

At I.A.S. Part 23 of the Supreme Court of the State of New York, held in and for the County of Richmond, at the Courthouse thereof, located at 26 Central Avenue, Staten Island, New York, on the 10th day of August 2026.

PRESENT:

Honorable Wayne M. O'Zi, J.S.C.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF RICHMOND

-----X

RACHEL O'BRIEN, CARMINE MORANO, and
SIMON HEDLEY,

Petitioners-Plaintiffs,

- against -

THE CITY OF NEW YORK; ZOHRAN KWAME
MAMDANI, in his official capacity as Mayor of the
City of New York; THE NEW YORK CITY
DEPARTMENT OF FINANCE, and RICHARD LEE,
in his official capacity as Commissioner of the New
York City Department of Finance;

Respondent-Defendant.

-----X

Index No: 85217/2026

**~~PROPOSED~~ EMERGENCY
ORDER TO SHOW CAUSE
WITH TEMPORARY
RESTRAINING ORDER**

UPON READING AND FILING the annexed Verified Petition of Petitioners-Plaintiffs Rachel O'Brien, Carmine Morano, and Simon Hedley, (collectively, "Petitioners"); the Affirmation of Randy M. Mastro, and the exhibits annexed thereto; the accompanying Memorandum of Law, and good and sufficient cause having been shown therein:

Let Respondents-Defendants City of New York, Zohran Kwame Mamdani, in his official capacity as Mayor of New York City, the New York City Department of Finance, and Richard Lee, in his official capacity as Commissioner of the New York City Department of Finance (collectively, the "City Respondents"), show cause before this Court, at the Courthouse located at 26 Central Avenue, Staten Island, New York, in I.A.S. Part 23, Room 440, on the 31st day of August, 2026, at 2¹⁵ ~~am~~ / p.m., or as soon thereafter as counsel can be heard, why an Order should not be made and entered, pursuant to CPLR Article 78, CPLR § 3001, and CPLR §§ 6301, 6311, and 6313:

1. Entering a declaratory judgment pursuant to CPLR §§ 3001, 6301, and 7803-06, declaring that the City Respondents' actions relating to the Supplemental Roll and the Mailed Notices are ultra vires and without legal effect, and that the Mailed Notices do not constitute proper notice under Tax Law § 1352(a)(2);
2. Issuing a judgment pursuant to CPLR Article 78, annulling and vacating the City Respondents' actions relating to the Supplemental Roll as arbitrary, capricious, an abuse of discretion, in excess of legal jurisdiction, in violation of lawful procedure, and affected by errors of law, on the grounds that the Supplemental Roll fails to apply the statutory criteria set forth in Tax Law §§ 1351(i) and 1352(a)(2), and that no law permitted or required the City Respondents to publish such a list of the names, addresses, and property values of more than 900,000 New York City homeowners, or to further publicize that list through an irregular, mid-year publication;
3. Issuing a judgment pursuant to CPLR Article 78, annulling and vacating City Respondents' Mailed Notices, and any determination that such Mailed Notices constitute proper notice under Tax Law § 1352(a)(2), as arbitrary, capricious, an abuse of discretion, in excess of

lawful jurisdiction, in violation of lawful procedure, and affected by errors of law, on the grounds that the City Respondents failed to conduct the individualized, statutorily-required initial determination before issuing the Mailed Notices, such that the Mailed Notices unlawfully purport to place upon homeowners the burden of proving they are not subject to the non-primary residence property surcharge imposed under Tax Law Chapter 60, Article 30-C (the “Surcharge”); and

4. Granting such other and further relief as this Court deems just and proper.

IT IS FURTHER ORDERED that the City Respondents show cause at that hearing why an Order should not be made and entered pursuant to CPLR §§ 6301, 6313, and 7805 preliminarily enjoining them, pending the determination of this application, from:

1. continuing to post on the website of the New York City Department of Finance, or otherwise allowing public access to, the Supplemental Roll listing the names, addresses, and property values of more than 900,000 New York City homeowners described by the City Respondents as “related to” the Surcharge;
2. taking any further action based on the Supplemental Roll or the Mailed Notices in connection with the administration or assessment of the Surcharge, including but not limited to imposing, assessing, or collecting the Surcharge against any homeowner identified on the Supplemental Roll or who received a Mailed Notice, without first making the individualized determination and then providing the proper notice required by Tax Law §§ 1351(i) and 1352(a)(2);
3. enforcing any deadline set forth in the Mailed Notices, including the deadline of August 21, 2026, as extended to September 18, 2026, against Petitioners or any other homeowner who received a Mailed Notice.

AND AFTER HEARING COUNSEL for the respective parties before me
on this date,
SUFFICIENT CAUSE HAVING BEEN ALLEGED THEREFORE, IT IS HEREBY
AND DETERMINATION
FURTHER ORDERED that, pending the hearing of this application, pursuant to CPLR §§ 6301,
6313, and 7805, the City Respondents, their officers, agents, servants, employees, and all persons
acting in concert or participation with them, are hereby temporarily restrained and enjoined from:

1. continuing to post on the website of the New York City Department of Finance, or otherwise allowing public access to, the Supplemental Roll listing the names, addresses, and property values of more than 900,000 New York City homeowners described by the City Respondents as "related to" the Surcharge;
2. taking any further action based on the Supplemental Roll or the Mailed Notices in connection with the administration or assessment of the Surcharge, including but not limited to imposing, assessing, or collecting the Surcharge against any homeowner identified on the Supplemental Roll or who received a Mailed Notice, without first making the individualized determination and then providing the proper notice required by Tax Law §§ 1351(i) and 1352(a)(2);
3. enforcing any deadline set forth in the Mailed Notices, including the deadline of August 21, 2026, as extended to September 18, 2026, against Petitioners or any other homeowner who received a Mailed Notice.

WMD
JSC
IT IS FURTHER ORDERED that service of a copy of this Order to Show Cause, together with the papers upon which it is based, upon the City Respondents, by overnight delivery service, electronic filing, and email service upon counsel for the City Respondents, the New York City Law Department, on or before the ____ day of August, 2026, shall be deemed good and sufficient service; and

IT IS FURTHER ORDERED that answering papers, if any, shall be served upon Petitioners' counsel via electronic filing and email service on or before the 24th day of August, 2026;

IT IS FURTHER ORDERED that reply papers, if any, shall be served upon Petitioners' counsel via electronic filing and email service on or before the 27th day of August, 2026.



J.S.C.

HON. WAYNE M. OZZI
J.S.C.