



**TESTIMONY OF
ANTHONY CROWELL, COUNSELOR TO THE MAYOR,
ON INTRO. NO. 1022,
BEFORE THE NEW YORK CITY COUNCIL
COMMITTEE ON GOVERNMENTAL OPERATIONS
CONCERNING A PANEL FOR REGULATORY REVIEW
JUNE 26, 2009**

Good afternoon Chair Sears and members of the Committee. I am Anthony Crowell, Counselor to Mayor Michael R. Bloomberg, and am here on behalf of the Administration to testify in support of Intro. No. 1022. Joining me today is Sami Naim, Assistant Counselor to the Mayor.

Let me first say that the Bloomberg Administration remains steadfast in its commitment to small businesses. Indeed, small businesses are critical engines of our economy, employing half of all New Yorkers who work in the private sector. Small businesses are also important contributors to our quality of life, holding neighborhoods together and instilling a sense of community.

That is why our Five-Borough Economic Opportunity Plan includes ways to strengthen and provide the tools that small businesses need in order to succeed. Some of these tools include:

- ***NYC Business Express*** a web-based resource for business owners that serves as a one-stop portal for City permits and licenses needed to open and operate a business;
- ***Workforce 1*** an initiative that helps business owners navigate the labor market using a customized recruitment approach tailored to a company's specific needs. Last year, we placed more than 17,000 employees with over 400 businesses; and this year - despite the downturn - we've already reached more than 5,000 job placements, and are on target to place a record 20,000 by the end of 2009.
- ***NYC Training Grants*** a grant program that provides financial incentives for employers to invest in their workforce and provide them with the latest training. Over the last year, \$3 million in grants have been issued to more than 30 employers, training almost 2,000 workers. And in the next year,

we expect to contribute an additional \$4.5 million to employer-funded training programs.

- **NYC Capital Access Loan Program** a loan program that provides micro and small businesses access to financing to help keep their doors open and meet their payroll. The program will generate an estimated \$13 million in loans and help roughly 400 businesses and more than 700 employees.
- And **NYC Business Solutions** a suite of services offered by the Department of Small Business Services to help businesses start, operate, and expand. The services are provided at no cost and address the needs of entrepreneurs and businesses of any size and at any stage. Last year, NYC Business Solutions helped 170 clients secure over \$11.8 million in financing, and over 400 businesses hire over 5,000 employees.

We are also working with the City Council on a number of initiatives to help small businesses. For example, our Mayor's Office of Operations is pursuing a project proposed by Speaker Quinn and Council Members Comrie, Felder, Gennaro, and White to transform and modernize the Environmental Control Board, cutting red tape while making it easier for thousands of small businesses to comply with the law.

But to preserve and build upon the progress that we are making, we must do more than provide the tools necessary for small businesses to succeed. We must also create an environment that facilitates their growth. This requires us to look at the regulatory climate in which businesses operate – both the rules themselves, the processes by which they are adopted, the mandates they place on businesses, and the ways in which agencies enforce them.

First, to encourage compliance and avoid unwanted surprises, we must ensure that business owners have clarity on how regulations, for instance consumer protection regulations, apply to them. A lack of clarity can result in otherwise avoidable enforcement actions and subsequent adjudications in our tribunals, which could impact a business owner's limited resources.

Second, we must ensure that regulations impacting small businesses continue to serve a relevant and ongoing public interest. At the time regulations are enacted, they are intended to address pressing concerns, particularly our health or safety. However, over time, agency rules, and the laws that mandate them, could potentially fall out of step with current conditions and circumstances. If that is the case, then we need to identify outdated or outmoded laws and regulations, and update them to reflect modern day issues and concerns.

Third, we must look at the process by which agencies adopt rules, known as CAPA or the City Administrative Procedure Act, which is set forth in Chapter 45 of the City Charter. Such a review should identify opportunities to enhance public participation and engage stakeholders throughout the rulemaking process. A review of the process

should also look to encourage outcomes in rulemaking that are operationally sound, easy to understand, and reasonably cost-efficient to the extent that any of them are falling short of that goal.

Indeed; we believe that a very focused, but objective, coordinated legal, operational, and fiscal analysis of our regulatory system is the most efficient way to accomplish all three goals. The bill before you today would formally establish a panel to carry out such a review, and require City agencies to provide assistance for this purpose when needed.

The panel would solicit feedback from the public, both businesses and consumers, to determine which regulatory issues should be given primary focus. The panel would then analyze these issues, and, where appropriate, develop legal, operational, or policy recommendations to ensure that our regulatory system works well and does not create impediments to economic productivity. In making its recommendations, the panel would take into account issues of transparency, accessibility, stakeholder participation, public benefit, fiscal impact, customer service, and the use of modern technology.

As you know, both the Mayor and the Speaker called for a review of our regulatory system in their State of the City addresses. Recognizing our shared goals on this issue, the Mayor's Office and the Council agreed to work together on this important initiative and serve on the panel together. We thank the Council for their collaboration, and look forward to tackling this important issue.

Thank you, and I will be happy to answer any questions you may have.

Christine Serrano Glassner
Region II Advocate
U.S. Small Business Administration
before the
The Council of the City of New York,
Committee on Government Operations
June 26, 2009

Chairwoman Sears, and members of the Government Operations Committee, my name is Christine Serrano Glassner, and I am the Regional Advocate for the U.S. Small Business Administration's Office of Advocacy in Region II. It is an honor for me to speak before you today on this important proposed bill, Number 1022.

As the Regional Advocate for Region II, my job is to be the direct link between state and local governments, small business groups, small business owners and employees, and the U.S. Office of Advocacy, based in Washington, DC. My chief focus is to help identify the regulatory concerns of small business by monitoring the impact of federal and state policies at the local level. It is my goal to see that programs and policies which encourage fair regulatory treatment of small business are developed and implemented to ensure future growth and prosperity.

The Office of Advocacy monitors federal agency compliance with the Regulatory Flexibility Act -- the RFA -- in order to reduce the regulatory burden on small business. As my office's research demonstrates, small businesses with less than 20 employees spend over \$7500 dollars each year per employee to comply with federal regulations compared with just over \$5000 dollars spent by firms with 500 or more employees.¹ That is a 45 percent greater financial burden faced by small businesses than their larger counterparts. By working with federal agencies to implement the RFA, the Office of Advocacy saved small businesses nationwide over 7 billion in foregone regulatory costs in 2007.

Excessive regulatory burden is a very real problem for small businesses right here in New York City, and it has a negative impact on business stability, growth and expansion, economic development, and tax revenues to the City and State. Under the federal Regulatory Flexibility Act, Advocacy has shown time and again that regulations can be reduced and the economy improved without sacrificing important goals such as environmental quality, workplace and public safety, as well as quality of life.

Any of our small business organizations represented here today knows that the regulatory burdens their members are faced with are becoming more and more apparent as this challenged economy strains their bottom line; the cost of doing business in this City has risen while the profits have dropped. Increasing permit fees, excessive permit processes, complicated compliance requirements determined by New York City departments and agencies are all in addition to federal and state regulatory requirements that the businesses must address. Sensitizing government regulators to how their

¹ W. Mark Crane, "The Impact of Regulatory Costs on Small Firms" (2005), available at <http://www.sba.gov/advo/research/rs264tot.pdf>.

mandates are written can have a detrimental affect to the small employer community is an essential step in helping repair and sustain New York City's small business economy.

The value of small business' contributions to the City's economy is becoming clearer as we have seen the financial sector downsize this past year. Small business owners these days labor over every financial and operational decision they make in order to remain in business. By introducing this legislation, the City of New York is clearly leading the way to improving their regulatory and governmental environment and how it impacts their small business community. It is this governmental consideration for small businesses that will enable the businesses to operate in a responsible manner, while allowing them to continue being a vital member of their New York City community.

After thorough review of No. 1022 the following comments are offered for consideration:

- 1.) Consistent use of the term "small business" throughout this legislation when referencing business or local businesses.
- 2.) Should the Panel chose to establish an advisory group they should consider including small business owners who would be impacted by regulations that City agencies establish as "expert" representatives from outside City government.

There is no question that small business is the backbone of the economy in many neighborhoods in New York City. The New York City, City Council Committee on Government Operations should be commended in taking this first step towards creating a friendlier regulatory environment in the City for small business, which will help entrepreneurs create businesses, will increase competition, and will promote job creation at a time when New York City needs more jobs for residents and an easier path to business ownership.

Thank you for this opportunity to speak before you today.

**Testimony by
Chris Keeley, Associate Director of Common Cause/New York
to the
New York City Council Committee on Governmental Operations
Re: Establishment of a Panel on Regulatory Review
June 26, 2009**

Good morning Chair Sears and members of the Committee on Governmental Operations. Thank you for the opportunity to speak today. My name is Chris Keeley, and I am the Associate Director of Common Cause/New York. Common Cause/NY is a non-partisan, non-profit citizens' lobby and a leading force in the battle for honest and accountable government. Common Cause fights to strengthen public participation and faith in our institutions of self-government and to ensure that government and political processes serve the general interest, and not simply the special interests. We have consistently spoken out on the need for greater government transparency and have advocated for regulatory reform throughout New York State.

Common Cause/New York supports effective and efficient government, and a regulatory regime that is responsive to the needs of New Yorkers. For that reason, we support the creation of a Panel on Regulatory Review as an opportunity for experts and the public to come together and consider the impacts of New York City's regulations on businesses, individuals, and organizations in an open and participatory way.

To ensure that the regulatory review process provides opportunity for all New Yorkers to participate in the review process, Common Cause/New York offers seven recommendations.

- 1. The Panel should include representatives from the Public Advocate and Comptroller's offices, as well as a member of the public.**

As the public's ombudsman and watchdog, the Public Advocate should be empowered to appoint one member to the Panel. Likewise, the Comptroller, as the City's top financial expert, should be empowered to appoint one member to the Panel. The chair of the Panel, which is to be appointed by the Mayor, should be a member of the public who is a regulatory expert qualified to serve on the board by virtue of their education, training, or experience in the legislative, judicial, administrative, business, legal or academic field, and who has experience working with consumers and homeowners, particularly in low-income communities, on issues affected by the City's regulations.

In addition, any advisory groups established by the Panel under Int. No. 1022 should be required to contain members of the public.

- 2. Public health, safety and welfare should be the primary consideration for the Panel as it reviews regulations. The Council's original legislative intent underlying given regulations should be considered.**

Under the current legislation, the Panel will consider and explore the following issues when making recommendations: public benefit; fiscal impact; customer service impact; and alternative legal or administrative mechanisms, such as the use of technology or more strategic inter-agency coordination.

Public benefit as specified in Section 2b of the legislation should be understood to encompass protection of the *public health, safety and welfare* and these considerations must be the priority for this Panel if it is to ensure that government regulations are responsive to the needs of all New Yorkers.

We urge the Council to direct the Panel to consider the underlying legislative intent from which given regulations were originally promulgated. The Panel should be cautioned against using any approach or analysis as a tool to place business interests above public health, safety, and welfare, such as the way cost-benefit analysis is oftentimes used in regulatory review scenarios.

3. The Panel should hold public hearings to solicit input from the public and all Panel meetings should be open to the public and subject to the Open Meetings Laws.

It is critical that the public play an active role in this review of the city's regulatory regime. The Panel should host public hearings as a way to solicit ideas from the public both regarding which rules should be targeted for review, and how those rules would best be improved. The Panel should be subject to the Open Meeting Law and all meetings held should be open to members of the public.

4. Both existing and proposed regulations should be available online for public comment throughout the entire review process.

The recent focus by the Obama Administration on government transparency and accountability provides us with a number of useful models for how to harness and incorporate public opinion into public policy. Particularly, the Administration has placed a focus on technology to create a dialogue with the public. For example, the Administration created the "National Dialogue," an online initiative that allows the public to share suggestions for how to maximize the convenience and effectiveness of the federal website that will be tracking funds disbursed through the American Recovery and Reinvestment Act (the stimulus package). Online participants could vote on the ideas and comment on each other's suggestions, allowing for public discourse on the best way to further develop the website.

In order to strengthen the role of the public throughout this process, a similar online forum should be created and actively promoted as soon as the Panel is formed in order to bring the public into the process of identifying those agency rules that will be given primary focus. Similarly, "bill markup" technology such as has been utilized recently on the website of the New York State Senate, or a "wiki" in which the public can submit recommendations directly, could be utilized to bring the public into the process as specific regulations are identified and considered.

Using such technology furthers the Charter mandate under Section 1043 that all agencies shall make available “for public inspection all written comments received in response to each notice of rulemaking.”

- 5. A preliminary report of the findings and recommendations of the Panel should be available online for public consideration and discussion. The Council should hold a hearing on this draft report.**

Int. 1022 requires the Panel to offer its initial finding and recommendations to the Mayor and the Council Speaker by December 31, 2009. At least 45 days in advance of those findings and recommendations being offered to the Mayor and Speaker, the Panel should be required to offer its findings for public review and comment. The Council should hold a hearing on the preliminary report to solicit the insight of members of the public on the proposed recommendations.

- 6. The Panel should explore ways that the public can be brought more actively into the ongoing process of regulatory review.**

In its drafts and final report, the Panel should make recommendations on how to encourage and facilitate ongoing public input regarding the regulatory review process. User-friendly online tools, well-designed public education documents explaining the City’s Administrative Procedure Act in plain language, centralized listings of public participation opportunities (public hearing comment periods, etc.), and expanding the level of background information provided with regulatory proposals are just a few ways the City can further engage members of the public.

- 7. The Council should evaluate the impacts of the recommended changes.**

The Council should hold a hearing one year after the finalization of the Panel’s report in order to examine the implementation and real-life impacts of the regulatory changes recommended by the Panel. An additional hearing should be held three years after the report is submitted to understand the long-term effect of the rules changes.

We urge the Council to incorporate these recommendations in order to ensure the Panel on Regulatory Review is utilized as an opportunity to bring the public into the process so that the New York City government is truly responsive to their needs.

Thank you for the opportunity to speak before you today. We look forward to working with the Committee to ensure a regulatory review process that is open, participatory and responsive to the needs of all New Yorkers.

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Address: 155 Ave of COLUMBIA, 47th FL

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Name: CHRISTINE SERRANO GLASSNER

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I represent: US SMALL BUSINESS ADMIN, OFFICE OF ADVOCACY

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