

# OFFICE OF THE NASSAU COUNTY COMPTROLLER



**Nassau County  
Living Wage Law  
2019 Annual Report**

**September 2, 2020**

**JACK SCHNIRMAN  
COMPTROLLER**

# OFFICE OF THE NASSAU COUNTY COMPTROLLER

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This report is also available on our website at: <https://www.nassaucountyny.gov/audits>



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**Hon. Jack Schnirman**

*Nassau County Comptroller*

September 2, 2020

To the People of Nassau County,

This report covers the monitoring and enforcement of the Nassau County Living Wage Law (“The Law”) for **calendar year 2019**. The Nassau County Living Wage Law took effect in January 2007 and was implemented to ensure employees of companies that Nassau County does business with are earning a “living wage.” The Law establishes a living wage, including requirements for health benefits or a health benefit supplement. The living wage and health benefit supplement are adjusted annually based on the Consumer Price Index, as indicated in the Law.

Since the beginning of 2018, I have worked closely with the Living Wage Advisory Board and the County Executive to enhance the enforcement of the Living Wage Law. Before we review the accomplishments of 2019, it’s important to take a moment to reflect on the circumstances we have encountered in **2020**.

- This year has been extraordinarily difficult for so many, battling through the unprecedented COVID-19 pandemic that impacted almost every facet of our everyday lives. The Living Wage Advisory Board has continued to meet regularly this year, understanding that now more than ever, people need a living wage to make ends meet here on Long Island.
- The Living Wage Advisory Board represents a cross section of the people getting it done across our region, ranging from EMTs and health care workers to grocery store workers, to postal workers, to those keeping public transportation running, to civil servants, and so much more. These essential workers kept our region operating day after day when many of us were quarantined at home. We owe them a debt of gratitude for all they do, and it is even more critical now to look out for them and hold contractors accountable.
- To broaden protections for workers entitled to the Living Wage, we are working with the Living Wage Advisory Board this year to focus on enforcement, and are in the process of developing an innovative program to assist individuals with exercising their private right of action under the Living Wage Law.

## Message from the Comptroller – September 2, 2020

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Major actions taken in the 2019 calendar year include the following:

- **Closing the “Living Wage Law Loophole”**
  - Working with the County Executive and Living Wage Advisory Board, new rules were issued that closed loopholes which could allow businesses to obtain a waiver from the Living Wage Law.
  - Under these new rules, the County’s Living Wage Review Officer can now evaluate the parent and subsidiaries of a vendor that has a contract with the County when determining waiver eligibility requirements. Previously, sub-entities of larger corporations could obtain waivers to avoid paying living wage rates because the overall business financials were not being reviewed. Contractors could make themselves appear smaller utilizing subsidiaries in order to bypass the wage gap comparison between the highest and lowest paid employee.
- **571-WAGE: Living Wage Hotline Provides Direct Access to the Comptroller’s Office for Employees of Vendors Required to Pay Living Wage, to Report Violations and Provide Information**
  - The multi-lingual Living Wage Hotline launched in 2018 provides employees a place to confidentially report violators of the Living Wage Law, and to receive information about the Law.
  - This easy-to-remember hotline, 516-571-WAGE, connects callers directly with staff in the Comptroller’s Office during business hours, so complaints may be heard.
  - In 2019, we experienced a 25% increase in the number of calls from the previous year coming into the Living Wage Hotline.
- **Updated Living Wage Rates**
  - On August first of each year, the Comptroller’s Office issues updated Living Wage rates as required by the Law. The Comptroller updates the County’s Living Wage Website with the new rates and distributes posters stating the new rates in both English and Spanish.
  - Living Wage Rate posters are distributed to County vendors, the Living Wage Advisory Committee and provided multiple times during the year, to various press outlets.
  - The Comptroller’s Office has launched an ongoing social media campaign on multiple platforms to inform of the Living Wage rate and the Living Wage Hotline, in an effort to reach as many employees as possible.
  - As of August 1, 2020, the Living Wage is \$17.06 per hour without health benefits, an increase from the previous rate of \$16.76 an hour, or \$14.69 per hour with health benefits, an increase from \$14.51 per hour. This rate will stay in effect until July 31, 2021.

- **Performing Living Wage Audits that Get Results**

- As a result of Living Wage audits conducted by the Comptroller’s Office (2008-2019), more than \$1.4 million has been recovered/identified for 1,863 instances of underpayments of Living Wages and uncompensated time since implementation of the law.
- Every audit that involves outside contracts includes a check on compliance with the Living Wage Law requirements.
- Three Living Wage Audits were released in 2019, which identified underpaid wages and uncompensated time off worth more than \$56,000 affecting 72 employees.
- In addition to review of the Living Wage, these Audits also performed a limited review of an agency’s contract with Nassau County, and uncovered a number of issues, including:
  - employees being paid “off the books” in cash;
  - an agency failing to properly screen employees by the NYS Criminal Justice Services Sex Offender Registry;
  - instances of employees working over 80 hours a week, potentially impacting patient care; and
  - diversion of over \$387,000 in funds, which was reported to law enforcement.

The work done by the Comptroller’s Office and the Living Wage Advisory Committee makes a difference in people’s lives and we will continue to press forward, increasing oversight, putting stronger rules in place, and sending the message that if you want to do business with Nassau County, you have to play by the rules. Our office will continue to protect workers who deliver critical services to Nassau County residents.

Respectfully Submitted,



Jack Schnirman  
Nassau County Comptroller

## Executive Summary

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### **Purpose:**

The Nassau County Comptroller's Office is responsible for monitoring, investigating, and auditing compliance with the Nassau County Living Wage Law.

In accordance with this responsibility, the Office of the Nassau County Comptroller must submit an Annual Report to the County Executive and the County Legislature summarizing and assessing the implementation and compliance with the Law during the preceding year. This report covers calendar year 2019.

### **Introduction:**

The Nassau County Living Wage Law ("Law") was enacted by the Nassau County Legislature in 2006<sup>1</sup>, and took effect January 2007. The Living Wage Law establishes a Living Wage, including requirements for health benefits or a health benefit supplement. Additionally, full-time employees receive a minimum of 12 paid days off per year. Part-time employees who work at least 20 hours per week receive proportionate compensated days off.

As a result of the Law, covered workers in Nassau County have seen increases in their hourly wages in each of the years following the implementation of the Law.

Since the Law became effective in 2007, the Comptroller's Office has released 46 Living Wage audit reports encompassing 37 different contractors. Overall, a total of 1,863 instances of underpayments consisting of \$1,066,267 in underpaid wages and an additional \$352,465 in under-accrued compensated time off was identified, for a total of \$1,418,732. The Comptroller's Office continues to perform audits, respond to employee complaints and inquiries received, and monitor providers that were reviewed previously to ensure that they remain in compliance with the Law.

The Comptroller's Office also follows-up with selected new providers who have received contracts with the County to ensure that they are in compliance with their contract regarding the Living Wage.

### **2019 Calendar Year Summary:**

- On August 1, 2019, the hourly Living Wage rate in Nassau County was increased to \$16.76 for employees without health benefits and \$14.51 for employees who receive health benefits.

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<sup>1</sup> Nassau County Living Wage Law, Title 57 of the Miscellaneous Laws of Nassau County.

## Executive Summary

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- Auditors, while investigating a report of underpayment of the Living Wage rate, uncovered the improper diversion of over \$300,000 of County payments. The CEO used these funds for personal expenses and for setting up a new emergency shelter, another corporation. This matter has been referred to law enforcement for investigation.
- The Comptroller's Office released three Living Wage audits in 2019. Significant findings of these audits include:
  - Auditors identified underpaid wages and uncompensated time off worth more than \$47,000 to 17 employees for one agency.
  - Another agency had underpaid wages and compensated time off by approximately \$8,800 to 55 employees and auditors found 45 instances whereby healthcare aides worked more than the maximum 60-65 hours per week stipulated in the agency's Memorandum of Agreement with the County. In 18 instances, the aides worked in excess of 80 hours per week, potentially impacting patient care.
  - One agency:
    - violated the Living Wage Law and the terms of their Memorandum of Agreement with the County by failing to maintain complete and accurate payroll records; payroll records for 2017 were incomplete and payroll records for 2018 did not exist. Employees were also being paid in cash without appropriate payroll taxes being withheld.
    - For calendar year 2017, auditors calculated that this agency, an emergency shelter provider, failed to pay a minimum of \$93,581 in wages to employees. A comparison of IRS Forms W-2 and 1099-MISC issued to employees in 2017, revealed that estimated wages were underpaid by at least \$42,631. Auditors could not identify a specific number of employees that were underpaid since the payroll records were incomplete.
- During 2019, two additional Living Wage audits were initiated, the results of which should be available in 2020.

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## Living Wage Law 2019 Annual Report

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### Background

#### The Living Wage Law

All discussions of the Law in this report refer to the Law in existence in 2019, unless otherwise noted. The Law was last amended on January 21, 2010; the amendments took effect on March 22, 2010.

#### Living Wage Rates

The Living Wage Rate is reevaluated on August 1st of each year. On August 1, 2019, the Living Wage rate increased to \$16.76 in Nassau County for an employee without health benefits. If the employer provides health benefits to an employee covered under the Living Wage Law, the employer's rate of pay is \$14.51. This rate will stay in effect until August 1, 2020.

The Law also mandates that full-time employees receive 12 compensated days off per year for sick leave, vacation, or personal reasons. Part-time employees who work at least 20 hours per week receive proportionate compensated days off.

The table below provides the historical Living Wage rates and health benefit supplement since the Law was implemented:

#### Exhibit I

LIVING WAGE LAW RATES				
EFFECTIVE DATES		HOURLY RATES		
FROM	TO	WITH HEALTH BENEFITS	HEALTH BENEFIT SUPPLEMENT	WITHOUT HEALTH BENEFITS
January 1, 2007	July 31, 2008	\$9.50	\$1.50	\$11.00
August 1, 2008	July 31, 2009	\$10.50	\$1.55	\$12.05
August 1, 2009	July 31, 2010	\$11.50	\$1.60	\$13.10
August 1, 2010	July 31, 2011	\$12.50	\$1.66	\$14.16
August 1, 2011	July 31, 2012	\$12.90	\$1.71	\$14.61
August 1, 2012	July 31, 2013	\$13.11	\$1.80	\$14.91
August 1, 2013	July 31, 2014	\$13.35	\$1.86	\$15.21
August 1, 2014	July 31, 2015	\$13.58	\$1.92	\$15.50
August 1, 2015	July 31, 2016	\$13.59	\$1.95	\$15.54
August 1, 2016	July 31, 2017	\$13.73	\$2.05	\$15.78
August 1, 2017	July 31, 2018	\$13.98	\$2.09	\$16.07
August 1, 2018	July 31, 2019	\$14.27	\$2.14	\$16.41
August 1, 2019	July 31, 2020	\$14.51	\$2.25	\$16.76

**Application of the Law**

The Law applies to the following types of contracts and leases entered into by the County after January 1, 2007:

- Service contracts of \$25,000 or more; financial assistance contracts<sup>2</sup> for more than \$50,000 and where the employer has at least 10 employees; and
- leases of property<sup>3</sup> owned or controlled by the County.

The Law also applies to County subcontractors, County lessees and contractors of recipients of financial assistance from the County. Nassau Community College employees are covered by the Law, as are the College's contractors/subcontractors, and their employees. However, student workers at the College are not covered.<sup>4</sup>

The Law does not apply to vendors who enter into the following types of contracts with the County:

- service contracts and financial assistance for providers of childcare services, pre-school services and early intervention services<sup>5</sup>;
- contracts where services are incidental to the delivery of products, equipment or commodities<sup>6</sup>; or
- inter-governmental contracts and financial assistance contracts for industrial development bonds, community development block grants and enterprise-zone investments<sup>7</sup>.

The Law exempts those employees who are:

- under 18 years of age and are claimed as dependents for federal tax purposes and are employed as an after-school or summer employee<sup>8</sup>;
- employed as trainee in a bona fide training program consistent with federal and state Law where the training program has the goal that the employee advances into a permanent position<sup>9</sup>;
- disabled and who are covered by a current sub-minimum wage certificate issued to the employer by the United States Department of Labor, or if they would be covered by such

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<sup>2</sup> Nassau County Living Wage Law §2 (2010).

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

<sup>5</sup> Nassau County Living Wage Law §3 (c) (3) (2010).

<sup>6</sup> Nassau County Living Wage Law §2 (2010).

<sup>7</sup> Ibid.

<sup>8</sup> Nassau County Living Wage Law §3.

<sup>9</sup> Nassau County Living Wage Law §3 (c) (1) (B) (2010).

a certificate but for the fact that the employer is paying a wage equal to or higher than the federal minimum wage<sup>10</sup>; or

- covered by a bona fide collective bargaining agreement provided that the Law is expressly referenced in the agreement.<sup>11</sup>

### **Rules**

The Law provides for rulemaking:

The Nassau County Living Wage rules of the County Executive were amended on July 24, 2019.

- **The Comptroller** has promulgated Rules as they relate to the monitoring and enforcement of the Law. The primary purpose of the Rules is to define the role of the Comptroller, outline the responsibilities of covered employers, and clarify the rights of covered employees. The Comptroller's Office periodically reviews its Rules and will revise them as necessary.
- **The County Executive** has promulgated a separate set of Rules to address the procedures governing requests for waivers and to clarify certain terms. These Rules, including any amendments, can be viewed on the Comptroller's webpage under the Living Wage Law sub-heading, at <https://www.nassaucountyny.gov/1597/Living-Wage>.

The Nassau County Living Wage rules of the County Executive were amended on July 24, 2019. The amendment to the County Executive's Rules closes a loophole when determining whether a contractor may be granted a waiver by reason of the highest paid officer not receiving more than six times as much as the lowest paid employee. With this change, the County Executive's Living Wage Waiver Review Officer will consider compensation received not only from the firm named in the waiver application, but that received from "related entities" (i.e., parent and subsidiary corporations or affiliates). Similarly, when considering whether a firm should be granted a waiver because complying with the Living Wage Law requirements would increase the contractor's budget, the change requires the Living Wage Review Officer to look at the combined budget of all related entities of the contractor.

### **Monitoring and Enforcement of the Law by the Comptroller's Office**

The Law charges the Nassau County Comptroller with the responsibilities of monitoring, investigating and auditing compliance with the Law.<sup>12</sup> Since the Law's inception, the Comptroller's Office through its monitoring powers, has continued to make progress in achieving the objective of bringing as many covered employers as possible into compliance with the Law.

The Comptroller's Office monitors compliance with the Law primarily through the auditing of agencies/contracts required to comply with the Law. The selection of vendors for audit has been

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<sup>10</sup> Nassau County Living Wage Law §3 (2010).

<sup>11</sup> Nassau County Living Wage Law §10 (c) (2010).

<sup>12</sup> Nassau County Living Wage Law §7 (a) (2010).

## Living Wage Law 2019 Annual Report

broadened to include any vendor with a contract with Nassau County that is subject to the Law, including construction management engineering firms, food service providers, home healthcare agencies, and homeless shelters.

The Comptroller's Office also obtains from the Office of Real Estate Services any significant new leases entered into by the County that are subject to the Living Wage Law. The Law defines a county lease as "any lease, concession agreement or other agreement authorizing any party to occupy, use, control or do business at property owned or controlled by the County."

- In 2019, the County did not enter into any significant new lease agreements.
- There was a lease renewal of the Massapequa Hawthorne School, used by the Nassau County Police Department as a training academy.
- There was also a lease renewal for the Office of Emergency Management (OEM) warehouse at 700 Hicksville Road in Bethpage. The lease renewal for the OEM warehouse was approved by the Nassau County Legislature in October 2019 but was not certified until January 2020.
- Additionally, the County renewed the Village of Hempstead parking license, though this is not technically a lease agreement.

Utilizing both field and desk audits, we have been able to identify shortfalls in payments of both wages and compensated time off. Exhibit II below summarizes the financial results of our findings for the Living Wage audits issued from 2008-2019.

### **Exhibit II**

<b>SUMMARY IMPACT OF LIVING WAGE AUDITS ISSUED FOR THE YEARS 2008 - 2019</b>						
<b>Year Issued</b>	<i>Wages</i>		<i>Compensated Time Off</i>		<i>Totals</i>	
	<b>Amount Recovered (\$)</b>	<b># of Underpayment Instances</b>	<b>Amount Recovered (\$)</b>	<b># of Underpayment Instances</b>	<b>Total Amt. Recovered (\$)</b>	<b># of Underpayment Instances</b>
2008-2019	\$ 1,066,267	877	\$ 352,465	986	\$1,418,732	1,863

Since the Law's inception, Auditors have noted more than 1,850 instances of contractor non-compliance with the Living Wage Law, amounting to \$1,418,732 in recovered payments to employees.

The data for individual audits between 2008 and 2019 is included as Appendix A.

### **2019 Living Wage Audits**

Three Living Wage audit reports were issued in 2019, two covering Emergency Shelter Providers and one covering a Personal Care Agency. Two other Living Wage audits were started in 2019 and the results of these audits will be released in 2020. Living Wage audits are a component of most contract compliance audits conducted by the Comptroller's Field Audit Division.

## Living Wage Law 2019 Annual Report

The summary impact of the three audits issued in 2019 totaled \$56,487 of underpayments affecting 72 employees, is shown in Exhibit III below:

### **Exhibit III**

2019 Summary of Employee Underpayments Identified							
Name of Auditee	Wages		Compensated Time Off		Totals		
	# of Instances Dollars Identified	of Non- Compliance	# of Instances Dollars Identified	of Non- Compliance	Total Dollars Identified	Total # of Instances of Non- Compliance	Total Employees Assisted*
ADD/ADHD Housing Group Inc.	\$ 30,600	26	\$ 16,988	21	\$ 47,588	47	17
Personal Touch Home Care of Long Island	1,390	9	7,509	47	8,899	56	55
An Emergency Shelter Provider **	-	0	-	0	-	0	0
<b>2019 Totals</b>	<b>\$ 31,990</b>	<b>35</b>	<b>\$ 24,497</b>	<b>68</b>	<b>\$ 56,487</b>	<b>103</b>	<b>72</b>

*Notes:*

\* The number of instances is higher than the number of employees assisted because in some instances the same employee was impacted by both a living wage underpayment and a compensated time off underpayment.

\*\* No records were provided, therefore we could not determine amounts owed or number of instances for this emergency shelter.

The Comptroller's Office performed two Living Wage audits of Emergency Shelter Providers. The County paid a total of \$18,180,195 to Emergency Shelters in 2019.

Below is a summary of the 2019 audit findings:

#### **ADD/ADHD Housing Group, Inc.**

- ADD/ADHD Housing Group contracted with the County to provide emergency shelter services. Sixteen of seventeen employees were paid less than the Living Wage rate resulting in underpayments of \$30,600. In addition, auditors noted that several employees received payments without any corresponding hours of work noted for these payments. Since the number of hours worked were not provided, auditors could not determine if the applicable Living Wage rate was paid.
- Twelve employees were not granted 1,079 hours of earned compensated time off totaling \$16,988 and the agency did not maintain earned compensated time off records.
- The agency stated that they issued both a W-2 Form and a 1099-MISC form to three of its employees in 2016, however, the 1099-MISC forms were never filed with the IRS.
- The 2016 revenue reported by the agency on their 2016 IRS Form 990 was \$237,000 less than the DSS Service payments of \$1.2 million made to the agency.
- The agency failed to provide evidence that their employees were properly screened by the NYS Criminal Justice Services Sex Offender Registry.

**Personal Touch Home Care of Long Island**

Personal Touch Home Care of Long Island is a personal care agency providing services to recipients of Medicaid.

- Nine of 219 aides were paid less than the Living Wage rate resulting in \$1,390 in underpayments.
- Forty-six employees were not paid for 474 hours of earned compensated time totaling \$7,509.
- Auditors identified 45 instances where 19 aides worked more than the maximum 60-65 hours per week as stated in the Memorandum of Understanding with the County. This included 18 instances where the hours worked exceeded 80 hours a week, potentially impacting patient care.

**An Emergency Shelter Provider**

An audit of an emergency shelter provider was initiated as a result of calls received through the Comptroller's Living Wage hotline from a former employee who alleged they were not receiving the Living Wage and were being paid in cash. The name of this shelter is being withheld since the audit findings have been referred to law enforcement for further investigation.

- An Emergency Shelter CEO diverted funds of \$387,425 to another corporation for personal use and to start a new shelter.
- The Emergency Shelter had incomplete payroll records for 2017 and did not maintain any payroll records for 2018. Thus, auditors could not determine if the employees were being paid in accordance with the Living Wage Law.
- The Emergency Shelter did not maintain any earned compensated time off records as required by the Living Wage Law.
- The Shelter failed to provide evidence that the Shelter was properly staffed.
- The Shelter provider violated federal Law by paying employees cash without withholding payroll taxes.<sup>13</sup>
- Several questionable practices were taking place at the Shelter.
  - An employee was also noted to be a Shelter resident.

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<sup>13</sup> The Federal Insurance Contribution Act (FICA) requires the withholding of three separate taxes from employee wages. FICA is comprised of 6.2 percent Social Security tax, 1.45 percent medicare tax and since 2019, 0.9 percent medicare surtax when the employee earns over \$200,000.

## Living Wage Law 2019 Annual Report

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- The CEO of the Emergency Shelter opened two new corporations, listing the address of the shelter provider as the address for the two new corporations.
- The husband of the CEO of the Emergency Shelter Provider opened a bank account for another corporation with a similar name to the original Emergency Shelter Provider in order to divert the DSS funds.
- The Shelter Provider used over \$7,500 to make purchases that appeared personal and that are not consistent with the practice of running a homeless shelter. These expenses consisted of airline tickets, hotel casino accommodations, retail outlet shopping, liquor store purchases and food delivery service charges.

The Comptroller's Office has instituted a new policy of performing follow-up reviews of all audits conducted. During 2019, a follow up review of All Metro Home Care Services of New York Inc. was initiated. The auditors have requested supporting documentation to assess if all wages and compensated time identified in the audit has been paid to employees, and will issue a follow-up report in 2020.

### **Penalties for Non-Compliance**

When an employer fails to comply with the Law after being notified in writing by the County, among other penalties, the Law originally allowed the County to impose a fine "in the amount of \$500 for each week for each employee found not to have been paid in accordance with this title."

In light of the significant number of instances of non-compliance, in 2009 the Board recommended that the Law be amended to increase the maximum allowable fine that may be imposed by the County. These changes were implemented when the Law was amended, effective March 22, 2010, as follows:

1. Upon the issuance of the first written notice of a violation of this title an employer shall be fined in the amount of \$500 each week for each employee found not to have been paid in accordance with this title;
2. If within thirty days after such employer receives the first written notice of violation, such employer fails to cure such breach, such employer shall receive a second notice of such violation and shall be fined in the amount of \$1,500 each week thereafter for each employee found not to have been paid in accordance with this title;
3. If, within thirty days after such employer receives a second notice of violation, such employer fails to cure such breach, such employer shall receive a third notice of such violation and shall be fined in the amount of \$2,500 each week thereafter for each employee found not to have been paid in accordance with this title.

## Living Wage Law 2019 Annual Report

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No fines for non-compliance with the Living Wage Law have been issued in the past, however, the Living Wage Advisory Board and the Comptroller's Office is working with the County Executive's Office to develop a method to issue fines and to strengthen compliance.

### **Waivers**

County contractors may request an annual waiver from the requirements of the Law from the County Executive's Office. Section 9 of the Law sets forth the eligibility criteria that must be met to grant a waiver. A contractor granted a full waiver is not required to pay its employees the Living Wage rate for the year the waiver is granted. However, the contractor remains subject to Federal and State minimum wage requirements. All waiver requests are reviewed by the County Executive's Office for completeness and compliance with the required criteria. Not all requests for waivers are granted.

In 2019, twelve agencies submitted applications for waivers. The County Executive's Office granted a total of ten waivers, two of the ten were partial waivers.

Additionally, one request was denied, and one is still pending. The request that is pending does qualify for the waiver, however, the contract is not in place for this vendor. Once the contract is in place, the waiver will be granted.

There are several criteria that can be used by contractors in order to receive a waiver. The two most common are as follows:

1. The highest paid officer or employee of such contractor earns a salary which, when calculated on an hourly basis, is less than six times the lowest wage or salary paid by the contractor. Also taken into account for this computation are benefits, including but not limited to dividends, a car, and health insurance.
2. The Contractor's compliance with the requirements of the Law will increase their expected total annual budget in an amount greater than ten percent of the prior fiscal year budget.

In 2010, the amended Law added the requirement that fringe benefits be included as part of the determination of the highest paid officer's total salary. The Law provides for the Comptroller to determine the method of valuing the fringe benefits in making this determination. Included in the Compensation Ratio calculation are items such as bonuses, stock options, educational assistance, housing costs, etc.

Exhibit IV below provides summary information about Living Wage waiver activity from 2015-2019.



## Living Wage Law 2019 Annual Report

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### Exhibit IV

<b>Summary of Living Wage Waiver Activity 2015 - 2019</b>						
<b>Year</b>	<b># Waivers Requested</b>	<b>Granted Full</b>	<b>Granted Partial</b>	<b>Request Withdrawn</b>	<b>Request Pending</b>	<b>Request Denied</b>
<b>2015</b>	<b>12</b>	9	2	1	0	0
<b>2016</b>	<b>10</b>	8	2	0	0	0
<b>2017</b>	<b>12</b>	8	2	0	0	2
<b>2018</b>	<b>9</b>	6	2	0	0	1
<b>2019</b>	<b>12</b>	8	2	0	1	1

### Resources and Outreach

The Comptroller's Office provides a variety of resources and outreach measures regarding the Law, as summarized below:

#### Living Wage Compliance Hotline

- In 2019, the Comptroller's Office received 30 Living Wage complaint calls through the multilingual Living Wage hotline. This is 25% increase from 2018. The hotline, 516 571-WAGE, connects callers directly with staff in the Comptroller's Office during business hours so complaints can be submitted over the phone. In addition, complaints may be submitted through the Comptroller's email tip line, [ReportItReformIt@nassaucountyny.gov](mailto:ReportItReformIt@nassaucountyny.gov). The hotline number is clearly noted on Living Wage posters which are in English and Spanish, and available on the Comptroller's website. Complaints may also be submitted online or via regular email, and the forms to file the complaints are on the Comptroller's website.
- In addition to information provided on the Comptroller's webpage, information on the Law is provided over the phone upon request, as we recognize not all workers have access to the internet.
- Living Wage posters are distributed to County vendors, the Living Wage Advisory Board and provided multiple times during the year to various press outlets in an effort to reach as many employees as possible.

## **Living Wage Law 2019 Annual Report**

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### Website

The Comptroller's Office Living Wage website ([www.nassaucountyny.gov/livingwage](http://www.nassaucountyny.gov/livingwage)) contains information about the Law, including:

- the current Living Wage rates;
- the complete copy of the current Law;
- the Living Wage Rules of the Comptroller and the County Executive;
- Living Wage posters both in English and Spanish which include the current rates and the Living Wage Compliance Hotline number;
- Complaint Forms to report instances of non-compliance;
- annual Living Wage Law reports for the years 2007-2019;
- all Living Wage audit reports issued by the Comptroller's Office;
- definitions of a covered employee;
- listing of the Living Wage Advisory Board members;
- links to Living Wage Compensation Ratio Forms; and
- pending Living Wage waiver requests.

### Living Wage Poster

- The Comptroller's Office created a living wage poster to explain the Law in simple format. Posters are available in English and Spanish and may be downloaded from the website. The posters list the current living wage rates and the employee's right to compensated days off; they also display the Comptroller's Office Living Wage Hotline and email address to allow individuals to contact the Comptroller's Office with questions and employee complaints. (See Appendix B for 2019 Living Wage posters in English and Spanish).
- The Comptroller's Rules require that Living Wage notices be posted in a conspicuous manner at all relative work sites. The posters are updated annually to reflect the increased living wage rates which become effective on August 1<sup>st</sup> of each year.

### **The Living Wage Advisory Board**

The Living Wage Advisory Board, comprised of labor leaders and Living Wage advocates, meets to discuss ways to improve the effectiveness of the Law. Exhibit V lists the Board members as of December 31, 2019.

**Exhibit V**

Living Wage Advisory Board Members as of December 31, 2019	
John Durso	Long Island Federation of Labor, Chairman
Matty Aracich	Building and Construction Council of Nassau and Suffolk
Walter Barton	National Association of Letter Carriers Branch 6000
Roger Clayman	Long Island Federation of Labor
Debra Hagan	Transit Workers Union Local 252
Nikki Kateman	Political and Communications RWDSU Local 338
Nick LaMorte	Civil Service Employees Association Region 1
Onika Shepard	Service Employees International Union Local 1199
Lisa Tyson	Long Island Progressive Coalition

Representatives from the County Executive’s Office (an employee of the Office of Management and Budget), Field Audit, County Attorney’s Office and the Comptroller’s Office’s Legal Counsel are also present at the Advisory Board’s meetings.

Four Living Wage Advisory Board meetings were held during 2019 and the following key topics were discussed:

- Working with the County Executive’s Office and the Living Wage Advisory Board, new rules were approved that closed loopholes in the Living Wage Law, by providing for strengthened procedures and added scrutiny when companies apply for a waiver from the Living Wage Law. Waiver requests are now receiving a heightened level of scrutiny including using a new Method for Valuation Pursuant to Section 9 (a)(i) of the Living Wage Law.
- Language was added to the Rules to ensure a contractor will have to submit disclosure of actual finances when applying for a waiver, and these will be looked at and verified as true. Contractors who receive a waiver will be asked if wages being paid are not the Living Wage rate what will the employee wages be?
- This is the 12th year that the Committee has been meeting. The Living Wage Advisory Board held its first meeting November 2007.
- The Comptroller’s Office has been working with the County Executive to set up job fairs to help people learn how to complete applications and use computers to facilitate Census worker hiring.
- MicroMedia made their final payment due to employees which was a result of the Comptroller’s Office audit of that agency.

## **Living Wage Law 2019 Annual Report**

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- Comptroller Schnirman stated that Dover Gourmet Inc. which was subject to a Living Wage compliance audit in 2018 can “no longer skirt the rules” and it is expected that the County will issue a Request for Proposal for services currently provided by Dover.
- The Committee agreed that the focus for 2020 will be on enforcement of the Living Wage Law. The Committee is working with the County Executive’s Office and the Comptroller’s Office to develop a letter to be sent to vendors when there is a complaint. Additionally, the Comptroller’s Office and the Committee are developing a program to assist individuals with exercising their private right of action under the Living Wage Law, with a focus on involving attorney-supervised law students.

## Appendix A - Summary of Employee Underpayments Recovered 2008-2019

SUMMARY OF EMPLOYEE UNDERPAYMENTS IDENTIFIED LIVING WAGE AUDIT REPORTS ISSUED 2008 - 2019							
Year Audit Issued	Name of Auditee	Wages		Compensated Time Off		Totals	
		Dollars Recovered	# of Instances of Non- Compliance	Dollars Recovered	# of Instances of Non- Compliance	Total Dollars Recovered	Total # of Instances of Non- Compliance
<b>2008</b>	Aides At Home *	\$ -	-	\$ -	-	\$ -	-
	Allen Health Care Services	\$ -	-	\$ 45,119	103	\$ 45,119	103
	First Choice Home Care, Inc.	\$ -	-	\$ 6,290	45	\$ 6,290	45
	LI Care At Home *	\$ -	-	\$ -	-	\$ -	-
	New York Health Care Inc.	\$ 6,350	26	\$ -	-	\$ 6,350	26
	Premier Home Health Care Services, Inc.	\$ 15,683	70	\$ -	-	\$ 15,683	70
	Tender Loving Care Health Care Services, Inc.	\$ 54,140	39	\$ 10,015	27	\$ 64,155	66
<b>2009</b>	A&B Healthcare Services, Inc.	\$ 572	30	\$ 26,067	45	\$ 26,639	75
	ABLE Health Care Service, Inc.	\$ 168	2	\$ 12,126	79	\$ 12,294	81
	Island Search	\$ 107,563	116	\$ 84	2	\$ 107,647	118
	Jzanus Home Care, Inc.	\$ -	-	\$ 35,925	132	\$ 35,925	132
	PHC Services, Ltd.	\$ 58,042	75	\$ 9,569	36	\$ 67,611	111
	Randstad US	\$ 294	2	\$ 31,952	41	\$ 32,246	43
	VIP *	\$ -	-	\$ -	-	\$ -	-
<b>2010</b>	Allen Health Care Services	\$ -	-	\$ 33	3	\$ 33	3
	First Choice Home Care, Inc. *	\$ -	-	\$ -	-	\$ -	-
	Pathways to Independent Living *	\$ -	-	\$ -	-	\$ -	-
	PHC Services, Ltd.	\$ 3,489	17	\$ -	-	\$ 3,489	17
	Premier Home Health Care Services, Inc.	\$ 156	3	\$ 5,056	51	\$ 5,212	54
	South Shore Home Health Services	\$ -	-	\$ 5,424	67	\$ 5,424	67
<b>2011</b>	Family Aides	\$ 1,159	15	\$ 1,612	24	\$ 2,771	39
	G.E.M. Health Care Agency	\$ -	-	\$ 3,507	59	\$ 3,507	59
	LI Center for Independent Living *	\$ -	-	\$ -	-	\$ -	-
	Long Beach Reach	\$ 989	1	\$ -	-	\$ 989	1
	Uniondale Community Center	\$ 1,468	2	\$ -	-	\$ 1,468	2
<b>2012</b>	A&B Healthcare Services, Inc. *	\$ -	-	\$ -	-	\$ -	-
	Cottage Home Care, Inc. *	\$ -	-	\$ -	-	\$ -	-
	Jzanus Home Care, Inc	\$ 8,039	100	\$ -	-	\$ 8,039	100
<b>2013</b>	Bethany House	\$ 10,055	14	\$ -	-	\$ 10,055	14
	Community Housing Innovations, Inc.	\$ 1,810	15	\$ -	-	\$ 1,810	15
	Glory House Recovery	\$ 1,523	1	\$ -	-	\$ 1,523	1
	Peace Valley Haven, Inc.	\$ 122,264	38	\$ -	-	\$ 122,264	38
<b>2014</b>	Peace Valley Haven, Inc.	\$ 16,735	15	\$ -	-	\$ 16,735	15
	Utopia Home Care Inc. *	\$ -	-	\$ -	-	\$ -	-

**Notes:**

\* These Living Wage Audit Reports noted no instances of wage or compensated time off underpayments to employees.

\*\* A list of employees covered under the living wage law, along with the necessary payroll and time and leave records, were not provided. Therefore, due to this scope limitation, we could not determine amounts owed or number of instances of non-compliance.

\*\*\* No records were provided, therefore we could not determine amounts owed or number of instances for this emergency shelter.

Continued on Next Page

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**Appendix A - Summary of Employee Underpayments Recovered 2008-2019**

<b>SUMMARY OF EMPLOYEE UNDERPAYMENTS IDENTIFIED LIVING WAGE AUDIT REPORTS ISSUED 2008 - 2019 (Continued)</b>							
<b>Year Audit Issued</b>	<b>Name of Auditee</b>	<b>Wages</b>		<b>Compensated Time Off</b>		<b>Totals</b>	
		<b>Dollars Recovered</b>	<b># of Instances of Non- Compliance</b>	<b>Dollars Recovered</b>	<b># of Instances of Non- Compliance</b>	<b>Total Dollars Recovered</b>	<b>Total # of Instances of Non- Compliance</b>
<b>2015</b>	Eager to Serve, Inc.	\$ 5,116	13	\$ 4,266	8	\$ 9,382	21
	microMEDIA®	\$ 461,466	38	\$ 3,846	14	\$ 465,312	52
<b>2016</b>	Armor Correctional Health Services, Inc.	\$ 10,398	30	\$ 889	7	\$ 11,287	37
<b>2017</b>	CH2M Hill Engineering, PA	\$ 292	2	\$ -	-	\$ 292	2
	Able Health Care Services, Inc	\$ 31,604	4	\$ 435	8	\$ 32,039	12
	Allen Health Care Services, Inc	\$ 74	1	\$ 256	7	\$ 330	8
	Gibbons, Esposito & Boyce Engineers, PC	\$ 14,661	8	\$ 2,424	8	\$ 17,085	16
	Dover Gourmet **	\$ -	-	\$ -	-	\$ -	-
<b>2018</b>	All Metro Health Care	\$ 100,167	165	\$ 123,073	152	\$ 223,240	317
<b>2019</b>	ADD/ADHD Housing Group Inc.	\$ 30,600	26	\$ 16,988	21	\$ 47,588	47
	Personal Touch Home Care of Long Island	\$ 1,390	9	\$ 7,509	47	\$ 8,899	56
	An Emergency Shelter Provider***	\$ -	-	\$ -	-	\$ -	-
<b>Totals:</b>		<b>\$ 1,066,267</b>	<b>877</b>	<b>\$ 352,465</b>	<b>986</b>	<b>\$ 1,418,732</b>	<b>1,863</b>

Notes:

\* These Living Wage Audit Reports noted no instances of wage or compensated time off underpayments to employees.

\*\* A list of employees covered under the living wage law, along with the necessary payroll and time and leave records, were not provided. Therefore, due to this scope limitation, we could not determine amounts owed or number of instances of non-compliance.

\*\*\* No records were provided, therefore we could not determine amounts owed or number of instances for this emergency shelter.



Office of the Nassau County Comptroller  
**Living Wage**

**IMPORTANT NOTICE FOR WORKERS**

The Nassau County Living Wage  
is  
**\$16.76 per hour**  
or  
**\$14.51 with health benefits**

*(Rate Effective August 1, 2019 through July 31, 2020)*

Employees who work 20 hours or more per week are entitled to receive paid days off including paid holidays. (Days off are earned based on hours worked.)

If you work for a County contractor or lessee, the Living Wage Law may apply to you. If you have any questions about your eligibility, or if you believe your employer is not complying with the Law, please contact:

**Office of the Nassau County Comptroller**  
**LIVING WAGE HOTLINE at (516) 571-WAGE**  
*(516-571-9243)*

You may also visit our website at [www.nassaucountyny.gov/LivingWage](http://www.nassaucountyny.gov/LivingWage) and click on Living Wage for more information, or to obtain a complaint form

**\*Complaints will remain confidential\***

You may also contact us by e-mail at [ReportItReformIt@nassaucountyny.gov](mailto:ReportItReformIt@nassaucountyny.gov)

Please Note that the Living Wage Law **DOES NOT** apply to the following:

- Contracts for child-care services, sleep away camp services for the disabled, pre-school services and early intervention services.
- Contracts in which services are incidental to the delivery of products, equipment or commodities.
- Inter-governmental contracts and financial assistance contracts for industrial development bonds, community development block grant loans and enterprise-zone incentives.
- Contracts for less than \$25,000.
- Employees under 18 years of age who are claimed as dependents for federal tax purposes and who are working as an after-school or summer employee.
- Trainees in a bona fide training program.
- Disabled employees covered by a current sub-minimum wage certificate issued to the employer by the United States Department of Labor or if he/she would be covered by such a certificate but for the fact that the employer is paying a wage equal to or higher than the minimum wage.
- Student interns working for Nassau County and student workers working for Nassau Community College.
- Medicaid funded assisted living program facilities that were providing services within Nassau County prior to 2006 and that continue to provide such services.



## Oficina del Contralor del Condado de

### AVISO IMPORTANTE PARA LOS TRABAJADORES

El Living Wage del Condado de Nassau  
es  
**\$16.76 por hora or**  
**\$14.51 con beneficios de salud**

*(Válido desde el 1 de Agosto de 2019 hasta el 31 de July de 2020)*

Los empleados que trabajan 20 horas o más por semana tienen derecho a recibir días libres pagados incluyendo días festivos. (Los días libres se obtienen en función de las horas trabajadas.)

El Living Wage es un salario mínimo que se aplica a los empleados que trabajan para un contratista o arrendatario del Condado. Si tiene alguna pregunta sobre su elegibilidad o si cree que su empleador no está cumpliendo con esta Ley, por favor contactar:

**Office of the Nassau County Comptroller**  
**LIVING WAGE HOTLINE: (516) 571-WAGE**  
**(516-571-9243)**

También puede visitar nuestro sitio web en [www.nassaucountyny.gov/LivingWage](http://www.nassaucountyny.gov/LivingWage) para más información o para obtener un formulario de queja.

**\* Las quejas se mantendrán confidencialmente \***

**Puede también contactarnos via e-mail:**

***ReportItReformIt@nassaucountyny.gov***

**Por favor tenga en cuenta que la Ley de Living Wage NO aplica a los siguientes:**

- Contratos para servicios de cuidado de niños, servicios de campamento para discapacitados, servicios preescolares y servicios de intervención temprana.
- Contratos en los cuales los servicios son incidentales a la entrega de productos, equipos, o mercancías.
- Contratos intergubernamentales y contratos de asistencia financiera para bonos de desarrollo industrial, préstamos de subvenciones en bloque para el desarrollo comunitario e incentivos para zonas empresariales.
- Contratos por menos de \$25,000.
- Empleados menores de 18 años que son reclamados como dependientes para propósitos de impuestos federales y que trabajan como empleados después de la escuela o en el verano.
- Aprendices en programas de entrenamiento de buena fe.
- Empleados discapacitados cubiertos por una certificación del salario sub-mínimo actual emitido al empleador por el Departamento del Trabajo de los Estados Unidos o si ellos pudieran estar cubierto por tal certificación, pero de hecho el empleador esta pagando un salario igual o mayor al salario mínimo actual.
- Estudiantes de pasantía que trabajan para el condado de Nassau y estudiantes trabajando para el Nassau Community College.
- Localidades para los programas de vivienda asistida financiadas por Medicaid que brindaban servicios dentro del condado de Nassau antes del 2006 y que continúan brindando dichos servicios.



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