

PATRICK A. WEHLE
ASSISTANT COMMISSIONER FOR EXTERNAL AFFAIRS
NEW YORK CITY DEPARTMENT OF BUILDINGS
HEARING BEFORE THE NEW YORK CITY COUNCIL
COMMITTEE ON HOUSING & BUILDINGS

October 25, 2017

Good afternoon, Chair Williams and members of the Housing & Buildings Committee. I am Patrick Wehle, Assistant Commissioner for External Affairs at the New York City Department of Buildings (“the Department”). I am pleased to be here to offer testimony on the bills before the Committee today, Introductory Numbers 106, 1241 and 1389.

Introductory Number 106 would require that a sign be posted at inaccessible building entrances indicating that a portable ramp is available when such a ramp exists.

Since 2008, the New York City Building Code (“the Code”) has required that all public entrances be permanently accessible to persons with physical disabilities. Thus, buildings constructed under the 2008 and more recent 2014 Codes are already required to be accessible and would not be permitted to utilize portable ramps as a means of compliance with the Code’s accessibility requirements. The accessibility requirements of the Code also apply to buildings built before the 2008 version of the Code took effect whenever such buildings undertake certain alterations or change their use or occupancy. Therefore, buildings constructed after the 2008 Code took effect and pre-2008 Code buildings that undertake certain alterations or change their use or occupancy, thereby triggering the accessibility requirements of the Code, must be permanently accessible and are not permitted to utilize portable ramps. Additionally, the

Americans with Disabilities Act requires that places of public accommodation remove barriers to access even when no alterations or renovations to such places are planned. The Department supports this measure as it would make it easier for persons with disabilities to access buildings that are not permanently accessible. This bill should be amended to specify that the requirements of the bill only apply to buildings that are not otherwise required to be accessible by the Code or any other applicable law or rule.

Introductory Number 1241 would require that, in newly constructed assembly and mercantile occupancies, both male and female occupants have access to at least one diaper changing station on each floor containing a public restroom. The Department is supportive of this measure as it would ensure that these types of occupancies, which include places like movie theatres and department stores, are family-friendly. The Department recommends that the bill be amended to reference ICC A117.1, Section 603.5, which states the technical requirements for installing diaper changing stations.

Introductory Number 1389 would:

- Require the Department to direct the Department of Housing Preservation and Development (“HPD”), the Department of Citywide Administrative Services (“DCAS”), or another agency, to perform or arrange for the performance of the correction of unsafe conditions of exterior walls where such conditions have not been corrected within 90 days, or 180 days if the Department grants an extension, such as through an emergency repair program;
- Require that sidewalk sheds be removed if the Department determines that there has been no work at a site for seven days;

- Require barriers placed in a roadway to prohibit vehicular traffic be removed if there has been no work for a period of one or more hours;
- Require that contractor sheds or offices not be placed on a street, unless placement on the construction site is impracticable, and such placement on the street complies with Department of Transportation (“DOT”) rules; and
- Require that temporary walkways for the public and barriers placed in a roadway to prohibit vehicular traffic be removed within seven days or one hour, respectively, if the Department determines that there has been no work at a site.

In order to ensure the safety and structural stability of buildings, owners must comply with Local Law 11 of 1998, which requires the inspection of the exterior walls of buildings which are greater than six stories in height. Owners of more than 14,000 buildings must submit the results of such inspections in five-year cycles. Following an inspection, which is conducted by a private qualified registered design professional, an inspector assigns one of three categories to the exterior walls of a building: (i) safe, which means that there are no problems and that the exterior walls are in good condition; (ii) safe with a repair and maintenance program, which means that the building owner will need to conduct repairs to keep the façade from deteriorating; and (iii) unsafe, which means that there are problems or defects present that pose a threat to public safety.

In Cycle 7 of the Façade Inspection Safety Program, which ended in 2015, and which was the last five-year cycle that was completed, there were 975 buildings in the “unsafe” category. So far, in Cycle 8, which will end in 2020, there are already 912 buildings in the “unsafe” category. Under this bill, these buildings would be referred to HPD or DCAS for emergency repairs after 90 or 180 days if they have not completed repairs. While the Department does not track the cost to owners to undertake façade repairs, anecdotally, we have heard that the cost is significant. In

some cases, owners opt to postpone façade repairs and simply renew permits for their sidewalk sheds, which protect the public, because it is more cost-effective to do so. While the Department agrees that there are sidewalk sheds in place for a period of time longer than it reasonably takes to make the façade safe, we do not support shifting the burden of conducting façade repairs from owners to the City. From the Department's perspective, even buildings categorized as "unsafe" do not pose a safety risk to the public once sidewalk sheds are erected. The City does not have a program to address façade repair, and more importantly, lacks the significant resources necessary to fund it. The City should continue to prioritize its limited resources to address immediately hazardous conditions.

Turning now to the issue of sidewalk sheds. As of yesterday, there were 8,843 active sidewalk shed permits city-wide. Nearly 25% of sidewalk sheds result from Local Law 11 façade inspections, with another 25% resulting from building construction and the remaining 50% resulting from general maintenance. The primary purpose of a sidewalk shed is to protect the public. For that reason, we do not support the provision in the bill that requires that sidewalk sheds be removed within a seven day timeframe if no work has occurred at a site. The bill provides an exception for keeping the shed in place if removing it would pose a risk to pedestrians. In nearly every case that exception would apply. If a sidewalk shed is up at a site it is because the owner of such site has not proved to the Department's satisfaction that the building no longer poses a safety risk to the public. From our perspective, it benefits the public for the Department to assume that a safety risk is still present until a building owner proves otherwise.

The Department understands that sidewalk sheds can have an adverse impact on quality of life for building residents and for business owners and would like to work with our partner agencies

and the City Council to mitigate those issues. In fact, last year, the Department performed a sweep of all 7,700 buildings in the City with active sidewalk shed permits. As a result of that sweep, the Department issued hundreds of violations to address quality-of-life issues associated with sidewalk sheds, such as accumulated garbage, dim or missing lighting, graffiti, and so forth – in an attempt to make their presence more tolerable for New Yorkers who have to live with them on a daily basis. The Department determined that 98% of sidewalk sheds with active permits needed to remain in place to keep the public safe.

Finally, the Department believes that it is outside of our purview to require that contractor sheds not be placed on a street unless such placement complies with DOT rules and to ensure that temporary walkways and barriers placed in roadways be removed in the timeframes laid out in the bill. Currently, DOT regulates the placement of contractor sheds on a street, temporary pedestrian walkways and the temporary closing of roadways. Additionally, the permits issued by DOT can last thirty, sixty, or ninety days, renewable as needed. Therefore, the timeframes laid out in the bill would directly conflict with DOT's permitting scheme.

Thank you for your attention and opportunity to testify before you today. I welcome any questions you may have.

MEMORANDUM OF OPPOSITION

INTRO NO: 1389

SUBJECT: A Local Law to amend the administrative code of the city of New York, in relation to removing construction-related equipment

SUMMARY: Construction-related equipment such as scaffolds, sheds and walkways will be removed after certain periods of observed inactivity

SPONSORS: Kallos, Rodriguez, Koslowitz

DATE: October 25, 2017

The Real Estate Board of New York (REBNY), representing over 17,000 owners, developers, managers and brokers of real property in New York City recognizes that temporary scaffolds, sheds and public walkways often pose inconveniences to the public. However, this bill will only exacerbate the public's inconvenience with repeated re-installations of walkways, traffic barriers and other construction-related equipment.

The bill, while well-intentioned, will only prolong construction activity with its requirement to remove sidewalk sheds and other construction-related equipment upon the observed inactivity of a construction site for as little as a few hours.

REBNY understands that sidewalk sheds are eyesores but they are necessary to protect the public during Local Law 11 façade inspections. Observed inactivity on those sites could be due for a number of reasons. Most common are delays in receiving DOB permits or inspections. DOB will need to be significantly resourced to insure timely plan reviews and inspections to comply with this bill. In other instances, building owners – most significantly, condos and coops – need to raise funds through self-assessments or market financing to continue or start the work. Observed inactivity at sites with sidewalk sheds does not necessarily denote that these sites have been forgotten or neglected. There are often building owners and managers working very hard to address the situation.

The bill also imposes immediately and major hazardous violations upon sites that fail to provide barriers, signs or flagperson on sites that are “over, on, or in close proximity to a highway street, or similar public way.” However, for penalties as severe as an immediately and/or major hazardous violation which could lead to stop work orders, there is no guidance as to the proximity limitations to such highway streets or public ways. Moreover, the imposition of such equipment or personnel may be contrary to Department of Transportation requirements on certain roadways. The current practice of DOB approving site safety plans that take into account safety implications of nearby roadways already fulfills the goal that this bill purportedly aims to achieve.

For these reasons, **REBNY opposes Int. No. 1389.**



FOR THE RECORD

RENT STABILIZATION ASSOCIATION • 123 William Street • New York, NY 10038

Memorandum In Opposition

INTRO. 1389

This memorandum is presented to the New York City Council on behalf of the 25,000 owners and managers that are members of RSA who collectively manage over 1 million units of housing. Sidewalk sheds and covered walkways are a fact of life in New York City as a result of the various safety laws enacted over the last 40 years. RSA recognizes that these structures are a nuisance to pedestrians and harmful to businesses but safety must always come first. RSA is opposed to Intro. 1389 because if enacted would lead to more sidewalk disruption and jeopardize the safety of the people using the sidewalks in front of buildings with ongoing work.

Owners and managers do not want to leave sidewalk sheds up for any period of time longer than necessary. They are costly and create minor inconveniences for everyone involved. However there are legitimate reasons why some bridgework stays up for long periods of time. Sometimes Local Law 11 inspections that require bridgework will clearly denote that remedial work will be necessary. However, engineers must first prepare a detailed report, prepare a scope of work, file plans with DOB and then line up financing and a contractor. To erect, disassemble, and re-erect bridgework often makes no sense and would be prohibitively costly to residents of the building. It would also be irresponsible and put the public at risk knowing there are hazards. In fact DOB rules prohibit the disassembly of a sidewalk shed where there is a known hazard. What may appear to be a period of inactivity does not mean that owners and managers have forgotten about a sidewalk shed.

Facade work can easily cost hundreds of thousands or millions of dollars. Many buildings are often forced to refinance the property to comply. Adding additional cost and unsafe practices is not the answer. For the above reasons RSA is opposed to Intro. 1389.

NYC Council Committee on Housing and Buildings
Wednesday, October 25, 2017 at 1PM
250 Broadway, 16th Floor Committee Room, New York, NY 10007
Comments of the NYC Hospitality Alliance on:

Int. 1389-2016: A Local Law to amend the administrative code of the city of New York and the New York city building code, in relation to removing construction-related equipment.

My name is Andrew Rigie, and I am the Executive Director of the New York City Hospitality Alliance, a not-for-profit trade association that represents restaurants and nightlife establishments throughout the five boroughs. Scaffolding that stays constructed for an excessive amount of time has unnecessary and negative impacted many of these establishments. That is why we are testifying in support of Int.1389-2016.

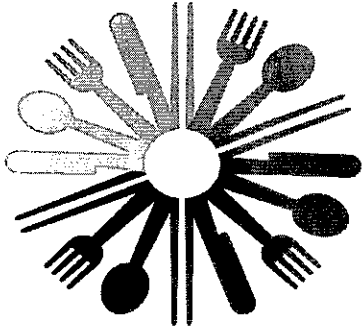
It's no secret that scaffolding plays an important role in protecting people from falling debris from building construction. But it's also no secret that scaffolding that is left up for extended periods of time has a devastating impact on restaurants and bars, ranging from a significant loss of business, to the reduction of employee hours and layoffs, to being a major factor in some businesses closing.

Last year, The Alliance conducted a survey of our membership, in partnership with the NYC Department of Small Business Services inquiring about the impact of scaffolding on their businesses. The responses demonstrated that when scaffolding is left up unnecessarily, it too often poses a significant and sometimes existential threat to our city's restaurants and the jobs of New Yorkers.

This is why we support Council Member Ben Kallos' effort to pass legislation that would regulate the length of time in which scaffolding may stay constructed, helping to mitigate unnecessary scaffolding that stays up for many months or in some cases years beyond it's intended purpose. In addition to the proposal detailed in Int.1389, we suggest that the city establish a vehicle for which a business may file a complaint if they believe scaffolding constructed in front of their business is in violation of this law. Finally, we are generally supportive of other ideas that will force scaffolding to come down in a timely manner.

Respectfully submitted,

Andrew Rigie
Executive Director
arigie@theNYCalliance.org



NEW YORK
STATE
RESTAURANT
ASSOCIATION

In support of 1389 – Imposing time limits for scaffolding to remain in place on city sidewalks

Good afternoon. My name is Kevin Dugan and I am the Director of Government Affairs for the New York State Restaurant Association, a trade group that represents food and beverage establishments both in New York City and throughout New York State. The Association is the largest hospitality trade association in the State of New York and it has advocated on behalf of its members for more than 80 years. Our members represent one of the largest constituencies regulated by the City as nearly every agency regulates restaurants in one aspect or another.

Restaurants employ hundreds of thousands of New Yorkers and are a backbone of the tourism trade here in New York City. To ensure the continued viability of the restaurant and hospitality industry, New York City must have sensible and reasonable regulations that protect consumers and the restaurants that serve them.

I am here today to voice the industry's support for intro 1389, and applaud Councilman Kallos for bringing forth this important piece of legislation. The bars and restaurants that call this great city home face some of the most stringent regulations and steepest costs of any industry in the United States. Rents are higher than ever before and labor costs continue to grow every year. Running a restaurant is harder than ever and every single dollar has taken on an unprecedented level of importance and it is vital that the City of New York is taking the needed steps to ease some of this pressure on the industry.

For year's scaffolding has been a significant problem for restaurants in New York. Often times these immense structures go up, shielding storefronts from pedestrians and significantly hurting a restaurant's ability to attract walk up business. For example, a member restaurant in our Association has estimated that scaffolding cut into his business upwards of 30 percent out in front of his restaurant in Times Square. He was able to ride out the storm as it were but many restaurants are not. It is harder than ever before to recover from a bad month and many eateries are simply not able to survive when their business experiences a loss like this.

The most frustrating aspect of this for many owners is the fact that they have little to no control over this process. The landlords are often the ones who work with the scaffolding companies on what type of work is getting done and how long these structures may be in place. Restaurants and other businesses are at the mercy of these companies and complaints almost always fall on deaf ears as there is no impetus, financial or otherwise, for the landlords to ensure that this work

is completed in a timely fashion. We need a process in place that allows our industry to keep those behind the scaffolding agreements honest and that local restaurants are not being taken advantage of.

It's rare that our organization calls for more regulation and greater government oversight but in this instance it is sorely needed. We need your help when monitoring when scaffolding has been up for too long without any work being done. It is a financial killer and a complaint that I hear constantly from our membership. At the moment, I simply have to encourage these members to open a dialogue with their building owners about the issue as that is their only form of recourse. I hopeful that with this legislation we are on a different path. One that allows the restaurant industry to voice their concerns on this important issue and that the City will listen and take action.

Over the last few years at both the State and City levels, the restaurant industry has seen a number of bills passed that have dramatically affected their ability to make ends meet. Please, we need your help on this one because simply put, the restaurant industry in New York City desperately needs this.

In conclusion, the New York State Restaurant Association supports Int. 1389 and urges the council to look for further ways to ensure that scaffolding remains up for as short a period of time as possible. We look forward to working with the Council on further legislation in this area.

Respectfully Submitted,

Kevin Dugan

Director of Government Affairs

New York State Restaurant Association

1001 Avenue of the Americas, 3rd Floor

New York, New York 10018

212-398-9160

51 Walker Condominium Board
51 Walker Street
New York, NY 10013

New York, October 25, 2017

TESTIMONY

Re: Public hearing of the New York City Council Committee on Housing and Buildings re. Introduction 1389 of 2016, legislation which imposes time limits for scaffolding to remain in place on city sidewalks.

We are residents and condominium board members of 51 Walker Street. Our building neighbors 49 Walker Street which has erected sidewalk shed scaffolding in November 2008 due to a deteriorating facade. The scaffolding has been up since then with no facade repair work having been done to the building. Over the years, our building's management company has been inquiring regularly about when repair work would start and residents have filed complaints to 311, however, even after the scaffold permit expired several times, the owner has been able to renew it year after year. The current permit expires May 2018.

Attached please find recent photos (pages 2 & 3). Also attached is an overview of the complaints filed, link: <http://a810-bisweb.nyc.gov/bisweb/ComplaintsByAddressServlet?requestid=3&allbin=1075671>

When we read about Mr. Kallos' legislation in December 2016, Derek Kuhl, president of the 51 Walker St. condo board, wrote a letter to City Councilwoman Margaret S. Chin who represents our district to support Mr. the bill (also attached).

Aside from being an eyesore for the entire street, as you can see in the photos the scaffolding extends partly in front of 51 Walker St. and impedes entry. When bicycles are locked there they further block entry to our door.

The shed also makes access to the 2nd floor apartment building possible from the outside as the scaffolding can be easily climbed.

People gather to sit, smoke and drink there regularly.

The scaffolding's condition has been deteriorating and with high winds pieces have come loose in the past.

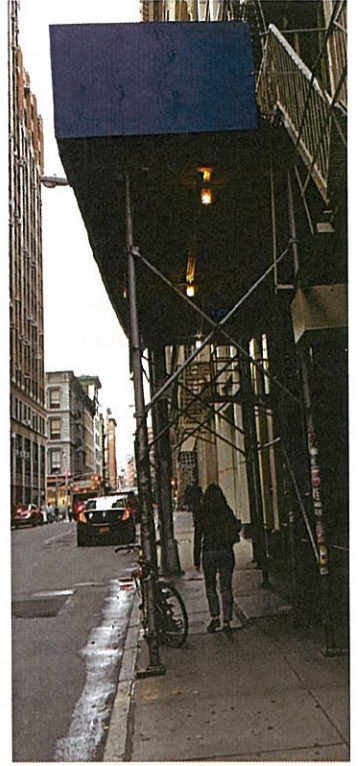
Upon a recent inquiry with a representative of 49 Walker St. we were again told that repair work on the building will start soon, however, due to the past experience we find this unlikely and expect that the permit will again be renewed to avoid the costlier repair work.

49 Walker St. is a luxury rental building with the most current 3 BR apartment rented for \$13,750 (July 2017): https://streeteasy.com/building/49-walker-street-manhattan#tab_building_detail=3

Sincerely,



Belgies Anan, Derek Kuhl & Michael Levy
Representing the 51 Walker Condominium Board



51 Walker St. left of 49 Walker St. (shed)



51 Walker St. entry



bike locked to 49 Walker scaffolding



49 Walker facade



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NYC Department of Buildings
Complaints By Address

Click [here](#) for information on how to remove a Stop Work Order from your property

Page: 1 of 1

Premises: 49 WALKER STREET MANHATTAN
17 Total Complaints

BIN: 1075671 Block: 193 Lot: 33

[View Vacate Order Complaints](#) [View SWO Complaints](#)

Looking for a list of complaint [category codes](#) or [disposition codes](#)?
(Adobe Acrobat Reader required)

Complaint Number	Address	Date Entered	Category	Inspection Date	Disposition	Status
1462665	49 WALKER STREET	10/11/2017	23			ACT
1391784	49 WALKER STREET	03/23/2015	23	03/26/2015	A8	RES
	SHED AND SUPPORTED SCAFFOLD THAT SEEMS LOOSE AND WORKERS HAVE NOT BEEN AT SITE FOR 2 YEARS.. NEED TO CHECK SHED AND SCAFFOLD FOR SAFETY					
1360163	49 WALKER STREET	11/11/2013	23	11/12/2013	I2	RES
	SCAFFOLD IS UNSAFE PEOPLE CAN USE IT TO GET IN APTS					
1344278	49 WALKER STREET	03/05/2013	10	03/05/2013	A8	RES
	RATAINING WALL IN THE BACK OF BUILDING FACING WEST IS COLLAPSING INTO CLR'S COURTYARD,TO GAIN ACCESS FOR INSPECTION YOU HAVE TO GO THROUGH 51 WALKER ST UNIT 1A					
1344277	49 WALKER STREET	03/05/2013	73	03/07/2013	H1	RES
	COLLAPSING WALL IN THE BACK OF PROPERTY,IT THE WEST FACING WALL, COLLAPSING INTO COURTYARD OF 51 WALKER ST,TO GAIN ACCESS INSPECTORS HAVE TO GO THROUGH 51 WALKER ST UNIT 1A					
1344084	49 WALKER STREET	03/01/2013	10	03/02/2013	I2	RES
	THE EXTERIOR WEST WALL OF BUILDING TOWARD WHITE STREET,HAS LARGE PIECES FALLING OFF, (STUCKO,CEMENT & DIRT) THAT FALL ONTO NEIGHBORING PATIO.WALL IS BULGING,GAPS AND CRACKS ON WALL					
1343907	49 WALKER STREET	02/26/2013	84	09/12/2013	H1	RES
	THE FACADE IN THE REAR OF ABOVE ADDRESS IS FALLING. BRICK WALL EXPOSED STUCCO IS FALLING AFFECTING NEIGHBORING PROPERTY. ACCESS THROUGH NEIGHBORING PROPERTY					
1341665	49 WALKER STREET	01/20/2013	23	01/22/2013	I2	RES
	SCAFFOLD IS BREAKING APART/DROPPING PIECES ON THE SIDEWALK DDURING WIND. SCAFFOLD PERMIT IS ALSO EXPIRED. SCAFFOLD HAS STOOD UNUSED AND UN-TOUCHED FOR 4 YEARS					
1336902	49 WALKER STREET	11/04/2012	23	11/07/2012	I2	RES
	SIDEWALK SHED FALLING APART					
1300207	49 WALKER STREET	04/04/2011	23	04/11/2011	I2	RES
	SCAFFOLDING UP W/O PERMITS					
1270770	49 WALKER STREET	11/25/2009	23	11/06/2009	A9	RES
	SCAFFOLD DOES NOT MEET BUILDING SAFETY CODE STANDARDS					
1253119	49 WALKER STREET	04/06/2009	73	04/06/2009	A9	RES
	FAILURE TO MAINTAIN					
1233741	49 WALKER STREET	08/14/2008	73	08/14/2008	A9	RES
	FAILURE TO MAINTAIN FACADE WALL					
1193767	49 WALKER STREET	05/15/2007	59	05/04/2007	A1	RES
	NEW BRANCH WIRING AND BX CABLES - BSMT;FLEXIBLE CORDS USEDAS WIRING METHODRE: M256400.....*NOT A FINAL*					
1135734	49 WALKER STREET	01/26/2005	30	01/26/2005	I2	RES
	CRACK IN FOUNDATION DUE TO EXCAVATION AT THE ADJACENT LOTBUILDING BEGINNING TO SHAKE					
1133307	49 WALKER STREET	12/06/2004	30	12/10/2004	I2	RES
	CONSTRUCTION DOUG 20 FT UNDERNEATHGROUND THE ABOVE BLDG HASSHIFTED WITH 24 HOURS, THE DOOR FRAME CANNOT CLOSE DUE TO SHIFTING,BLDG SHAKING/VIBRATING/STRUCTURAL STABILITY AFFECTED					
1010287	49 WALKER STREET	12/12/1990	73	03/01/1991	B1	RES
	LOSS AND BUILDING FACADE AT EACH WALL OF BUILDING(SEE ATTACHED)					

City Councilwoman Margaret S. Chin
Legislative Office
250 Broadway Suite 1882
New York, NY 10007

51 Walker Condominium Board
51 Walker Street
New York, NY 10013

Subject: Sidewalk Scaffolding Bill Introduced by Councilman Ben Kallos

Dear Ms. Chin,

As residents of 51 Walker Street in your district, we're writing to ask for your support of the bill being introduced by Ben Kallos requiring structures to be taken down within six months.

For the last eight years, we've lived with scaffolding erected by the owner of 49 Walker Street, adjacent to our building. The scaffolding was put up due to the seriously deteriorating façade of 49 Walker Street. At no time in the last seven years has any work been done to fix the façade, and unless the laws are changed, we believe the scaffolding will remain untouched for many more years.

The scaffolding is partially erected in front of our entrance (so partially blocking our door for seven years), is now falling apart itself and is both an eyesore and problem on the block. Pieces have fallen during storms, homeless take shelter in it and we've had break-ins from thieves climbing up the scaffolding. We've tried repeatedly to work with the owner to address it but he has been completely non-responsive and has taken no actions to address the problems. We've also reporting issues repeatedly to 311, but according to all parties we've connected with, as long as the permit is renewed the owner has no legal obligation to take the structure down.

This is a problem repeated on many blocks around the city. We ask for you to support passing the bill and offer our support if there's anything we can do ourselves to help ensure its passage.

Sincerely,

Derek Kuhl
President, 51 Walker Condominium Board

Subject: Re: Housing & Buildings Committee Hearing Notice

For the record, ABO has concerns about Intros. 106, 1241, and 1389.

Intro. 106 creates a new sign requirement which will add expense to building owners and may result in confusion regarding accessibility. Signage is now required at inaccessible entries pointing to an accessible one, if available. In fact, the accessible entry may be accessible due to use of a portable ramp. The proposed signage might result in someone unnecessarily calling for the ramp to be moved, rather than simply directing them to the accessible entrance. There is also the issue of timing. A portable ramp might only be available when a porter is on duty. Who is supposed to be called, when, and how long might it take to respond? We believe the idea needs more study.

Intro. 1241 is not clear as to how it relates to the location requirements in section 1109.2.1.4 of the amended section.

Intro. 1389 may be too limited in its exceptions. For example, what if a part is ordered and due in 8 or 10 days, or if a piece of heavy equipment is not immediately available for a particular job and takes a week or two to arrive? The expense of removing and reinstalling sheds warrants much broader flexibility on the part of the department.

Dan Margulies
Associated Builders and Owners of Greater New York
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o. 212 385-4949
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dan@abogny.com



Council of New York Cooperatives & Condominiums

INFORMATION, EDUCATION AND ADVOCACY

250 West 57 Street • Suite 730 • New York, NY 10107-0700

COMMENTS TO THE COMMITTEE ON HOUSING & BUILDINGS URGING REJECTION OF INT. 1389

October 2017

This Well-Meant Proposal Will have Adverse Consequences

The Council of New York Cooperatives & Condominiums is a membership organization for housing cooperatives and condominiums located throughout the five boroughs of New York City and beyond. More than 170,000 New York families make their homes in CNYC member buildings, which span the full economic spectrum from very modest, income-restricted buildings housing to solid middle class garden apartment complexes to some very upscale dwellings. The common thread is that they all of these buildings are owed by their residents and operate as self-governing representative democracies.

As home owners, we seek to maintain our buildings in the best possible condition and to operate them efficiently. When repairs or restoration become necessary, there can be lengthy debate over the best way to proceed. Intro 1389, while well intentioned, could hamper this decision-making process, and, far more importantly, could endanger the safety of New Yorkers.

Because it is a high rise city, and because no structure is infallible, New York has a strict building code and safety requirements are carefully enforced. Existing laws and regulations require that sidewalk sheds be erected immediately once the slightest suspicion of a dangerous situation is detected. This is to protect the residents and passers-by from any potential danger. Yes, the sheds are unsightly, and everyone hopes for their swift removal, but safety has to have top priority

Once the shed or scaffolding is in place, the property owner must consult with experts on the best way to repair the situation, have plans drawn and specifications prepared, get DoB approval (which may require prior Landmarks consent), secure all necessary permits and hire contractors before any work can begin. Needless to say, the sidewalk protection will be in place for far more than seven days while these necessary preparations take place. Admittedly, this process can take quite a while in cooperatives and condominiums since decisions are made collectively by committee of volunteers. And standards are often high in cooperatives and condominiums where the home owners know that they will long be living with the results of the construction, The prospect of losing their deliberation and decision-making power and having repairs made by the City will not be well received.

Once construction starts, much as one would want the work to proceed quickly, there are often delays that cannot be anticipated, late arrival of materials, an emergency at another site that takes workers away, weather that prevents work from proceeding – all of which can again cause the site to appear idle for more than seven days.

Int.1398 is impractical, counter productive and , if passed, could endanger lives in our city. CNYC urges the Committee to prevent it from going any further. However, if it goes further, CNYC requests that language be added explicitly excluding housing cooperatives and condominiums from its requirements.

Thank you for this opportunity to express our views.



**Testimony of the New York City Department of Housing Preservation and Development to
the New York City Council Committee on Housing and Buildings regarding
Introduction 1389**

Wednesday, October 25, 2017

This testimony is submitted by the Department of Housing Preservation and Development (HPD) related to Introduction 1389, which would require the City to correct unsafe exterior walls if these repairs are not completed by owners within 180 days of the filing of a critical examination report with the Department of Buildings (DOB). This bill would mandate the DOB Commissioner to direct HPD or another designated agency to address the unsafe exterior conditions of these commercial and residential buildings for repair.

The primary focus of HPD's Office of Enforcement and Neighborhood services is to ensure that the Housing Maintenance Code and Multiple Dwelling Law are being enforced. To that end, HPD conducted almost 700,000 inspections and issued 481,000 violations in Fiscal Year 2017 (FY17). Of those violations, 81,000 were considered immediately hazardous. When housing maintenance conditions are classified as immediately hazardous – such as a lack of heat or hot water, the presence of lead-based paint, or the lack of a window guard – HPD works to enforce compliance. If an owner fails to correct the condition, HPD may attempt to complete the repair or system replacement through our emergency repair process. We use the same process when the Department of Health and Mental Hygiene (DOHMH) identifies lead-based paint hazards in the homes of lead-poisoned children or when DOHMH identifies apartments where a child has fallen out of a window due to a lack of window guards. These types of conditions warrant the emergency response provided by HPD.

The Department of Buildings (DOB) is authorized under the Building Code to refer emergency conditions to HPD when an owner fails to perform work under an order or violation. DOB may refer sealing vacant properties and or demolishing an unsafe building to HPD. These conditions also pose an immediate threat to public safety.

Given that HPD's primary role in addressing emergency maintenance conditions is when it performs work at private residential properties, the mandate for referral of exterior wall repairs for all buildings that would be placed on HPD by Intro 1389 raises several concerns.

First, if a sidewalk shed is in place, the emergency condition of the exterior walls will have been mitigated by erecting of a sidewalk shed if the owner fails to perform work by the time of the bill's requirement for DOB referral to HPD. Although we understand the concerns as expressed by the Council about the length of time a sidewalk shed remains in place, the shed does provide an immediate and appropriate response to the emergency condition posed by an unsafe façade. In fact, HPD may install sidewalk sheds around buildings in emergency situations to protect the public under order of DOB. HPD awarded contracts for approximately \$500,000 for the installation of sidewalk sheds in FY17. Once sidewalk sheds are erected, the emergency condition has been temporarily abated.

Second, there are multiple variables that could significantly raise or lower projected costs for HPD to conduct exterior wall work for buildings classified as "unsafe" by DOB, but even under the most favorable assumptions, the cost would be enormous to the City. This bill includes **all** building types in New York City, which is a tremendous amount of buildings with wide ranging uses, heights, and conditions. DOB testified that nearly 1,000 properties file within a 5 year period that the façade is considered unsafe. Façade repairs can be complex and require significant work and cost. HPD repairs – because of the contracting and wage requirements associated with City work – will increase the cost well over the private repair cost estimates.

Third, our existing enforcement programs face an uncertain federal funding landscape. With so many unknowns related to estimating the cost of this program, this bill would add funding uncertainty for HPD's code enforcement without addressing the agency's mission of providing affordable housing and keeping New Yorkers safe in their homes. The Administration cannot afford such unfunded and costly mandates. For all these reasons, HPD does not support Intro. 1389.

We trust that DOB, Council Member Kallos, and other interested Council Members will continue to explore other enforcement options for improving compliance with the requirements of Local Law 11.

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 106, 1241, 1387 Res. No. _____

in favor in opposition

Date: 10/25/17

(PLEASE PRINT)

Name: Patrick Wahle

Address: AC External Affairs

I represent: DOB

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1389 Res. No. _____

in favor in opposition

Date: 10/25/17

(PLEASE PRINT)

Name: Kev Degen

Address: 409 New Corner Rd Albany NY 12208

I represent: NYS Restaurant Association

Address: 1001 6th Avenue NY, NY 10017

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1241 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Dafe Frederick

Address: 82-67 Austin St #108 Kew Gardens

I represent: NY 11415

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1389 Res. No. _____
 in favor in opposition

Date: 10/25/17

(PLEASE PRINT)

Name: BELGIES ANAN

Address: 51 WALKER ST APT 8A, NYC 10013

I represent: 51 WALKER CONDO BOARD / MYSELF

Address: 51 WALKER ST NY NY 10013

Please complete this card and return to the Sergeant-at-Arms
**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1289 Res. No. _____
 in favor in opposition

Date: 10/25/17

(PLEASE PRINT)

Name: Michael Wolfe

Address: _____

I represent: Mid Bow

Address: _____

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**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1389 Res. No. _____
 in favor in opposition

Date: 10/25/12

(PLEASE PRINT)

Name: Carl HVM

Address: _____

I represent: REBNM

Address: _____

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THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1389 Res. No. _____

in favor in opposition

Date: 10/25/17

(PLEASE PRINT)

Name: FRANK P. RICCI

Address: _____

I represent: RENT STABILIZATION ASSOC.

Address: _____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1389 Res. No. _____

in favor in opposition

Date: 10/25/17

(PLEASE PRINT)

Name: ROBERT BOOKMAN

Address: _____

I represent: NEW YORK CITY HOSPITALITY ALLIANCE

Address: 65 W 55 ST, #203A NY, NY 10019

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1389 Res. No. _____

in favor in opposition

Date: 10/25/17

(PLEASE PRINT)

Name: ANDREW RIGIE

Address: _____

I represent: NEW YORK CITY HOSPITALITY ALLIANCE

Address: 65 W 55 ST, #203A NY, NY 10019