



February 23, 2021

Hons. Yuh-Line Niou
NYS Assembly Member

Hon. Deborah Glick
NYS Assembly Member

Hon. Charles Fall
NYS Assembly Member

Hon. Brian Kavanagh
NYS State Senator

Hon. Brad Hoylman
NYS State Senator

Hon. Carl Heastie
NYS Assembly Speaker

Hon. Andrea Stewart-Cousins
NYS Sen. Leader

Hon. Kathy Hochul
NYS Governor

Hon. Tish James
NYS Attorney General

Dear Assembly Members Niou, Glick, and Fall, Sens. Kavanagh and Hoylman, Speaker Heastie, Leader Stewart-Cousins, Gov. Hochul, and AG James,

Enclosed please find a Resolution approved by Downtown Independent Democrats General Membership on February 23, 2022:

Justice for Home-Care Workers

In NYC, most home attendants working 24-hour shifts are immigrant women of color, especially from China, Latin America, and Africa. 24-hour shifts have debilitating physical effects, yet the Chinese-American Planning Council (CPC) has been exploiting the cruel 24-hour shift in order to steal their workers wages.¹ CPC is the third-largest home care agency in New York, and they are taking the lead in labor violations and racist violence for other agencies to follow. DID stands in solidarity with home-care workers in Chinatown, the Lower East Side, and across New York State.

DID demands elected officials end 24-hour shifts immediately, and replace with, at minimum, two 12-hour shifts, and require organizations to distribute back-pay and overtime funds. DID also asks AG James to conduct investigations into the Chinese-American Planning Council and SEIU 1199 for the allegations in Assembly member Ron Kim's report.

Sincerely,

Richard Corman
President, Downtown Independent Democrats

Enclosure

cc: Mary T. Bassett, NYS Dept. of Health Commissioner
Hon. Ron Kim, NYS Assembly Member
Hon. Jumaane Williams, NYC Public Advocate
Hon. Brad Lander, NYC Comptroller
Alvin Bragg, Manhattan District Attorney
Keechant Sewell, NYC Police Commissioner
Hon. Chuck Schumer, U.S. Senator
Hon. Kirsten Gillibrand, U.S. Senator

Hon. Carolyn Maloney, U.S. Representative
Hon. Jerrold L. Nadler, U.S. Representative
Hon. Nydia Velázquez, U.S. Representative
Hon. Brad Hoylman, NY State Senator
Hon. Harvey Epstein, NY State Assembly
Tammy Meltzer, Chair, Manhattan Community Board 1
Jeannine Kiely, Chair, Manhattan Community Board 2
Paul Rangel, Chair, Manhattan Community board 3

¹ The Non-Profit War on Workers, David A. Lee, Legislative Director, Office of New York State Assemblymember Ron Kim (AD-40), 2021, retrieved February 16, 2022, <https://ronkimnewyork.com/downloads/The-Nonprofit-War-on-Workers-pt1.pdf>



Justice for Home-Care Workers

February 23, 2022

Whereas:

1. The Chinese-American Planning Council (CPC) has been requiring home-care workers to work unreasonable 24-hour shifts:²
 - a. By law, during a 24-hour shift, workers should be paid for all 24 hours if they don't have 5 hours of continuous sleep or 3 hours of uninterrupted meal breaks. Workers have made the case that they cannot sleep at night, because they are "on call" all 24 hours with frequent action required, such as turning patients throughout the night;
 - b. In NYC, most home attendants working 24-hour shifts are immigrant women of color, especially from China, Latin America, and Africa;
 - c. 24-hour shifts have debilitating physical effects, such as chronic insomnia, physical disabilities, chronic pain, loss of time with loved ones, depression and other mental health struggles, weakened physical health, and susceptibility to other illnesses like COVID-19;
 - d. Workers have to work 24-hour shifts, otherwise they will not be assigned any shifts or will only be assigned for a few hours of work per week;
 - e. Agencies pit patient families against home attendants: CPC has threatened to send patients to nursing home if they ask workers for services at night, putting patient lives in danger;³
 - f. Agencies intimidate workers into not reporting their hours - CPC threatened to send one worker to jail for honestly reporting her hours.⁴
 - g. Agencies like Allcare have threatened to call ICE and deport workers if they continue organizing;⁵
 - h. The NYS Department of Labor found in 2014 that workers are owed overtime, and CPC paid one home-care worker only \$.03 per hour in overtime (\$200 for 6,000 overtime hours);
2. Home attendants have been organizing against 24-hour shifts from CPC since at least 2014:⁶
 - a. Workers are advocating for overtime pay and at minimum two 12-hour shifts per day, such as the three 8-hour shifts worked by attendants in upstate New York;
 - b. Home attendants feel like this is racist violence: "It's worse than direct violence," home-care worker Lai Yee Chan said, "That's why we come out, there is a lot of calls now to end the violence, and we want to end the violence";⁷
 - c. In 2015, workers sued CPC and won at the NYS Supreme Court and Federal Court;⁸
 - d. Home attendants from agencies including the United Jewish Council and First Chinese Presbyterian have been organizing against 24-hour shifts as well;
 - e. 2019 Court of Appeals affirmation renders CPC liable, but CPC continues to violate the law;

² The Non-Profit War on Workers, David A. Lee, Legislative Director, Office of New York State Assemblymember Ron Kim (AD-40), 2021, retrieved February 16, 2022, <https://ronkimnewyork.com/downloads/The-Nonprofit-War-on-Workers-pt1.pdf>

³ The Non-Profit War on Workers, Lee, p. 93

⁴ The Non-Profit War on Workers, Lee, p. 94

⁵ Attorney General James Secures \$450,000 For 100 Home Health Aides Threatened With Deportation, NYS Office of the Attorney General, September 13, 2019, <https://ag.ny.gov/press-release/2019/attorney-general-james-secures-450000-100-home-health-aides-threatened>

⁶ CPC Home Care Workers' Timeline of Events, Ain't I A Woman, retrieved February 16, 2022, <https://www.aintiawoman.org/cpc-timeline>

⁷ NYC Home Carers Protest 'Slow Torture' of 24-Hour Shifts Amid #StopAsianHate Movement, BKReader, April 28, 2021, <https://bkreader.com/2021/04/28/nyc-home-carers-protest-slow-torture-of-24-hour-shifts-amid-stopasianhate-movement/>

⁸ CPC Timeline, AIW, retrieved February 16, 2022, <https://www.aintiawoman.org/cpc-timeline>



- f. CPC + 1199SEIU have taken advantage of federal labor jurisprudence in the codifying of labor relations to delay and obstruct justice for the workers for years;
 - g. Litany of civil claims under NYS + US statutory law that may not be resolved to the fullest extent in arbitration;
 - h. Worker allegations of willful and improper falsification of timesheets, intimidation tactics by at least one CPC HAP manager;
 - i. Payroll accounting fraud: Deliberate threats of criminal prosecution of workers to scare them into not reporting overtime hours, cover up willful falsification of payroll accounting (Wage Theft Prevention Act and Minimum Wage Act violations);
 - j. Medicaid fraud: Home Care Worker Wage Parity Act prohibits disbursement of Medicaid funds for LHCSAs not in compliance.
3. The problem and injustice of 24-hour shifts needs multiple policy and political solutions:
- a. AIW organizers estimate conservatively that CPC alone owes workers \$90+ million for illegal wage theft, based on number of hours at the NYC minimum wage, not including unpaid overtime;
 - b. Workers demand immediate accountability of organizations like Chinese-American Planning Council, United Jewish Council, and First Chinese Presbyterian, which continue to have 24-hour shifts, with immediate distribution of back-pay and overtime funds to workers, and stop the 24-hour workday;
 - c. There are multiple bills in the NYS Legislature which would bring partial relief and protection to home-care workers:
 - i. Bills A3145 / S359A would replace 24-hour shifts with split shifts of 12 hours each;⁹
 - ii. The SWEAT Act bill A766 / S2762 would return back-pay to workers who experience wage theft;^{10,11}
 - d. Workers demand that the union stop colluding with home-care agencies and insurance companies to maintain the racist, sexist, and unjust 24-hour workday.¹²

Therefore Downtown Independent Democrats resolves to:

- 1. Support a moratorium on CPC funding until worker demands are met:
 - a. CPC voluntarily end 24-hour shifts immediately, and replace with, at minimum, two 12-hour shifts;
 - b. Public apology from CPC to workers and home-care patients that have been adversely affected by CPC's callous indifference for past near decade
 - c. Agreement to make good on back pay for lost wages before administrative obligations
- 2. Support an investigation by the Attorney General into CPC and other home-care agencies that require 24-hour work shifts
- 3. And also support and enforce bills ([A3145](#) / [S359A](#)), ([A6329A](#) / [S5374A](#)) the [SWEAT Act](#) ([A766](#) / [S2762](#)) to stop the 24-hour work day, protect workers against wage theft and restore fair pay.

⁹Assembly Bill A3145A, 2021-2022 Legislative Session; "Requires the provision of care to persons requiring twenty-four hours of care take the form of non-sequential split shifts of twelve hours each": <https://www.nysenate.gov/legislation/bills/2021/a3145>

¹⁰ Assembly Bill A766, 2021-2022 Legislative Session; "Relates to securing payment of wages for work already performed; creates an employee lien": <https://www.nysenate.gov/legislation/bills/2021/a766>

¹¹ SWEAT Campaign Website: <http://sweatnys.org/press/>

¹² Justice for Home Care Workers, Ain't I A Woman, retrieved February 16, 2022, [https://www.aintiawoman.org/justice-for-home-care-workers-](https://www.aintiawoman.org/justice-for-home-care-workers-1)



Grassroots Action Plan

- DID members fill out an online postcard form during or after the meeting. Click this link and write organization Downtown Independent Democrats:
 - <https://tinyurl.com/nomore24-postcard>
- DID volunteers to join Ain't I A Woman campaign members to write postcards
- DID volunteers can join organizers in street outreach with postcards and newsletters, in partnership with Chinese Staff and Workers Association (CSWA) and National Mobilization Against Sweatshops (NMASS). Reach out to info@didnyc.org if you are interested and we can put you in touch.