



The Honorable Sylvester Turner, Mayor
The Honorable Amy Peck, Council Member
The Honorable Jerry Davis, Council Member
The Honorable Abbie Kamin, Council Member
The Honorable Carolyn Evans-Shabazz, Council Member
The Honorable Dave Martin, Council Member
The Honorable Tiffany Thomas, Council Member
The Honorable Greg Travis, Council Member
The Honorable Karla Cisneros, Council Member
The Honorable Robert Gallegos, Council Member
The Honorable Edward Pollard, Council Member
The Honorable Martha Castex-Tatum, Council Member
The Honorable Mike Knox, Council Member
The Honorable David Robinson, Council Member
The Honorable Michael Kubosh, Council Member
The Honorable Letitia Plummer, Council Member
The Honorable Sallie Alcorn, Council Member

City of Houston
900 Bagby
City Hall Annex, First Floor
Houston, Texas 77002

May 12, 2020

Dear Mayor Turner and Council Members:

The HOME Coalition requests that you immediately institute procedures for remote public hearings and public comment for City Council and any City departments or offices that have not yet instituted these procedures, including for today and tomorrow's City Council meetings. We wish Council Member Plummer a full and quick recovery from COVID-19, but her illness demonstrates that members of the public have been exposed to COVID-19 at City Council meetings and public hearings, and that other members and staff who attend these meetings have been exposed.

The Houston Organizing Movement for Equity (HOME) Coalition is a diverse coalition of community-based organizations that was established in response to Hurricane Harvey in 2017. Our focus is to make Houston stronger, more resilient and equitable in the long road to recovery from Hurricane Harvey and subsequent disasters. Disasters hit hardest for people of color, immigrants, low income families and low wage workers and HOME's efforts are to ensure these community members' voices are heard and they have an opportunity to weigh in as this region makes choices about its future.

Despite federal, state, and local guidance that recommends social distancing and staying home as the best way to reduce the threat of COVID-19, the City Council continues to require Houstonians to leave home, to be in close contact with numerous other people, and to spend extensive periods of time doing so in order to participate in government processes. The requirement that the public appear in person at City Council meetings and hearings not only places their health at risk, but bars specific groups of Houstonians from participation in public processes at all.

In the alternative, we are asking for a reasonable accommodation or reasonable modification to the City's rules, policies, and practices under Title II of the Americans with Disabilities Act¹ to allow equal access to persons with disabilities, persons regarded as having a disability², and persons associated with a person with a disability to access City Council meetings and hearings and provide public comment by telephone, videoconference, or in writing to be read into the record.

In addition to asking Houstonians to take health risks in a County where cases are still rising and the prevalent strains have mutated to become more contagious³, certain populations are so high-risk they are effectively prevented from giving public comment, including the elderly, people with compromised immune systems, or persons with other pre-existing conditions. Many of these high-risk Houstonians are people with disabilities, and policies that exclude them are prohibited by the Americans with Disabilities Act (ADA)⁴, and the Rehabilitation Act.⁵ Concerns for the

¹ 42 U.S.C. §12131(2)

² 42 U.S.C. §12102

³ Todd Ackerman, "Most of coronaviruses circulating in Houston are strain reported to be more contagious", May 11, 2020. Available: <https://www.houstonchronicle.com/news/houston-texas/houston/article/coronavirus-strain-mutated-houston-covid-19-15260515.php>

⁴ 42 U.S.C. §12132l "Subject to the provisions of this subchapter, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of services, programs, or activities of a public entity, or be subjected to discrimination by any such entity."; §12182(a).

⁵ 28 C.F.R. §35.130.

health of vulnerable populations would also prevent people associated with people with disabilities, for example persons who work at nursing homes, from providing in-person public comments. Harris County's Stay Home, Work Safe order specifically requires persons who have a household member with COVID-19 to isolate at home "until cleared by a public health authority or medical provider."⁶

Members who attended last week's City Council meeting report that they were ushered to elevators that were too small to observe distancing and were within arm's reach of two other people on the elevator. Although there was disinfectant out and masks were available only some people were wearing gloves and hand sanitizer wasn't prominently displayed; the only obvious hand sanitizer was in the ad hoc first floor waiting area for those waiting to give public comment. HOME members have also been in close proximity to Council staff who have been exposed to COVID-19, and despite wearing masks, they are concerned about whether they might have contracted the virus and cannot attend today's meeting because they may have or may be regarded as having a disability, and do not want to put others' health at risk.

Parents with children at home because schools are closed are similarly prevented from providing comment unless they have another caregiver available. They should be able to provide public comment in a safe manner. One HOME member cannot attend today's meeting because she has children at home and does not have an alternative caregiver.

Many organizations have COVID-19 policies to protect their staff that restrict in person meetings and attending meetings of more than 10 people. These policies are in line with federal, state, and local guidance and emergency orders.

The worst effects of COVID-19 have also fallen disproportionately on Black and Latinx Houstonians. As Mayor Turner has pointed out; "[w]e know that African-Americans and Hispanics, as well as the elderly and people with underlying health conditions are disproportionately getting sick and dying from COVID-19."⁷ Dr. David Persse, health authority for the City of Houston has also highlighted these disparities, and that the devastating impact on communities of color is a "consequence of those decades of disparities" in access to quality healthcare for

⁶ Order of County Judge Lina Hidalgo, Third Amended Stay Home, Work Safe (Amended May 8, 2020) Available: <https://www.readyharris.org/Portals/60/documents/05-08-20-third-amended-order.pdf?ver=2020-05-08-180603-337>

⁷ Nicole Hensley, "Pop-up COVID-19 testing site opens in Sunnyside", *Houston Chronicle*, April 29, 2020. Available: <https://www.houstonchronicle.com/news/houston-texas/houston/article/Pop-up-COVID-19-testing-site-opens-in-Sunnyside-15235785.php>

people of color.⁸ People of color are also more likely to be affected by social determinants of health including concentrated poverty and exposure to pollution and environmental hazards, that result in disabilities like diabetes, heart disease, and asthma that increase their susceptibility to the worst effects of COVID-19.⁹ As of April 10, 2020, seven out of the 10 zip codes with the highest number of COVID-19 cases were majority Black and low-income, with some of these zip codes having double or triple the number of per-capita cases than Harris County as a whole.¹⁰

These are the communities in which HOME members live and work. We do not want to risk the health and lives of the broader and more vulnerable community by being exposed to COVID-19 at a City Council Meeting. We are concerned that requiring residents to attend hearings and meetings in person may also have a disproportionate effect on people of color.

The City is not required to hold Council meetings in-person. The Governor's Office, at the request of the Attorney General, has suspended or modified certain provisions of the Open Meetings Act in order to protect public health and safety and encouraged local governments to do so.

State and local officials can slow the spread of COVID-19 by avoiding meetings that bring many people into congregate settings. OAG has identified provisions that frustrate this public-health goal by requiring that government officials, members of their staff, and members of the public be physically present at a specified meeting location. OAG's request would relax these open-meeting requirements to allow for telephonic or videoconference meetings of governmental bodies, without the need for face-to-face contact during a pandemic.¹¹

Harris County and the cities of Dallas, Austin, and San Antonio have moved to virtual City Council meetings and public comment. Many of Houston's own departments,

⁸ Jasper Scherer, Zach Despart, and Mike Morris, "Black Houstonians' suffering worst consequences' of the virus, but lack of data obscures full picture across Harris County", *Houston Chronicle*, April 8, 2020. Available: <https://www.houstonchronicle.com/news/houston-texas/houston/article/black-lives-suffer-worst-coronavirus-doctor-hou-15186952.php>

⁹ Lisa Friedman, "New Research Links Air Pollution to Higher Coronavirus Death Rates", *New York Times*, April 7, 2020. Available: <https://nyti.ms/2UROU3Y>

¹⁰ Alex Stuckey, Mike Morris, Emily Foxhall, and Stephanie Lamb, "Where are Harris County's COVID-19 cases? Concentrated in at-risk neighborhoods.", *Houston Chronicle*, April 26, 2020, updated April 28, 2020. Available: https://www.houstonchronicle.com/news/houston-texas/houston/article/Where-are-Harris-County-s-COVID-19-cases-15227180.php?utm_source=newsletter&utm_medium=email&utm_campaign=HC_DailyHeadlines&utm_term=news&utm_content=headlines

¹¹ Letter from James P. Sullivan, Deputy General Counsel, Office of Governor Greg Abbott to the Office of the Attorney General. Available: <https://www.texasattorneygeneral.gov/sites/default/Siles/Siles/divisions/open-government/COVID-19-OMA-Suspension-Letter.pdf>

including Planning and Development and Housing and Community Development are holding meetings virtually. The City Council and any other governmental entities that are still conducting in-person meetings and public hearings must provide virtual meetings and alternatives to in-person public comment immediately. City Council must do so before today's meeting.

We appreciate the City's commitment to equity and access in COVID-19 testing; we are asking the City to provide meaningful and equitable access to government processes in which Houstonians are legally entitled to participate, without risking their health, the health of their families, or the health and safety of the entire community.

Sincerely,



Chrishelle Palay
Executive Director
HOME Coalition

Air Alliance Houston

Coalition for Environment, Equity and Resilience

Texas Appleseed

Texas Housers

Workers Defense Project