuit in deciding the issue of standing in connection with the pending Motions to Intervene.

Respectfully submitted,

A handwritten signature in black ink that reads 'Tony Coles'.

Anthony P. Coles

Attachment

cc: Counsel of Record by ECF