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**DOI RECOMMENDS TERMINATION OF DOHMH INSPECTOR WHO GAVE PASSING GRADE TO
GREENWICH VILLAGE RESTAURANT, DESPITE INDICATIONS OF RAT INFESTATION**

-Recommendation is one of several included in DOI's report on its investigation of DOHMH's inspection of the restaurant-

ROSE GILL HEARN, Commissioner of the New York City Department of Investigation (DOI), announced today DOI's findings and recommendations from an investigation of the Department of Health and Mental Hygiene's ("DOHMH") February 22, 2007 inspection of the KFC-Taco Bell on Sixth Avenue in Greenwich Village. On February 23, a day after Thomas inspected the restaurant and gave it a passing grade, the news media ran stories showing rats scurrying around the restaurant.

DOI found that Cemone Thomas, the Public Health Sanitarian ("PHS") who inspected the restaurant, underreported the rodent-related findings and failed to take proper action at the KFC-Taco Bell, which constituted a "gross dereliction" of her duties.

DOI did not find any evidence to indicate Thomas failed to report the conditions at the restaurant because she received a bribe, gratuity or anything else of value. The evidence does suggest, however, that Thomas' shoddy inspection may have been motivated by a desire to avoid the additional time it would have taken for further enforcement steps.

Commissioner Rose Gill Hearn said, "After a thorough investigation, DOI found a disturbing lack of diligence on the part of the Public Health Sanitarian who inspected the restaurant, as well as a breakdown in the supervision of the inspector. The inspectors who go into the City's restaurants have the important task of ensuring the health and safety of the restaurant workers and patrons by citing all of the violations they observe. That responsibility cannot be taken lightly. The incomplete inspection in this case doesn't reflect the hard work of the majority of DOHMH inspectors in this City. Those who fail their responsibility must understand the risks can be serious and may include losing their job."

DOI's investigation of the February 22 inspection began after it learned that Thomas had inspected the KFC-Taco Bell the day before television news stories were broadcast showing rats in the restaurant. DOHMH Commissioner, Dr. Thomas R. Frieden, had also requested DOI conduct an independent investigation of the matter. DOI reviewed all available records related to Thomas' inspection of the restaurant, other inspection records and documents maintained by the DOHMH. DOI investigators also interviewed 10 witnesses, including Thomas.

Thomas' February 22 inspection of the restaurant was prompted by a constituent complaint to New York City Councilmember Maria del Carmen Arroyo, which was referred to DOHMH on January 22, 2007. It took a month for the DOHMH to inspect the restaurant because, initially, the location of the restaurant in the referral was incorrect and DOHMH had to obtain the correct address. In addition, the DOHMH had internal email problems delaying its response to the complaint. According to the referral, the constituent alleged that while eating at the KFC-Taco Bell in Greenwich Village, a rat fell from the ceiling. Between December 23, 2006 and February 12, 2007, the City also received a number of calls on its 311 complaint hotline about the KFC-Taco Bell, including that an employee of the restaurant had been bitten by a rat.

Thomas was given the responsibility of inspecting the restaurant on February 22. During her inspection, Thomas reported finding a hole in the ceiling of the restaurant and observing a total of about 87 rat droppings in three separate areas. However, in her testimony to DOI investigators, Thomas said she observed about 20 additional fresh rat droppings that she did not cite or include in her report. She told DOI investigators that she did not know why she failed to cite the additional droppings but later in the interview said she may have been "thrown off" because she was talking with a restaurant employee and "didn't remember to document" the droppings, according to DOI's report. Thomas claimed that she remembered this fourth set of droppings for the first time as she was being interviewed by DOI investigators. Significantly, two restaurant employees also told DOI that the inspector indicated she saw between six and eight total areas of rat droppings during the inspection. One of the employees testified that he was following Thomas around during the inspection, sweeping up the rat droppings. DOI found that Thomas' testimony under oath during the course of its investigation concerning what she observed at the KFC-Taco Bell during her inspection was not credible in a number of material respects.

Thomas called her office and reported her findings to Carol Feracho, a senior PHS, who relayed those findings to Thomas' supervisor, Marina Politis. DOI's investigation found that Thomas failed to inform her supervisors that she observed at least four separate areas of rat droppings. In total, Thomas, by her own admissions to DOI, observed well over 100 rat droppings, not 87 as she reported to her supervisors. Under DOHMH guidelines, and the scoring system for food service establishments, the presence of more than 100 rat droppings requires that the inspector fail the restaurant, an action that could result in the DOHMH closing a restaurant immediately, according to DOI's report.

DOI's investigation also found that after Politis was informed that Thomas observed 87 droppings, Politis instructed Thomas to give the restaurant a passing inspection and issue a notice of violation for the hole in the ceiling and the three areas where rat droppings were found. Politis did not instruct Thomas to conduct a full inspection of the establishment to determine if there were other signs of infestation. That would be routine in cases where preliminary findings suggest infestation and would have been the appropriate instruction, according to DOI's report. Politis also did not correctly interpret DOHMH's inspection scoring guidelines, which could have resulted in DOHMH failing the restaurant despite Thomas' incomplete findings. In addition, Politis did not inform or contact a manager for guidance on how to handle the situation, a standard practice at the DOHMH, according to DOI's report.

In sum, DOI's findings support that Thomas failed to document and cite violations that she observed and failed to report her actual observations to DOHMH during the inspection, which would likely have led to the closing of the KFC-Taco Bell. During the course of DOI's investigation, Thomas' testimony under oath about what she observed at the KFC-Taco Bell was disputed by other witnesses in a number of respects, in particular concerning the number of rat droppings she saw during the inspection. Finally, DOI's investigation found that Politis failed to properly supervise the inspection in light of the reported evidence of potential infestation.

In addition to Thomas' termination, DOI's investigation also found several other concerns and DOI recommends:

- The DOHMH consider simplifying the system used by inspectors to tally and quantify violations they see during inspections. DOI's investigation revealed that some of DOHMH's own employees, including those supervising inspections, do not fully grasp the current system and its application. DOI also recommends that DOHMH provide re-training to its staff in the use and application of the system.
- The DOHMH re-instruct all Public Health Sanitarians of the Bureau of Food Safety and Community Sanitation that they must accurately report and cite all violations observed.

- When inspections result in a notice of violation, (but not a failure of inspection), where the restaurant is permitted to continue operating without a scheduled follow-up Compliance Inspection, the DOHMH should consider establishing a system that requires restaurant operators to submit verification that they have corrected the problems.
- When an establishment *fails* an inspection due to uncorrected violations, but is permitted to remain open with a scheduled follow-up Compliance Inspection, the DOHMH should consider posting a notice of violation in a visible location at the restaurant during the time period that it has failed inspection so potential customers can decide whether they want to patronize the establishment. A notice of violation should only be posted in those cases involving serious violations.

Commissioner Gill Hearn thanks DOHMH Commissioner Dr. Thomas Frieden for his and his staff's cooperation.

The investigation was conducted by DOI's Office of the Inspector General for the Department of Health and Mental Hygiene, under the supervision of Inspector General Christopher S. Staackmann and members of his staff, including Deputy Inspector General Stephan Zander, Assistant Inspector General Diane Delaney, Special Investigator John Eleftheriades and Confidential Investigator Indira Jhurani.

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