

**New York City
Campaign Finance Board**

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June 21, 2007

Honorable Simcha Felder
Chair, Committee on Governmental Operations
New York City Council
City Hall
New York, NY 10007

Dear Chairman Felder:

I have received your questions regarding the Campaign Finance Board's implementation of the Campaign Finance Act and the guidance the Board provides to candidates.

The Board takes seriously its obligation to ensure that candidates understand the requirements of the Campaign Finance Program. To that end, the Board created a Candidate Services Unit to provide training, answer candidates' questions, and develop a handbook. The handbook and training give plain-language guidance concerning disclosure, recordkeeping, the audit process, penalties, and other Program requirements. The Board also provides campaigns with C-SMART software. C-SMART enables campaigns to file their disclosure statements with the Board as well as with the New York City and State Boards of Elections. C-SMART contains many features to alert campaigns to possible compliance problems before they submit their statements.

The handbook contains sample forms for documenting transactions, a list of the types of expenditures for which public funds may be used, and answers to the most common compliance questions. The handbook also contains the Board's guidelines for accepting matchable contributions by credit card, including those received over the internet. To assist with complying with those guidelines, the Candidate Services staff offers to test and review campaign websites to prevent compliance problems before they occur. The handbook is distributed to all candidates and is available on the Board's website. As it does after each election, the Board is reviewing and redesigning both the handbook and C-SMART for the 2009 elections to address feedback from campaigns. The Board's rules, advisory opinions, and the Campaign Finance Act are available on the Board's website.

In addition, the Board publishes penalty guidelines for the most common violations on its website.¹ The staff uses these guidelines to make penalty recommendations to the Board. To maintain consistency in its application of the law, the Board takes these guidelines into account when making its penalty determinations. The Board also considers specific facts and circumstances before assessing penalties.

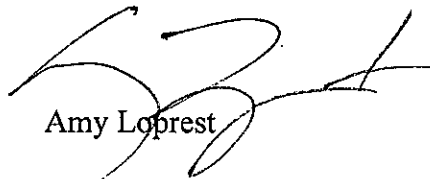
To maintain its independence and nonpartisan culture, Board members and staff are governed by ethical guidelines above and beyond the requirements of Chapter 68 of the New York City Charter. The Ethical Guidelines are re-adopted each time a new member of the Board is appointed; and are an appendix to the Board's rules.² The Ethical Guidelines cover issues of political conduct, recusal, and disclosure.

With regard to the application of the expenditure limits to candidates who have a second committee for another election, Board Rule 1-08 (c) sets forth the presumptions for attributing expenditures to an election. The basic presumption is that an expenditure is for the first election following the day it is made. For local and state elections, expenditures made before the January 12 following an election are presumed to be made for the preceding election.³ Candidates have the burden of demonstrating that expenditures made during the election cycle by committees not involved in the covered election were not made in connection with that covered election.⁴ For example, candidates can and have demonstrated that an expenditure is not for a covered election based on:

- the subject matter of the expenditure, such as literature solely relating to the candidate's election for another office;
- the geographic distribution of the expenditure; and
- the past practices of the other committee, such as documentation showing that substantially similar expenditures have been routinely made by the other committee.⁵

I have identified to Council staff certain issues in Intro. 586-A which I understand will be corrected by technical amendment after the bill is enacted. If you have any other questions on these or other topics, please feel free to contact me.

Sincerely,



Amy Loprest

¹ While these guidelines are part of the handbook, they are also presented separately on the website.

² The Board re-adopted the Ethical Guidelines on June 14, 2007 upon the appointment of Father Joseph Parkes, S.J.

³ Board Rule 1-08(c)(1). For candidates for federal office, expenditures made prior to the January 1 after the election are presumed to be made for the preceding election.

⁴ Board Rule 1-08(c)(3).

⁵ The Board will shortly be issuing an Advisory Opinion in response to a request from Congressman Anthony Weiner relating to the expenditure presumptions.

New York Industrial Retention Network

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Governmental Operations Committee Hearing June 21, 2007 In Favor of Int. 262 & 263 BSA Voting Amendments & Membership Expansion

Good afternoon. My name Michael Freedman-Schnapp and I am the Senior Policy Associate for the New York Industrial Retention Network. NYIRN is a citywide economic development organization that works with manufacturers to promote a diverse economy to provide employment and entrepreneurial opportunities for all New Yorkers. We work with about 400 companies each year, at least half of whom have real estate and relocation issues.

NYIRN strongly supports Int. 262 and 263 and urges the Council to pass these important reforms of the Board of Standards and Appeals.

To protect well-paying manufacturing jobs and to reap the job-creation potential from increased sustainable development, we must reserve space for industry in the city. The BSA has been extremely lenient in granting of variances. That leniency undermines the effectiveness of zoning regulations, community empowerment and job retention.

In the past, zoning variances granted by the BSA have had dramatic, cumulative effects, greasing the skids for wholesale changes of neighborhoods. Conversions approved by the BSA allowed the displacement of light industrial jobs in favor of high-end residential uses, dramatically changing neighborhoods. For example, the 2005 rezoning of Northside Williamsburg to allow unlimited residential conversions was made much easier by the fact that the BSA had granted dozens of residential variances in that neighborhood over the years.

While the adaptive re-use of buildings is a necessary and inevitable part of the city's growth and development, variances should be granted with the overall economic consequences of land use changes in mind.

Viable light industrial businesses, such as printers, bakers, specialty food manufacturers, metalworkers and furniture shops are leaving the city because there is a severe lack of affordable industrial space. The city's Industrial Business Zones are full to capacity—many have lower vacancy rates than the office market in Midtown.

The manufacturing jobs these businesses create are an important and necessary part of New York's economic health; approximately 230,000 industrial jobs currently exist in the City, about half of which are in manufacturing. Two-thirds of the people employed in manufacturing are immigrants and 80% are people of color.

I would be remiss if I did not mention that as a result of the Mayor's January 2005 industrial policy, the BSA has taken a much closer look at variances that propose to convert industrial buildings to residential use in certain areas. Recently, the first

residential variance applied for in an Industrial Business Zone, a 12,000 sf. lot on Krier Place in East New York, was withdrawn and is now up for sale to industrial users. And new commissioners with city planning experience on the board offer a greater perspective on the land use changes that variances can cause.

Despite these positive developments, the BSA could revert back to its former practices. Zoning, and land use procedures in general, should protect neighborhood character, accommodate growth and meet community needs. Therefore, decisions of the BSA should be made by a two-thirds majority and be made by commissioners appointed by a range of elected officials.

As the City seeks to accommodate our projected population of 9 million, we will have to make some tough planning and land use decisions. It is NYIRN's hope that the BSA will make their decisions with the long-term consequences in mind, so that the City can create more sustainable and equitable communities.

Thank you for the chance to testify on this important legislation.



June 21, 2007

**Testimony given by Heather Taylor to the
Committee on Government Operations on proposed Int. No. 586**

Council Chairman Simcha Felder &
Members of the Committee on Government Operations:

Thank you very much for the opportunity to submit comments on proposed **Int. No. 586**, a campaign finance reform bill which limits contributions by those "doing business" with New York City. We applaud Mayor Bloomberg for spearheading this important effort and Council President Quinn for sponsoring this legislation.

I represent the Citizens' Campaign, a non-partisan organization which develops innovative reform solutions and promotes citizen leadership. Across the Hudson we have had success at regulating pay-to-play. At the State and local level, government officials have adopted significant reforms that ban contributions by those who are involved in government contracting.

For too long at the National, State, and local level "pay to play" has been business as usual. Government contractors pony up large campaign contributions and then are rewarded with lucrative government contracts. This pay-to-play game results in higher costs and poor performance.

In 2004 New Jersey implemented the strongest pay-to-play law in the nation. The law regulates the awarding of government contracts rather than an across the board ban on contributions. This is both constitutionally sound and effective. Specifically, New Jersey's pay-to-play law limits political contributions by those seeking or performing government contract. The law is regulated by the Department of Treasury, and contractors who violate the law could be found in breach of contract or even barred from receiving future contracts. The loss of government contracts and possible disbarment is a much more severe penalty than a monetary fine which often amounts to a slap on the wrist. Since New Jersey's law went into effect, newspaper reports have found that the breach of contract enforcement mechanism is quite effective. Contractors' have significantly reduced their political contributions so as to not run afoul of the law and possible lose lucrative government contracts.

A similar law was adopted in Philadelphia, where it recently weathered its first test and yielded positive results in this May's primary election. According to the Philadelphia Inquirer, rather than relying on massive political war chests filled with contractor's contributions, candidates solicited more modest donations from ordinary citizens and participated in more grassroots campaigning to get their message out.

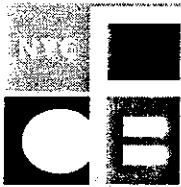
Both New Jersey and Philadelphia follow the framework established by the Securities and Exchange Commissions Rule G-37, which bans contributions by municipal underwriters before and after the award of the contract.

Our recommendation is that New York follow the New Jersey model which ties contribution restrictions to the award of the contract.

Second, the proposed regulation should include campaign restrictions after the award of the contract. This is critical because after a contract is awarded there is no competition and there are opportunities for change orders.

Finally, we recommend that those "doing business" who violate the law or who circumvent through intermediaries are precluded from receiving contracts or found in breach of contract. This is a stronger and stricter means of enforcing the campaign finance bill's goal.

Thank you for the opportunity to speak today. I hope you will take my recommendations into consideration.



New York City Campaign Finance Board

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Testimony of Amy Loprest, Executive Director New York City Campaign Finance Board

City Council Committee on Governmental Operations June 12, 2007

Good morning, Chairman Felder and committee members. I am Amy Loprest, Executive Director of the New York City Campaign Finance Board. With me is Deputy Executive Director Carole Campolo. I am here today to testify on Intro No. 586-A.

As I've expressed to this committee previously, we are pleased to have taken part in the process that produced this important legislation. Placing strict, low limits on contributions from individuals and entities doing business with City government will help renew the faith and trust New Yorkers place in their elected leaders.

We've also congratulated the Council for helping further emphasize the role of the average individual New York City contributor in election campaigns, a central goal of the Campaign Finance Program. At last week's hearing, we also expressed some concern about the sections of the bill that may intrude upon our administration of the law.

However, in my testimony today I would like to focus on some issues that were not fully addressed in our last appearance before this Committee.

The legislation as amended will require the Board to accept certain documentation through an "electronically scanned transmission." While accepting these documents electronically has been a goal of the Board, there is no protocol currently in place to do so.

In response to this legislation, the Board will be drafting new rules over the next several months to meet each of its administrative mandates. Those new rules will define a format and method for electronic submissions meant to ensure the legibility and authenticity of documents received in this manner, and campaigns interested in submitting backup documents to the Board electronically will need to be guided by those rules.

In our previous testimony, we spoke briefly about the budgetary impact of this new legislation. Since then, we have prepared a conservative estimate of the resources that will be necessary to meet the bill's new administrative mandates. We are estimating these mandates would require a 50 percent increase in the Board's budget. The largest part of this increase is for new staff and additional space to house those staff. The need for additional space is especially critical in order to ensure the legislation is implemented for the 2009 election as the Council intends, and that process must begin immediately. We are anticipating assistance from both the Council and the Administration in procuring the resources necessary to implement this legislation once it becomes law.

You also have asked a series of questions about the Board's application of current law. We have addressed those questions in a letter which is attached and submitted for the record.

Thank you for the opportunity to testify today, and I look forward to answering any questions you might have.

Marjorie Gersten
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Written testimony on Intro 586-2007
City Council Governmental Operations Committee
Simcha Felder, Chair
June 21, 2007

Campaign finance laws seek to reduce the influence of money on politics. To this end, they have two specific goals: Limit campaign spending, and level the playing field between those who can raise lots of money and those who can't.

The city's attempt to limit spending has been a dismal failure. According to the CFB, spending on City Council races more than doubled, in real dollars, over just twelve years. In 2009 it's a safe bet that most candidates for citywide office and many candidates for City Council will opt out of the system. The spending limits that participation in the system requires will simply be too low, as candidates will be able to raise more money on their own. The only way to keep candidates in the system is by drastically raising the spending limits, which defeats the purpose.

Matching funds also do not level the playing field, and in hindsight the reason is clear. Since a candidate needs to raise money in order to get matching funds, those who raise more money generally qualify for more matching funds. Fundraising laggards never catch up. Even if two candidates raise or receive enough money to spend at the limit, the candidate who has to work harder to raise the money naturally spends less time campaigning and is at a serious disadvantage.

Overwhelmingly, the candidate who raises the most money wins the election. When this is not the case, the winner is always one of the top fundraisers, and the reason for that candidate's victory has nothing to do with money. In short, matching funds never, ever make the difference.

The only solution lies in a full public funding, "Clean Money, Clean Elections" system that will be introduced into the City Council soon. I urge the Council to pass that bill.

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Oral testimony on Intro 586-2007
City Council Governmental Operations Committee
Simcha Felder, Chair
June 21, 2007

One major problem with Intro 586 that isn't getting a lot of attention is the fact that one of its main provisions, limiting contributions from people doing business with the city, will have virtually no effect – certainly not during the current election cycle, and possibly not ever.

Under the bill, the campaign finance board and the department of information technology must create eight separate databases, each covering some aspect of “doing business with the city.” Until each database is completed, nobody in it is limited. After each database is completed, those donors will still have two additional months to make their contributions.

In addition, while there are theoretical deadlines for completing these databases, they are not firm. Any database not finished by November 1st of next year won't be in place for the 2009 election at all.

This means that candidates have plenty of time to solicit, and receive, contributions from people doing business with the city before this bill takes effect.

But there is a larger loophole not mentioned in the bill, a loophole that renders much of this effort irrelevant. When a contractor subcontracts out the work, the subcontractors and their employees are not limited. This loophole and its variants have been used since the very beginning to get around campaign finance limitations; it will certainly be used again.

All you are really doing with this part of the bill is to make a complicated system even more complicated, without truly solving the problem. The real solution is the “Clean Money, Clean Elections” system of full public funding. It is simple and effective, it will be introduced soon, and I recommend that the City Council adopt it.

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Oral testimony on Intro 586-2007
City Council Governmental Operations Committee
Simcha Felder, Chair
June 21, 2007

I want to take this opportunity to stress to you the reasons why I believe full public financing of elections must become the norm in our nation, and why, therefore, New York City should help lead the way.

This is fundamentally a values issue: Imagine a system where anyone can run if they can build a base in their district. If you can build that base, you can run for office – and you can win. Now imagine a world where legislators had nothing to do but represent their own constituents. The job of the elected representative would be simply to represent their district. These values are non-partisan: it's not about "big" government or "small" government, but WHOSE government?

Partial public funding systems do not, in the end, address these basic values. Instead of eliminating the influence of the wealthy few and the special interests, the current system merely subsidizes elite monies with public dollars. It has not substantially increased voter confidence or voter participation. Instead, it has punished the candidates who have "opted in" by forcing them to deal with the nightmare of the Campaign Finance Board. These candidates should not be punished; they should be rewarded with a fully functional, full public financing option.

Some critics of fully voter-owned elections write us off, saying that, "Money is the mother's milk of politics." In other words, you can't eliminate the influence of money no matter what you do.

If that is the case, we want it to be our money – the constituents' money, in small amounts and fair proportions, that runs our government, not special interests and the wealthy few. I urge you to embrace the "Clean Money, Clean Elections" bill that will be introduced into the City Council soon.

Thank you for your time.

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Oral testimony on Intro 586-2007
City Council Governmental Operations Committee
Simcha Felder, Chair
June 21, 2007

I applaud the city council for attacking the important issue of election reform. Unfortunately, matching funds simply cannot address many of the problems with our current election system.

The idea behind matching funds is to allow candidates raising small dollar amounts to compete with candidates who are able to raise larger sums. Leveling the field, however, is not without sizeable difficulty. Consider a city council race where one candidate raises money by soliciting \$2,750 donations, the current maximum. Under a 4:1 matching ratio, any competitor soliciting \$100 donations must raise more than five donations to rival a single donation of \$2,750. Smaller candidates are able to compete; however, they must spend a much greater amount of time fundraising.

This is the fundamental and critical flaw of matching funds. The system merely encourages candidates to spend more time fundraising. Instead of serving the public, all candidates are forced to spend much of their time serving those with \$100 checks.

Fortunately, there is an elegant, practical solution that eliminates these difficulties: "Clean Money Clean Elections." Candidates would be forced only to raise a small sum of money to show they have a base of support. After this startup task, however, candidates will be free to use their time to exercise democracy by talking and listening to voters. Perhaps more importantly, incumbents will be able to focus on legislating and governing without the worry of how they will finance their next election campaign. I urge the council to implement "Clean Money Clean Elections" immediately.

**Remarks of MARC CRAWFORD LEAVITT at the 6/21/07 Hearing of the
City Council of NY Government Operations Committee
Regarding "Clean Money, Clean Elections" legislation**

Good afternoon. My name is Marc Crawford Leavitt. I am a homeowner in Queens, a lawyer, and a citizen who volunteers with several civic, social service and academic organizations. I am also a political satirist. One of my parodies to the tune of "*I Write the Songs*," popularized by Barry Manilow, starts:

*I've been alive forever, and I wrote the very first laws.
I have the might and the power to enforce them
I AM MONEY, AND I WRITE THE LAWS!*

Another of my satires about the 2001 mayoral election is not intended to specifically criticize our Mayor, who I generally feel has been doing a very good job, but to deplore the current national reality where it seems that to run credibly for high office you have to be a multi-millionaire, a celebrity, or a hereditary politician (and Arnold Schwarzeneger is all 3!). It parodies "*A Hundred Bottles of Beer on the Wall...*":

*A hundred dollars per vote at the polls, a hundred dollars per vote,
To make sure the Democrats happen to fall, a hundred dollars per vote at the
polls...* (spoken: Keep singing for four more years).

In my law firm of Leavitt, Kerson & Duane (that's John Duane, brother of Tom), four of our current or former members have held elective office, and I myself served a 3-year sentence on Community School Board 30 in Queens from 1980 to 1983. Our service to clients does not include being paid as lobbyists.

In the early 1980s, I was part of team of pro-bono attorneys in a federal civil rights ballot access case representing an insurgent candidate against the Donald Manes political machine and the powers-that-be (*Weiss et al v. Feigenbaum, Manes, etc al, 558 F. Supp 265, EDNY 1982*). The Aaron Weiss case exposed many wrongful practices that were impediments to democratic elections and improved the ballot access process.

I have also been a Trustee of the City Club of New York, the esteemed non-partisan good government group responsible for numerous initiatives over the decades which we now take for granted, such as the ballot brochure mailed to all voters listing each candidate and their qualifications (which deserves much broader distribution). Back in the 70s, public campaign matching funds was just an idea discussed at the Club's own Governmental Operations Committee led by the late Saul Hoberman and Sidney Dean.

But now we are in the 21st century. Money is still the mother's milk of politics, but media and communications plays a bigger part than ever. Our City has the most aggressive matching funds program the nation, and that's terrific. The Clean Money, Clean Elections system is the next generation of improving our democratic system, and I support the concept. I also ask the committee to consider further steps.

New York City cannot mandate free public TV time. The argument that the airwaves belong to the public and therefore should be used on some regular basis to be available both for public service and to help voters decide among candidates is obviously a national issue. But

the City Council could lead the way with an advocacy statement for our congressional delegation and two innovative concepts:

- 1. Free print ads on mass transit vehicles for bona fide candidates.**
- 2. Prime-time TV purchased by the City and made available at no charge in regularly scheduled time slots to bona fide candidates.**

Here's some brief arithmetic on how it might work. 51 Councilmembers + the Mayor, Comptroller and Public Advocate + 5 Boro Presidents + 5 District Attorneys = 64 offices. Assume 5 primary candidates for each office = 320. Assume each candidate gets two 5-minute time slots for a total of 3,200 minutes or about 54 hours. Divide that into the 6 weeks prior to the election for 9 hours each week, 3 hours on each on three weekday nights on different TV channels. Fine-tuning of the program could save money by boro-specific broadcasts on cable TV.

Provide a free technical crew to help candidates produce their time slots and mass transit ads.

Advertise the TV time slots to the public so the citizenry gets used to the idea of consistently scheduled election information as the years go by.

Duplicate the process for the general election assuming only two candidates for each of 64 offices, so we need only 1,280 minutes or about 22 hours.

I don't know the cost of 76 hours of TV time per election cycle, but I am certain that the result would be major improvements in the awareness and involvement of our citizens and in the democratic process in general.

Thank you.

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Oral testimony on Intro 586-2007
City Council Governmental Operations Committee
Simcha Felder, Chair
June 21, 2007

I am Edith Prentiss, 1st Vice President of Disabled In Action, President of the 504 Democratic Club, and a member of the Disabilities Network of New York City. I would like to thank the Committee on Government Operations and especially Chairman Simcha Felder for the opportunity to express my opinion on Intro 586 -- Campaign Finance Reform.

In New York City, numerous attempts to limit campaign spending and lower the influence of money on politics have failed. From 1993 to 2005 the cost of running for City Council more than doubled, after adjusting for inflation. This is a greater increase in campaign spending than on the federal level. Matching funds have failed because you have to raise money to qualify for matching funds.

Despite the City Council and the Campaign Finance Board's best efforts, the main requirement for winning an election in New York City is still a well-stocked war chest. Candidates must be out their soliciting lots of large donations. Candidates spend the bulk of their time raising money, before during and after their race. The only real reform solution is a full public funding system, known generally as "Clean Money, Clean Elections" which has been implemented in several states.

I'd like to address the need for better and wider Campaign Finance reform from the perspective of people with disabilities. I'd particularly like to address several issues very important to our community and how campaign finance reform would move our agenda.

DRIE (Disabled Renters' Rent Increase Exemption) parity to SCRIE (Senior Citizen Rent Increase Exemption) -- Background: Despite many previous attempts to expand SCRIE to younger disabled renters, we have historically been blocked by New York City mayors. In 2005 DRIE finally passed in Albany, but with a financial eligibility of \$8,000 less. Accepting such a disparity was based upon the belief that DRIE would be introduced in 2006 for full parity. I can only assume we are competing with the real estate interest as well as the Mayor's misguided belief that this would be an incredibly expensive program.

EPIC expansion to younger disabled New Yorkers -- Background: Despite many previous attempts to include people with disabilities in EPIC, we've always been told it is too expensive or it is not our year. We are competing with the pharmaceutical industry, which makes a lot more money off us than they would if we were included in EPIC with its discounts. Rumor has it that we are competing with AARP who has opposed any expansion to include younger New Yorkers. We're also competing with other, better funded, groups who want the available funds to go to their client populations.

Visitability -- Background: The concept is that residences should have minimal accessibility features so that people with disabilities can visit. The real estate industry certainly opposes having to make their building accessible. Just look at the proposed changes in Intro 578 to see competing interests.

People with disabilities are not likely to be attending the expensive campaign events, even if they were accessible. We are not forming PACs or LLCs to bundle donations, and we are not sponsoring events. Rather, we're working on your campaigns, handing out literature and making phone calls. While those activities are important, I doubt they mean as much as money.

504 screens candidates on a variety of issues important to our community. It is amazing how many people profess their belief in accessible taxis, EPIC expansion, DRIE parity and Visitability but can't remember a thing six months later.

Its time we keep elected officials to their election promises.

**City Council Hearing Intro 262 and 263
Councilman Tony Avella
June 21, 2007**

Obviously the purpose of our government and our laws and agencies must be to preserve the greatest city in the world, and to create a high quality of life for our people, fostering respect for each other and our city; its past, present and future.

Every month many issues come before community boards etc; Variances; special permits to build in the Special Hillside Preservation Districts, variances for another polluting use to be put in a neighborhood. The applicants are not really concerned if the citizens and the Community Board say no because they can simply go to the Board of Standards and Appeals and they will say yes.

The purpose for which our laws, our hard fought for Hillside District, our health, our efforts to restore our historic waterfront communities, our quality of life, our property values....our future are severely and dangerously affected by these decisions now has no bearing on the very decisions that affect them. The BSA usually approves gouging into the Hillside District etc. or changing the character and continuing a toxic polluting business with a 10 or 15 year variance, even though it severely impacts the health and well being of our children, our elderly, and all our citizens.

This is the destruction of our neighborhoods and ultimately of New York City. The BSA must be accountable, and make decisions based on the well being of our city and the people who built it and make it thrive.

Whole neighborhoods have been severely harmed by variances to allow toxic uses in historic and residential area. What used to be a stable are now a row of polluting auto bodies or trucking uses poisoning a great historic neighborhood and it people.

Citizens and the well being of New Yorkers must have representation on the BSA. We must have reform. Please vote for intro 262 and 263 so that we can restore our great New York City neighborhoods and allow them to thrive. New York is a city of people

**and every day we are making history. It must always be for the good
and the great future.**

Linda Eskenas

**The North Shore Waterfront Greenbelt
West Brighton Restoration Society
Four Boroughs Neighborhood Preservation Alliance
The Preservation League of Staten Island**



**THE LEAGUE OF WOMEN
VOTERS** OF THE CITY OF NEW YORK

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TESTIMONY IN SUPPORT OF INTRODUCTION 586

**A Local Law to amend the New York City charter and the administrative code of
the city of New York, in relation to campaign finance**

**Delivered by Adrienne Kivelson, City Affairs Chair
to the Committee on Governmental Operations**

June 21, 2007

Good Afternoon Chairman Felder and members of the Committee. My name is Adrienne Kivelson and I am the City Affairs Chair and Elections Specialist of the League of Women Voters of the City of New York. On behalf of the League I want to thank you for your continuing efforts to enhance and improve New York City's innovative campaign finance program. We also want to commend the collaborative process which resulted in Intro 586. It is heartening to see the Council, the Administration and the Campaign Finance Board work together and welcome input from the public and civic community on such important legislation

As early supporters of the program and staunch advocates of participatory democracy we are encouraged to see that the proposals in 586 are formulated to produce a more level playing field for all candidates and to eliminate the "pay to play" atmosphere associated with too many political campaigns.

We are particularly pleased that participating candidates will receive more training and be given clearer definitions of what is and what is not acceptable in terms of contributions and expenditures. We are also happy to see defined time frames and firm deadlines for Campaign Finance Board actions, reports and audits as well as additional due process protections.

We often hear complaints from first-time candidates that the system is just too complicated; that one mistake in accepting an ineligible check results in the freezing of public funds at the height of the campaign. This is just one small aspect of the program, but it produced recurrent complaints. It was good to see that Section 2.1b addresses this issue. Failure to return an excess contribution in the last weeks of the campaign will no longer result in the Board withholding public funds for which the participating candidate's principal committee is otherwise eligible. Hopefully, the proposed revisions will produce a program which is more clear, fair and easily accessible for first-time candidates. Of course, these new provisions will require a larger and more specialized staff for the Campaign Finance Board, which we trust is achievable since the bill was developed as a collaboration of the Council and the administration.

We approve of the reduction in maximum contributions and the inducement for participating candidates to seek out smaller contributions from local donors. Expanding the ban on corporate contributions to include limited liability companies (LLCs) and limited liability partnerships (LLPs) and more clearly defining intermediaries are other important features of the bill. We trust that these contribution limitations will be applied to and enforced for non-participating candidates, as well. If this does not happen then we will have anything but a level playing field.

Another positive component of the bill is the criteria for determining which races are non-competitive so that those candidates do not receive unneeded matching funds.

The most far-reaching aspect of the bill is the cap on contributions from a broad range of people "doing business with the city" and making those contributions unmatchable. While we wholeheartedly support ending "pay to play" -- the perception or reality of campaign contributions leveraging favors and influence -- we are concerned that the creation, maintenance and reliance on the proposed database could overwhelm and undermine the entire Campaign Finance program. We understand that it will be based on the current Vendex system which lists city contractors. We are not even sure that Vendex includes all of the categories specified in this bill. In any case, it took years and years to get Vendex up and working. We are pleased to see that this aspect of the law will not become operative for the 2009 election if the database is not operational by November 2008.

While Intro 586 proposes the most comprehensive overhaul of the Campaign Finance Program in its nineteen-year history, in all likelihood we will be back here next year and the year after that talking about the need for more changes; perhaps a different match or a review of other institutional contributions, like those from unions. Monitoring the caps on contributions will be necessary on an ongoing basis to assure that they are appropriate and adequate, as will review of the efficacy of the database. Each time changes are proposed or enacted, care must be taken to assure that the system is not administratively burdensome or too complicated to attract the diversity of candidates for whom it was designed. Over the long term we may want to consider full public financing where candidates will no longer seek contributions and "pay to play" will no longer be a factor.

This year the League of Women Voters is offering a 12-hour course on 'How to Run for Public Office in New York City'. The course is funded by the New York Community Trust and offered at one community college in each borough. Campaign finance is an integral component, and Amy Loprest, the Board's Executive Director is a presenter at each college. Interest in and response to the course has exceeded all expectations. There is no doubt that without the promise of assistance from the Campaign Finance Program, few of these bright, young, energetic and dedicated citizens of every race, ethnicity and neighborhood would have been able to consider public service and public office.

The League of Women Voters supports 586 because we believe it improves this important program and makes it possible for more New Yorkers to consider running for public office.

Four Borough Neighborhood Preservation Alliance Corporation
Daniel McCalla
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City Councilmen Simcha Felder
Chairmen of Committee on Government Operations
City Hall
New York 10001

June 21st 2007

Honorable Chairmen Felder

Good morning my name is Daniel McCalla from Fort Green Brooklyn New York, and I am a member of the Four Borough Neighborhood Preservation Alliance . I am here to testify in support of Intro 262 and Intro 263. The Board of Standards and Appeals is a little known city agency to “Joe Blow” citizens such as myself and honestly before the last few years I never knew where to find them.

Intro 262 to require a two thirds majority vote for decisions regarding zoning variances and special permits, A great idea that is long overdue and hopefully with city council help can become possible. This legislation addresses specific applications intended to allow a developer or property owner to Override zoning districts requirements due to financial issues. In theory variances and special permits are suppose to be for true hardship cases of the applicant a landowners.

However during the last two mayoral administrations, Hit and Run developers who are trying to build projects bigger than a number Contextual Zoning application undertaken by the Department of City Planning would allow. Have used unscrupulous construction practices such as construction at night to get a certain amount of foundation in accomplished, so they can carry out their intent to go the Board of Standards and Appeals to be granted a zoning variance. This numerous practice has put the BSA in the position of rewarding “Bad Behavior”.

With a two thirds majority hopefully there will be more encouragement to allow commissioners to truly address whether an application meets the specific requirements of the zoning resolution for granting variances. Unfortunately the Board of Standards and Appeals has become a means for developers to change the characters of neighborhoods slowly but surely, Making the New York City Zoning resolution almost unenforceable.

Intro 263 which will add eight members to the Board of Standard and Appeals to be appointed by the Borough Presidents, The Public Advocate, The City Council and The City Controller, will hopefully create necessary oversight regarding the Board Of Standard and Appeals powers to over ride zoning. The Current Structure of the BSA allows the above parties to testify or make their opinions known to the BSA. However there is a question of how much weight it matters to the staff of the Board of Standard and Appeals. I know some people would say "What kind of maniac would want to put representatives of the Borough Presidents" on the BSA. However the City Charter has a similar structure in place with the Industrial Development Agency Board or the IDA which makes decisions on development funds. Current BSA members are appointed by the Mayor, and very few have ever been allowed to apply for the job.

In closing Mister Chairmen I just want to continue my support for Intros 262 and 263, and I hope efforts can be made to enacts these reforms

Thank you
Daniel McCalla
The Four Borough Neighborhood Preservation Alliance Corporation
Vice Chairmen for Brooklyn
Chairmen of State and City Legislation Committee.

Robert Furman, Chairman
 *Linda Eskenas
 Vice Chair - Staten Island
 Northshore Waterfront Greenbelt
 Preservation League of S. I.
 Daniel McCalla, Vice Chair - Bklyn
 Fort Greene Association
 Andrea Crawford, Esq.,
 Vice Chair - Queens
 Kew Gardens Improvement Assn.
 Linda Mandell, Treasurer
 Waldheim Neighborhood Association
 Vincent J. Favorito, Esq.,
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 Brooklyn Community Board Six
 Kim Kindya, Recording Secy
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 *Mitchell Grubler, Asst Rec Secy
 Chair, Queens Preservation Council
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 Judith Guttman, President
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 Michael Perlman
 Rego-Forest Preservation Council
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 Develop Don't Destroy Brooklyn
 Salvatore "Buddy" Scotto
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 S. Williamsburg Historical Society
 Margaret Elwert
 Prospect Heights Nbrhd Devel Cncl
 Aline Euler
 Bayside Historical Society
 Steve Levine, Architect
 Mary Mattner
 Carroll Gardens Nbrhd Assn.
 Michele Moschides
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 Bernadette Morrissey
 Antoinette Vasile, Vice-Pres.
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 Preservation League of S. I.
 William Self
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 Judy Shack
 Patricia Sherwood
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 Ron Schweiger
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*Organizational Affiliations for
 Identification Only*
ORGANIZATIONAL MEMBERS
 *Steve Barrison, Esq. Pres., BIG
 *Barbara Berardelli, Secretary
 Shpshead Bay/Plumb Bch Civic Assn
 *Joy Chatel
 Duffield St. Block Association
 *Henry Euler, Auburndale Imp. Assn.
 *Steven Kaye
 South Canarsie Civic Association
 *John Manzola
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Statement of Robert Furman in favor of Ints. 262-263

My name is Robert Furman and I am Chairman of the Four Borough Neighborhood Preservation Alliance Corporation. We were founded to deal with issues of overdevelopment in the City's "other boroughs."

Enactment of these two bills will begin the process of upsetting the "Supermayor" system we have had since the enactment of the 1991 Charter Revision.

The charter revision was made necessary by the Supreme Court's finding that the voting system at the Board of Estimate (one vote per borough regardless of population) did not conform to the "one person, one vote" rule. But by abolishing the Board and transferring too many of its functions to the Mayor rather than the Council, and the other city officials, an imbalance between the supposedly co-equal branches of our local government has been created which has only been aggravated by term limits and the current interpretation of the state law requiring a referendum if a Mayor's power is diminished.

Appointments to the Board of Standards and Appeals were formerly made by the Mayor and the borough presidents. The beeps' appointment power was eradicated by the new charter and Int. 263 would redress that by giving each borough a member named by the person who best knows each borough's profile and interests, along with the other two citywide officials and, perhaps mostly importantly, the Council. This would provide for more variation of views and public input into BSA's decisions.

Intro. 262 requires land use decisions to be made by a two thirds majority of the BSA, rather than a simple one. While BSA's functioning has been improved over the last few years because of a positive response by both the Mayor and Board staff and members to loud expressions of discontent, this is a temporary phenomenon likely to disappear with the passage of time and the appointment of new staff and members.

Requiring a super-majority would require that important decisions which amount to an unintentional rezoning of the subject communities and are often cited as precedents (although they lack that legal status) by developers' advocates, would be made by a consensus of most of the Board's members, increasing the likelihood that they would reflect the public interest rather than a mere narrow reading of the law.

The Four Borough Alliance is proud to have suggested these changes to the law and that Councilmember Avella has seen fit to frame them into law and strongly support their enactment.



Westmoreland Association, Inc.

ORGANIZED 1917 & INCORPORATED 1924
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Robert Timmerman
Philip Toscano

Statement of Walter Mugdan, President, Westmoreland Association at a New York City Council Hearing on Proposed Amendments Concerning the Bureau of Standards and Appeals June 21, 2007

The Westmoreland Association, Inc., is a not-for-profit homeowners' association representing the interests of residents in the Westmoreland area of Little Neck, Queens, New York. The area is bounded generally by Northern Boulevard on the south, the Long Island Rail Road on the north, Little Neck Parkway on the west, and Nassau Road on the east. (The Westmoreland development also includes a number of homes located in Great Neck, Nassau County, New York.)

The Westmoreland area was developed starting in 1906 by the Rickert-Finlay Company, (RF) which subdivided the area into blocks and lots. As each lot or group of lots was sold, a number restrictive covenants was included in the deed which would thereafter run with the land. At the present time, some 330 homes are in the Westmoreland area

The Westmoreland Association enthusiastically supports Int. 262/2006 and 263/2006 by Council Members Avella, *et al.* These are proposed amendments to the rules governing the New York City Board of Standards and Appeals (BSA).

It has been the sad experience of the Westmoreland Association that the BSA has, historically, been all too willing to grant the requests of developers for variances from the City's zoning requirements. The granting of a variances should be the rare exception, and not the common outcome of a BSA proceeding.

The above-referenced amendments would (a) require a two thirds majority of the BSA quorum present and voting to approve a variance, and (b) expand the BSA membership to include additional members appointed by the Borough Presidents, the Public Advocate, the Comptroller and the City Council. We believe these amendments will significantly assist homeowners and homeowners' associations such as the Westmoreland Association in ensuring that legally applicable zoning rules are faithfully observed, and that the character of neighborhoods protected by those rules is better maintained.

Visit us on the Web at LittleNeck.net/Westmoreland/

Statement of Isaac Sasson in support of legislations 262/2006 and 263/2006

Good Afternoon,

My name is Isaac Sasson. I am the president of the Holly Civic Association and the Skyline Tenants Association in Flushing and a member of Community Board 7. I am here to give my full support for the 2 legislations sponsored by Tony Avella, my Councilmember John Liu, and many of you. Let me briefly give just 3 examples to illustrate why the legislations are necessary.

1. The landlord of my high-rise rent-stabilized building had submitted a 10-year renewal variance for the use of part of the underground garage parking lot to rent out to non-tenants. When the request ^{came} to Community Board 7 in Queens, our Tenant Association submitted proof that the landlord violated stipulations of the previous various renewal, unilaterally and illegally decontrolled the entire garage, and a number of other issues. The CB7 committee rejected the application, and at the full CB7 hearing, neither the landlord nor his attorney from the Sheldon Lobel law firm even bother to show up for the hearing. His application was unanimously rejected, as did the Borough President. To its discredit, BSA nonetheless approved the variance renewal.
2. A church in our neighborhood bought a beautiful family home, razed it and converted it to a parking lot. When they were cited by the Building Department for this, they applied for a variance to make this retro-actively legal. Even though the CB7 committee, the full Community Board and the Borough President turned them down, BSA approved the variance. The ~~law~~ firm of Sid Davidoff represented the applicant.
3. More recently, a case where the applicant wanted a special permit to operate a spa in an M1 zone was turned down by Community Board 7, with Councilmember Avella and State Senator Frank Padavan both speaking out in opposition. Yet, BSA nonetheless approved the application.

There are just 3 examples, and of course there are many, many more. It is very frustrating for community-active people to work very hard to do what's good for their areas, only to see a non-elected agency trump all their hard work and totally disregard the will of the people. Law firms or architects that are well-connected, but not the people, always seem to get the ear of BSA. The final decisions on granting variances should be left to our elected officials, not to an appointed group. We did not elect the BSA members, but we elected you. My Tenant Association and my Civic Association beg you to act on the 2 legislations, as well as on 261/2006, due for a July 24 hearing, *which creates a "Council" review process.*

Thank you

Isaac Sasson

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June 21, 2007

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**Testimony of Edward A. Hartzog - Re: Intro. 586 for
the New York City Council Committee on Governmental Operations
Simcha Felder, Chairman – June 21, 2007**

Mr. Chairman, members of the Committee - thank you for giving me this opportunity to speak with you regarding Intro 586.

I want to start by applauding your desire and efforts to improve the City's campaign finance system. By increasing the amount of matching funds - from 4:1 to 6:1 - this bill will benefit those candidates who are unable to tap into vast amounts of personal wealth, or networks of well-heeled friends and associates. Together with increased spending limits - for local and citywide offices - Intro 586 theoretically creates an opportunity for greater participation in the system.

As an activist, attorney and former Congressional staff member, I can attest to the benefits of more participation in the system. Certainly it engenders greater confidence in the system - which is also the purpose of the bill's limitation on the amount of money people doing business with the City can contribute.

Notwithstanding its potential for creating greater participation and confidence in the system, the bill does not eliminate the need for you and your colleagues, along with potential challengers, to spend countless hours raising funds - when you would rather be using that time for your constituents. Moreover, this bill creates another level of bureaucracy that imposes costs on the system and individual candidates.

Thus, to build on the Committee's policy objectives of greater participation, reducing the appearance of impropriety and/or conflicts of interest, and increasing confidence in the system - I respectfully suggest that the Committee and the Council consider the adoption of a complete publicly funded campaign system.

Such a system would eliminate the need for fundraising, reduce costs - both for the City and individual candidates, help remove the stigma of money and politics and create an environment where campaigns more closely resemble what once was described as a crucible of ideas. Until such a system is adopted, I would like to suggest that the Committee consider amending the current bill's contribution limits to reflect those of federal campaigns - i.e., \$2,300.

I hope that the Committee and Council will continue in their efforts to improve the current system and encourage the consideration and adoption of a complete publicly funded campaign finance system. Thank you.



FOR THE RECORD

THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007

EDDIE BAUTISTA
DIRECTOR
CITY LEGISLATIVE AFFAIRS

MEMORANDUM IN OPPOSITION

LEGISLATIVE

REFERENCE: Int. Nos. 262 and 263

TITLE: A LOCAL LAW to amend to amend the charter of the city of New York, in relation to variance and special permit decisions made by the Board of Standards and Appeals requiring that all such decisions be made by a two-thirds majority of the quorum present and voting (Int. No. 262); and

A LOCAL LAW to amend the charter of the City of New York, in relation to expanding the membership of the Board of Standards and Appeals to thirteen members, with the eight additional members to be appointed, one each, by the borough presidents, Public Advocate, Comptroller and City Council (Int. No. 263)

SUMMARY OF PROVISIONS:

Int. No. 262 would amend subdivision b of section 668 of the New York City Charter (the "Charter") to require that decisions of the Board of Standards and Appeals ("BSA") regarding applications to vary the zoning resolution and applications for special permits within the jurisdiction of BSA "be made by a two-thirds majority of the quorum present and voting" (Int. No. 262 § 2). Currently, Charter § 663 provides that:

All hearings before the board . . . shall be before at least three members of the board, and a concurring vote of at least three members shall be necessary to a decision to grant an application or an appeal, to revoke or modify a variance, special permit or other decision of the board, or to make, amend or repeal a rule or regulation.

The Declaration of legislative findings and intent of Int. No. 262 states that the "bill is a companion to the proposed amendment to the Charter that adds eight additional members to

[BSA] to be appointed by the other major elected officials in city government, the borough presidents, Public Advocate, Comptroller and City Council.” (Int. No. 262 § 1).

The companion bill referred to above is Int. No. 263. This bill would amend subdivision (a) of Charter § 659 to change the composition of the BSA from five members appointed by the Mayor to thirteen members, to be appointed as follows: five appointed by the Mayor and “eight to be appointed, one each, by the borough presidents, public advocate, comptroller and city council” (Int. No. 263 § 2).

REASONS FOR OPPOSITION:

Int. No. 263 constitutes a clear curtailment of the Mayor’s appointment power by replacing a five-member board appointed by the Mayor to a 13-member board that includes eight members appointed by other elected officials. In the absence of passage pursuant to a voter referendum, Int. No. 263 would be a dilution of the Mayor’s authority in violation of the mandatory referendum provisions of Municipal Home Rule Law § 23(2)(f) and Charter § 38(5).

Int. No. 262 also constitutes an improper attempt to curtail the Mayor’s appointment power, which is highlighted by the fact that BSA members are appointed for staggered six-year terms. Depending upon the number of members present at a meeting, the bill would potentially limit the power of individual members by reducing or increasing the number of BSA members required to act with respect to a zoning variance or special permit application. In addition, the overall ability of the BSA to approve an application potentially is restricted.

The curtailment problem in Int. No. 262 is not resolved if, as suggested by its Declarations of Legislative Findings and Intent, it becomes law along with Int. No. 263. As noted above, Int. No. 263 is itself invalid on curtailment grounds. In any event, the diminution of the powers of the Mayor’s appointees remains whether or not Int. No. 263 becomes law.

Accordingly, it is urged that these bills be disapproved.

Respectfully submitted,



Eddie Bautista