

**NEW YORK CITY COUNCIL
Fire and Criminal Justice Services Committee**

**Testimony of Julian Bazel
New York City Fire Department**

November 21, 2013

Good morning Chairperson Crowley and Committee members. I am Julian Bazel, Counsel to the New York City Fire Department (FDNY).

Thank you for the opportunity to testify today in support of Intro 1174, the culmination of a two-year Fire Code revision process. The bill would amend the New York City Fire Code in relation to the enhancement of emergency preparedness in New York City and other fire safety issues. The bill also amends certain provisions of the New York City Charter, the New York City Mechanical Code and the New York City Plumbing Code to conform them to the proposed Fire Code amendments.

The goal of the Fire Code and the mission of FDNY is to promote and enhance public safety in New York City. We believe Intro 1174 represents the next step in fire safety and demonstrates the benefits of an ongoing code revision process.

Background

The New York City Fire Code is codified in Chapter 2 of Title 29 of the New York City Administrative Code. The Fire Code regulates the manufacturing, storage, handling, use, sale and transportation of hazardous materials and combustible materials, and the businesses that use such materials. It also addresses the design, installation, operation and maintenance of fire extinguishing systems, fire alarm systems and other devices, equipment and systems to prevent, mitigate, control and extinguish fire and other life-safety hazards; seeks to prevent, mitigate and control hazards to firefighters and other emergency responders; and mandates emergency preparedness and planning in all types of buildings and occupancies, both for fire and non-fire emergencies.

In 2008, New York City enacted a new Fire Code, the first comprehensive revision of the City's Fire Code in almost a century. The new Fire Code was based on the 2003 edition of the International Fire Code (IFC), a model code published by the International Code Council, with amendments to address New York City's unique urban environment and concerns.

Local Law 26 of 2008, which enacted the Fire Code, included the requirement that the Fire Commissioner review the latest edition of the IFC and propose amendments to the City Council every three years.

The IFC itself is amended every three years. Each new edition incorporates the latest fire safety standards and technologies after they have been vetted through a lengthy model code process in which manufacturers, design professionals, code officials and

other interested parties from around the country participate. The model code process brings these new code standards and requirements before local jurisdictions for their consideration and adoption.

Pursuant to Local Law 26, in 2011 the FDNY commenced a code revision process to review the 2006 and 2009 editions of the Fire Code and propose amendments to the City's Fire Code. FDNY employed virtually the same process used for the 2008 Fire Code, when we successfully integrated agency and outside interests and achieved the goal of a new Fire Code without major objections. Three FDNY technical committees – General Fire Safety, Fire Operations and Emergency Preparedness – were tasked with reviewing the IFC and proposing amendments to the New York City Fire Code. An Advisory Committee of outside stakeholders, including representatives from real estate, professional, industry and trade organizations, were invited to submit their own proposals. Advisory Committee members attended lengthy presentations on the proposed amendments, reviewed draft amendments, provided written comments, received from the FDNY written responses to their comments and met with FDNY to resolve any remaining concerns. A Managing Committee that included Department of Buildings and City Council representatives provided coordination and guidance.

In addition, in August 2013, FDNY hosted at our MetroTech headquarters a public forum on the latest Fire Code revisions, and took those public comments into consideration in finalizing the bill before you. Intro 1174 also incorporates various official Fire Code interpretations and guidelines that FDNY has issued since 2008 and posted as Frequently Asked Questions.

Throughout its code revision process, FDNY carefully considered the practical considerations and financial impact of the proposed Fire Code amendments. Intro 1174 contains new fire safety enhancements but it also amends the Fire Code to clarify, simplify and in some cases even eliminate Fire Code requirements, and to better coordinate with Building Code and zoning provisions. In short, we have endeavored to take a thoughtful, nuanced approach to Fire Code revision.

Major Enhancements

The Fire Code amendments before you effect a wide range of fire safety enhancements. They range from provisions that better regulate construction site safety; to measures designed to accommodate green roofs, solar panel installations and hydrogen-powered vehicles; to everyday fire prevention measures relating to portable electric space heaters, halogen lamps and residential building hallways. The Fire Code amendments that relate to rooftop access, fire apparatus access and fire emergency markings will facilitate firefighting operations and promote firefighter safety.

However, the centerpiece of Intro 1174 is its comprehensive revision of the emergency planning and preparedness requirements of Fire Code Chapter 4. Accordingly, I will first address those Fire Code amendments.

Comprehensive Revision of Fire Code Chapter 4

Chapter 4 of the New York City Fire Code sets forth the requirements for emergency planning and preparedness in all buildings and occupancies. Intro 1174 advances an innovative approach to emergency planning and preparedness that is tailored to the size, staffing and needs of each type of building or occupancy.

Historically, the focus of Fire Code emergency planning and preparedness has been high-rise office buildings and hotels, which experienced fatal fires in the 1970s. A fire safety plan and fire safety director were required for those buildings. After 9/11, Fire Code emergency planning and preparedness was expanded, in high-rise office buildings to non-fire emergencies, including weather emergencies, blackouts and law enforcement and terrorism incidents, such as explosions and chemical and biological releases.

Originally, these emergency plans were designed to enable building and business owners to take the appropriate measures to protect lives and property in the first few critical minutes of a fire, before firefighting personnel arrive on scene. With non-fire emergencies, the scenarios are more varied and complex. The threat to building occupants may not be in the building at all, but down the street or citywide and, accordingly, emergency responders may not be present to provide incident management. It is therefore increasingly important that building and business owners incorporate non-fire emergency preparedness into their everyday operations.

The 2008 Fire Code required, for the first time, emergency planning and preparedness in the form of fire safety and evacuation plans for public assembly occupancies; institutional occupancies, such as assisted living facilities, nursing homes and hospitals; mercantile establishments, such as department stores, big box stores and covered malls; and educational occupancies, including college and university classroom buildings and dormitories.

The 2008 Fire Code adopted the IFC requirement of a detailed, office-building-type fire safety plan. In seeking to implement that approach, FDNY came to the conclusion that that approach was both too much and too little.

Too much, because it required emergency planning for small, low-rise buildings and occupancies, such as storefront stores and restaurants. These types of businesses typically have a proprietor or manager who can personally monitor the premises, and limited staffing and limited emergency response options. These businesses are also usually located in buildings with easy access and egress, and would thus least benefit from the complex and potentially costly Fire Code fire safety plan currently required by the Fire Code. Too little, because these fire safety plans did not address non-fire emergencies, or set forth requirements for staffing and voice communication.

Instead of requiring elaborate office-building-type plans for all occupancies – regardless of their use, size, staffing and risk vulnerability – the proposed Fire Code

amendments offer a bold new vision that abandons the “one-size-fits-all” plan in favor of a plan and staffing tailored to the needs of different types of buildings and occupancies.

Intro 1174 would establish for all but the largest buildings and occupancies: (a) simplified, on-line plans specific to each type of occupancy that can be prepared without professional assistance; (b) certification of a manager or other responsible person and training of business employees instead of dedicated fire safety personnel; (c) coordination of the plans and staffing with building voice communication capabilities; and, (d) in mixed-occupancy buildings, a single plan or enhanced coordination of emergency preparedness among the various occupancies. In most cases, these plans would not have to be filed with the Fire Department, eliminating filing fees. The format and content of the plans would be set forth in FDNY rules which FDNY intends to develop in conjunction with industry representatives. Our goal is a basic, common-sense emergency preparedness plan that is doable and that benefits the building or business, as well as the public at large.

Significantly, these simplified plans would address both fire and non-fire emergencies, including the coordination of emergency response to medical emergencies. To expedite emergency responses to the patient, potentially saving precious minutes, the proposed Fire Code amendments utilize the available resource of emergency preparedness staff in the building. We also plan to include CPR-trained volunteers in the building in the emergency preparedness plan.

We received a significant amount of comments on the proposed Chapter 4 and, in particular, the cost of compliance with existing Fire Code emergency preparedness requirements. The proposed amendments would eliminate those costs for the large majority of occupancies. Additionally, various code changes and changes in FDNY Bureau of Fire Prevention operations should eliminate or ameliorate these concerns.

We also received a significant amount of comments with respect to the process by which building owners are required to submit floor plans in connection with their emergency preparedness plans. The proposed Fire Code amendments address those concerns by re-focusing the requirement for floor plans upon the operational needs of emergency responders. The requirement for floor plans and the manner of their submission will be tailored to each occupancy through the rulemaking process, where it can be addressed in conjunction with the form and content of the particular emergency preparedness plan.

Other Important Fire Code Amendments

Intro 1174 is a lengthy document and includes a wide range of significant provisions, many of which are technical and likely to be of limited interest to the general public. However, a number of significant code changes will affect and benefit the general public in their homes, workplaces and businesses. These include:

- Authorizing the installation of hydrogen motor fuel dispensing systems for hydrogen-powered automobiles, currently prohibited by the Fire Code;
- Clarifying and enhancing rooftop access and clear path requirements to ensure safe and effective rooftop firefighting operations;
- Allowing certain building features and building service equipment to encroach on the rooftop “clear path” on brownstone-type buildings to facilitate rooftop solar panel installations;
- Reducing the required roadway width of fire apparatus access roads in private residential developments and office parks from 38 to 34 feet, consistent with standards for public streets;
- Clarifying that a driveway can serve as a fire apparatus access road for one- and two-family dwellings set back up to 100 feet from the street;
- Clarifying when a building alteration triggers sprinkler requirements on substandard width public or private streets;
- Requiring that apartment doors and guest rooms in hotels have room numbers to facilitate EMS and other emergency responders;
- Requiring fire emergency markings on the door jambs of dwelling units and stairwell doors in hotels and apartment buildings not protected by a sprinkler system to facilitate firefighting operations in the event of fire;
- Clarifying when notification to the Fire Department is required for a fire protection system that malfunctions or is placed out of service for repairs, and when and how many fire guards are required in those instances;
- Authorizing the use of home healthcare oxygen tanks in apartments and other residential occupancies;
- Clarifying the prohibition on storage of combustible materials in apartment building hallways and elevator lobbies to minimize or eliminate impediments to egress and reduce the fire load in the event of fire;
- Clarifying that fire escapes must be maintained in good condition and good working order;
- Requiring a separate fire safety manager when a building under construction exceeds 20 stories or 250 feet in height;
- Clarifying and streamlining fire guard requirements at construction sites during torch operations;
- Establishing who can lawfully possess a citywide standard key that is used for firefighter service recall in elevators;
- Allowing electronic monitoring of fire extinguishers in lieu of required monthly inspections;
- Regulating new types of battery systems used in buildings to provide standby power; and
- Adopting national standards to guide FDNY in its review of the design, installation, operation and maintenance of fire protection systems and other fire safety measures in fixed guideway transit and passenger rail systems, road tunnels and bridges, wastewater treatment facilities and electric generating plants.

Conclusion

In conclusion, we congratulate the Council for enacting legislation that has modernized the code revision process. We thank the Council for its past and present support of the Fire Code revision process.

We believe that Intro 1174 demonstrates the merit of the new code revision process. We believe that the proposed Fire Code amendments will enhance public safety and firefighting operations while minimizing or reducing the burden of regulation on property owners and businesses in New York City.

Thank you for the opportunity to speak with you today regarding this important legislation. I would be glad to answer any questions you may have.



**Testimony of Sylvester Giustino on behalf of the Building Owners and
Managers Association of Greater New York Inc. (BOMA/NY)**

**Council of the City of New York Committee on Fire and Criminal
Justice**

Hearing in relation to Int. No. 1174

November 21, 2013

Good morning, Chair Crowley and members of the New York City Council Committee on Fire and Criminal Justice, my name is Sylvester Giustino, Director of Legislative Affairs for the Building Owners and Managers Association of Greater New York, Inc. (BOMA/NY).

BOMA/NY represents more than 750 owners, property managers and building professionals who either own or manage 400 million square feet of commercial space. We're responsible for the safety of over 3 million tenants, generate more than \$1.5 billion in tax revenue and oversee annual budgets of more than \$4 billion. BOMA/NY is the largest Association in the BOMA International federation, the world's largest trade organization. The commercial real estate industry is a significant contributor to the nation's, and in particular the city's economic engine. Our industry employs over 228,000 New Yorkers and contributes over \$14 Billion dollars to the Gross State Product.

We appreciate the opportunity to comment on Int. No.1174, a Local Law to amend the New York City fire code, in relation to the enhancement of emergency preparedness in New York City and the adoption of current fire safety standards as incorporated in the 2009 edition of the International Fire Code, and to amend certain provisions of the New York City Charter, the New York City Mechanical Code and the New York City plumbing code consistent with amendments to the New York City Fire Code. Fire safety is a critical building performance issue for our members and their tenants. We value the importance of promoting building fire safety, but believe that regulations need to be sensible and easy to follow. The proposed code has the potential to negatively impact the growth of our local economy and create significant burdens for existing buildings. We believe that a number of the proposals, while well intentioned, will not improve fire safety.

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They will create conflicts between the Fire Code and the Building and Construction Code. The New York City Fire Code is a post occupancy document and not to be used to set construction and alteration requirements. We ask that the Fire Department work in collaboration with the New York City Department of Buildings to put codes that regulate design to be included in the Building and Construction Code.

Over the last 12 years, the City of New York has reduced the amount of agency discretionary policymaking and has streamlined the process to get building alteration projects moving. However, this proposed code, if enacted, will reverse the progress we have made and will lead to confusion, delays for needed improvements to our existing building stock and loss of revenue for our industry and our city's economy.

Below are our comments on specific Proposed Sections:

Section FC 105.4 Design and Installation Documents

This Section sets design and installation requirements for in-building communication systems and battery systems for the back-up of life safety systems. The Section also includes emergency voice communication systems and standpipe systems and other water-based fire protection systems. This requirement relates to the design and construction of buildings, not building operation and should be placed in the Building and Construction Code.

Section FC 318.3 Maintenance of Vegetation (Rooftop Gardens/Greenroofs)

This Section requires rooftop gardens to be landscaped, maintained and vegetation capable of being ignited to be regularly cleared and removed from the rooftops and building. We applaud the Department for removing the requirement for a maintenance plan which was in an earlier version of the proposal, but the language used may lead to over-enforcement by the Department and may impede the development of greenroofs. It sets design and construction requirements not operational ones and should be placed in the Building and Construction Code.

Section FC 401.4.5 Fire and Life Safety Staff

The requirement for an onsite 24/7 Fire and Life Safety Director will be a costly mandate for our members. Our Association believes that having an around the clock FLS Director for Class B buildings will not improve fire safety. The proposed section also increases the responsibilities and liabilities of the Fire and Life Safety staff by requiring them to assist Fire and EMS personnel responding to a medical emergency. The current Emergency Action Plan/Fire Safety Plan is to outline procedures and action items, not to perform the functions of first responder (NYPD, FDNY, EMS) personnel with building staff.

Section FC 404.3.1 Fire and Emergency Preparedness Plan (Level 2)

This Section directs Class B office buildings to have an enhanced fire and emergency preparedness plan for buildings that are designed to be occupied by more than 25 persons above or below street level. We find this section to be discretionary and expensive. We ask that the threshold be increased to one hundred persons above or

below street level. Our members, who manage these buildings, would be subject to open interpretations by FDNY inspectors resulting in costly and arbitrary violations.

The significant compliance costs, (estimated to be over \$1 Million) the initial filing, (between \$135,000 and \$500,000), annual staffing costs and filing fees (of at least an additional \$100,000 per year), will not improve fire safety.

Section FC416.1 Mixed Occupancy Buildings

This Section requires the owners of a mix-occupancy building, and each occupancy within such a building, to prepare multiple emergency action plans pursuant to the Fire Code. This requirement for separate plans to govern the same building will create unnecessary levels of confusion and not enhance fire compliance, and will make the required plans ineffective.

Section FC511 In-Building Auxiliary Radio Communication Systems

This Section sets the design, installation, operation, and maintenance of in-building auxiliary radio communication systems dedicated for Fire Department use.

This requirement is extensive and vague, but more importantly does not fall into line with Federal Communications Commission policies and regulations. As of December 31, 2012, commercial building management personnel are allowed to operate mobile radio devices at a frequency of 12.5 kHz or less. The radios used by the FDNY are at 800MHz. Building owners and managers are unable to receive a FCC license to operate a radio at that frequency and would subsequently be fined up to \$38,000 if they fail to comply with this Rule. We believe that the best way to facilitate this proposal is to change the language to encourage commercial building personnel to install a repeater system.

Thank you for giving us the opportunity to present our concerns. We look forward to working with the FDNY, the New York City Council and industry stakeholders to develop a Fire Code that promotes the effective and reasonable regulation of fire safety in New York City.



I am here today on behalf of Lend Lease Construction to testify on the proposed FDNY code. We as an organization have reviewed the proposed code and have listed below the items that we have found to be of concern. Our concerns are listed under the specified regulation. The specified regulation has been copied and pasted from the proposed code, so that the brackets and unlined sections are maintained to show the proposed changes.

- **(FC 105.6) Required permits**
 - “Fire department in-building auxiliary radio communication systems. A permit is required to maintain or operate a fire department in-building auxiliary radio communication system.”
 - **CONCERN:** Since this system is not required during construction, an exception for construction should be added to avoid any confusion.

- **(FC 901.7.2.1.3) – Fire watch responsibilities**
 - 3. immediately report any fire to the department and notify emergency preparedness staff on the premises:
 - **CONCERN:** Clarification should be included as to how to notify the department (i.e. call 911, FDNY borough dispatch, or the local fire house) in order to avoid a full FDNY response for a small fire that was immediately extinguished.

- **(FC 906.2.1.2) – Fire extinguishers – Yearly inspection**
 - “Annual servicing and recharging shall be performed by a person or company meeting the requirements of [Section 901.6.3.1] FC901.6.3.1. Records of servicing and recharging of portable fire extinguishers shall be provided and maintained in accordance with NFPA 10. The required tag or label for servicing shall also include the following information: 1. The name and certificate of fitness number of the person who serviced the portable fire extinguisher, 2. The month and year the portable fire extinguisher was serviced, and 3. The name, street address and telephone number of the portable fire extinguisher serving company, if any, servicing the portable fire extinguisher.”
 - **CONCERN:** An exception should be added for new fire extinguishers. New fire extinguishers should not be required to have a yearly inspection tag or label. Documentation from the vendor or manufacturer of the fire extinguisher should be an acceptable form of verification for the first year the fire extinguisher is in service.

- **(FC 1404.2) – Waste disposal**
 - Combustible waste, including rubbish and construction and demolition material, shall not be [accumulated] allowed to accumulate within buildings and shall be removed from [buildings at the end of each work shift, but] a building at least once a day. Accumulations of combustible waste not stored in containers in accordance with FC304.3 and in a manner that obstructs movement on the floor, or containing flammable or combustible liquid residues, shall be removed from a building at the end of each work shift. Combustible waste, including rubbish and construction and demolition material, shall be removed from the premises or stored in noncombustible containers.
 - **CONCERN:** It is not practicable to remove all the waste containers from the building every day. A certain amount of noncombustible waste containers (i.e. 10 cubic yards) should be allowed to be stored on a floor overnight in a building.

- **(FC 1404.5) – Fire watch**
 - “The commissioner may require, [for] at a demolition [operations] site, and at other construction sites that are unusually hazardous in nature, that [persons holding a certificate of fitness as] a fire watch be maintained by fire [guard] guards [be provided to serve as an on-site fire watch. Fire guard personnel shall be provided with at least one approved means for notification of the department and their sole duty shall be to perform constant patrols and watch for the occurrence of fire]. The fire guards conducting such fire watch shall have the duties and responsibilities set forth in FC901.7.2.1.”
 - **CONCERN:** The board of standards and appeals and Construction Site Fire Safety Manager (S-56) certificate of fitness require that a fire guard be on site and make hourly inspections from after work until mid-night. If this is still a requirement, then the regulation should include it.

- **(FC 1404.8) – Fire-resistance-rated construction**
 - “Fire walls, fire barriers, and spray-on fire protection of structural members required by the Building Code for the completed building, shall be given construction priority. Required fire doors, with automatic closing devices, shall be installed on openings as soon as practicable. Required fire walls, fire barriers and fire doors shall be left in place in buildings undergoing alteration or demolition until construction operations necessitate their removal.”
 - **CONCERN:** The terms “construction priority” & “practicable” are subject to interpretation. Criteria should be included to assist the public in compliance.

- **(FC 1408.2) – Pre fire plan**
 - “The fire safety manager shall develop and maintain at the construction site an approved pre-fire plan, and make it available for examination by any representative of the department. The department shall be notified of any changes in site conditions materially affecting the procedures set forth in such plan. “The fire safety manager shall develop and maintain at the construction site an approved pre-fire plan.”
 - **CONCERN:** No criteria are listed for the pre-fire plan. Pre-fire plan required items should be included to assist the public in compliance.

- **(FC 3406.2.3) – Containers for storage & use**
 - “Flammable and combustible liquid shall only be stored in metal containers of a type meeting the requirements of the regulations of the United States Department of Transportation, as set forth in 49 CFR Part 178, or in containers of an approved design.”
 - **CONCERN:** Section has requirements for outdoor storage, but not indoor storage. A reference to the indoor storage requirement in Chap-34 should be included to assist the public in compliance.

- **(FC 3406.2.4.3) – Temporary tank location**
 - “Tanks containing flammable or combustible liquids shall be kept outdoors and at least 50 feet (15 240 mm) from buildings, combustible material and combustible waste. Additional distance shall be provided when necessary to ensure that vehicles, equipment and containers being filled directly from such tanks will not be less than 50 feet (15 240 mm) from structures or combustible storage.”
 - **CONCERN:** This requirement is unrealistic for NYC. Also, it is not logical with the FC 3404.4.2 requirement for storage of containers outdoors that references FC Table 3404.4.2, which says that 8,800 gallons of a Class II liquid (ie. Diesel fuel) can be stored 5 feet to a public road. Also, FC 3404.4.6 says that combustible waste shall not be within 15feet of an outdoor portable container storage area. The distance requirements listed should be reduced. Distance to buildings should be reduced to align with the OSHA requirement of 20ft to buildings. Also, the distance to combustibles should be reduced to 15ft to align with the FDNY code 3404.4.6.

Regards,

Christopher Burczyk
Lend Lease Construction

**Testimony before the Committee on Fire and Criminal Justice Services
of the New York City Council on Int. No. 1174-2013**

By Angela Sung Pinsky

Senior Vice President, Management Services and Government Affairs

Real Estate Board of New York

November 21, 2013

Good afternoon Chairperson Crowley and members of the Committee on Fire and Criminal Justice Services. The Real Estate Board of New York, representing over 14,000 owners, developers, managers and brokers of real property in New York City, thanks you for the opportunity to testify about the triennial review of the New York City Fire Code. This review has been a tremendous effort, and represents thousands of hours volunteered by industry professionals, and we are supportive of the Administration and the Council's efforts to renew and improve the Fire Code regularly.

As owners and operators of the largest and most complex buildings in the City, we appreciate the importance of promoting safety while balancing the need for reasonable and practicable regulations. We have previously submitted comments to the Fire Department aimed at ensuring that our members are able to comply with the proposed regulations without the imposition of undue costs or burdens on building operators.

We have worked diligently with the FDNY, who dedicated many hours to hearing, discussing, and addressing our specific concerns. These discussions were very productive and resolved the large majority of our objections; however, REBNY has a few important outstanding issues remaining.

Our specific concerns include:

Section FC414.2.1, Comprehensive fire safety/emergency action plan (Level 1).

- The Fire Code requires a Level 1 plan for mercantile occupancies and covered malls. Tenants, shoppers, and employees within retail are highly transient populations, and would likely not benefit from regular drills, which would be severely disruptive to the businesses, and will likely impede sales or require retailers to incur substantial additional costs. A Level 2 plan would be more appropriate to avoid unnecessary cost and business interruptions to these small businesses while informing the FDNY of all critical building information, and limiting the disruptive training to building staff and full-time personnel.

Sections FC416.1 and FC416.2 General/Single Plan.

- The Code requires single structures where multiple plans are required to submit multiple plans or a single coordinated plan. Coordination of plans can be costly and confusing, particularly within condominium commercial spaces. The FDNY should allow require the dominant occupancy within a structure to file on behalf of the entire building.

Section FC504.4 Rooftop access and obstructions.

- The Fire and Building Codes only require a 4 foot egress path for emergency response personnel within a building. The Fire Code should remain consistent, and only require a 4 foot clear path on rooftops as opposed to a new 6 foot requirement.

Sections FC1027.3.5 and FC1027.4 Furnishings and decorations.

- We believe that Section FC1027.3.5 inadvertently prohibits any decorations or furnishings in commercial building hallways and elevator lobbies regardless of size. We believe this provision should be clarified to allow for any decorations and furnishings so long as they do not impede necessary minimum egress widths as outlined by the Code.

Section FC1027.4.6 Rubbish.

- The FDNY often issues violations for storing recycling bins on the floors of residential buildings. The industry has requested for guidance on how buildings can comply with both DSNY's and FDNY's safety requirements. The FDNY should provide clarification on recycling storage for smaller buildings.

With clarifications and modification of the aforementioned provisions, REBNY supports the proposal and the agency's renewal and regular review of all codes governing buildings. Thank you again for the opportunity to comment. We look forward to continuing our conversation with the FDNY to create requirements and plans that improve the safety of both the City and New Yorkers.

Good morning Chairwoman Crowley, members and staff to the Fire and Criminal Justice Services Committee. My name is Bruce Johnson. I am the Director of Fire Service Activities in the Government Relations Department for the International Code Council. I'm here today to offer supporting testimony for Intro. 1174 which would amend the New York City Fire Code, in relation to the enhancement of emergency preparedness and the adoption of current fire safety standards as incorporated in the 2009 International Fire Code (IFC). The bill also amends certain provisions of the NYC charter, the NYC Mechanical Code and the NYC Plumbing Code consistent with amendments to the NYC Fire Code.

I would first like to commend the FDNY for its outstanding work to ensure the safety, health and well-being of its citizens. The proposed update of the 2008 New York City Fire Code to bring this code up to date with the 2009 edition of *the International Fire Code* (IFC®) while incorporating amendments that reflect the unique character of the city, will ensure the safety of the city's residents, visitors and emergency responders while embracing new technology and building practices. The FDNY created several Technical Advisory Committees and sought input from various stakeholder groups throughout this update process.

Since 2008, the New York City Construction and Fire Safety Codes have been based on the International Codes (*I-Codes*) produced by the International Code Council (ICC). The ICC is a membership association dedicated to building safety, fire prevention, energy conservation and sustainability. The ICC develops the model building codes used to construct residential and commercial buildings and a model fire code to ensure buildings remain safe throughout their useful life. Most U.S. cities, counties and states that adopt codes, choose the International Codes (*I-Codes*) developed by the ICC. The *I-Codes* are currently adopted at the state or local level in all 50 States, the District of Columbia, Guam, Puerto Rico, the US Virgin Islands and the Northern Marianas Islands. It is the mission of the ICC to provide the highest quality codes, standards, products, and services for all concerned with the safety and performance of the built environment.

As the proposed New York City Fire Code is based in-part upon the 2009 *International Fire Code* (IFC®), I will briefly explain the ICC code development process. The *I-Codes* are developed through a consensus process utilizing fire safety and prevention, building construction, energy and sustainability experts from across the U.S. The ICC Code Development Process is an open, inclusive process that encourages input from all individuals and groups and allows those governmental members, including representatives from NYC, to determine the final code provisions of our model codes. The *I-Codes* are revised and updated every three years through a consensus process that strikes a balance between the latest technology, installation techniques and new building products, economics and cost while incorporating the most recent advances in public and first responder safety.

Since 2008, there has been significant participation in the ICC code development process from both FDNY and DOB and as a result, some of the NYC language is now incorporated into the various *I-Codes* now in effect nationwide. This involvement is critical to the development of future versions of the *I-Codes*. Additionally, the technical and practical expertise of FDNY Fire Prevention personnel along with the DOB staff, design professionals, builders, contractors, labor representatives and all organizations interested in building safety are vital to your adoption efforts as well.

New York City is one of many jurisdictions that values public and first responder safety and the protection of our built environment by updating building, fire, plumbing and energy codes every three years. By regularly adopting your construction and fire safety codes every three years, the City provides the safest and economically prudent climate for its citizens since updated codes allow the use of new construction standards or methods. Accordingly, the proposed New York City Fire Code will update the city's fire

prevention and safety code to reflect recent fire and life safety requirements developed by the nation's leading fire department officials, building scientists, building officials, construction contractors, building owners and managers, architects, engineers, product manufacturers and discipline specific associations with modifications unique to New York City. This Bill will also update the many important reference standards incorporated in the New York City Fire Code to the latest editions of the standards that prescribe the design, installation, testing and maintenance of critical building construction features and fire and life safety systems required by the code.

The New York City Fire department has worked for the past several years to diligently consider the requirements contained in the new Fire Prevention Code before you today. Many volunteers have participated on Advisory Committees in the complicated technical review of each chapter to ensure this code will meet the diverse needs of New York City stakeholders. The ICC applauds the hard work of the FDNY and the investment of many hours by dedicated professionals from many disciplines serving on Technical Advisory Committees that worked to bring the updated New York City Fire Code forward for consideration by this Committee and the City Council as Intro. 1176.

Int. No. 1056, the corresponding updates to the Administrative Code of the City of New York, the New York City Plumbing, Building, Mechanical Code and Fuel Gas Codes are currently before the Committee on Housing and Buildings. This proposed update, Int. No. 1176, will complete the comprehensive update of the NYC Construction and Fire Safety Codes, last revised and made effective in 2008.

The International Code Council is honored to partner with the City of New York and we look forward to continuing to serve your needs in supporting the review, adoption and administration of the updated NYC Building Construction and Fire Safety Codes.

Thank you for the opportunity to present public comments today in support of the proposed updates to the New York City Fire Code. I am happy to answer any technical questions that you may have about the 2009 International Fire Code requirements contained in the NYC Fire Code or provide additional information.

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Testimony of Melissa Barbour, Executive Director, New York Fire Sprinkler Contractors Association, Inc., Consultant, Mechanical Contractors Association of New York, Inc.

Re: Intro. 1174-2013
New York City Council Committee of Fire and Criminal Justice
November 21, 2013

I am submitting testimony today to express our concern regarding one proposed section of New York City Council Intro. 1174.

Proposed FC 901.7.2.2. section reads:

901.7.2.2 Fire guards required. The fire watch required when a standpipe system, sprinkler system or fire alarm system is out of service shall be maintained in accordance with FC901.7.2.2.1 and this section.

Exception: The impairment coordinator or other building staff trained and knowledgeable in conducting a fire watch may conduct a fire watch in lieu of a fire guard during the initial **4 hours** of a planned removal from service, or after discovery of an unplanned out-of-service condition, provided that the floor or area in which the fire protection system is out of service does not exceed 50,000 square feet (4645 m²).

The updated Fire Code will reference NFPA 25 of 2011. NFPA 25 of 2011, sections 15.5 and 15.6 indicate how preplanned and emergency impairments of sprinkler systems are to be handled. NFPA 25 (2011) Section 15.5.2(4) allows for a **10 hour** outage before a fire watch or other remedial action is put into place. We believe that the code and reference standards should be consistent.

The fire sprinkler industry asks that the Fire Code be amended to allow the impairment coordinator or other building staff trained and knowledgeable in conducting a fire watch to serve as the fire watch during the initial 10 hours of a planned removal from service or after discovery of an unplanned out of service condition, provided that the floor or area in which the fire protection system is out of service does not exceed 50,000 square feet (4645 m²).

Allowing the impairment coordinator or other building staff trained and knowledgeable in conducting a fire watch to serve for 10 hours rather than 4 will still provide adequate protection without additional expense for the building owner.

Furthermore, the fire department does not require notification that a system is out of service unless it will be out of service for more than 8 hours.

We believe that at the very least it would make more sense that the fire guard be required after 8 hours and at the same time that FDNY notification is required. Most preplanned impairments are for the purpose of alterations, repairs and testing and inspection of the systems. Most take less than 8 or 10 hours but most take more than 4 hours.

For the reasons stated above, we ask that you respectfully consider changing the language currently proposed in FC §901.7.2.2.

Thank you.



HOTEL ASSOCIATION OF NEW YORK CITY, INC.

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(212) 754-6700 FAX (212) 754-0243

FOR THE RECORD

NYC COUNCIL FIRE AND CRIMINAL JUSTICE COMMITTEE

November 21, 2013

COMMENTS REGARDING INT. 1174

On behalf of the Hotel Association of New York City ("HANYC") thank you Chair Crowley and the Members of the Committee for the opportunity to submit comments in regards to Int. 1174 that will amend the New York City Fire Code. The Hotel Association represents over 270 of our City's finest hotels which account for over 75,000 rooms, employing over 35,000 workers.

HANYC fully supports the continuing updating of the Fire Code to reflect changes in such areas as technology and best practices. The safety of the guests of our members is of paramount concern and we have enjoyed a long and productive relationship with the FDNY and other city agencies regarding safety issues at our member properties.

HANYC's primary concern with the legislation is the reasonableness of the compliance periods for existing hotels to implement some of the proposed changes given the significant costs associated with compliance.

Our members are particularly concerned with the compliance period associated with the mandatory filing of Level 1 Plans under FC 401. Currently the proposed time period is 18 months from the promulgation of the rules associated with this legislation. This is especially true for HANYC members that have recently invested significant resources to implement the Fire Safety Plans or Emergency Action Plans to comply with the current Fire Code regulations. We believe that it would be a considerable financial burden on Group R-1 hotels that have filed fire and safety and/or evacuation plans with the Department on or after January 1, 2012 to require that they undertake the expense of new construction, increased staffing and additional training that is required under FC 401 so soon after they have filed and/or implemented approved fire safety plans.

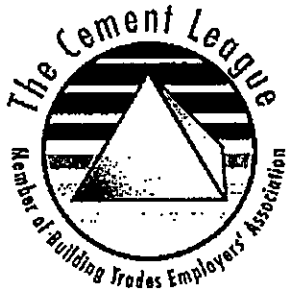
- Accordingly, we request that you consider affording the same three (3) year compliance (grace period) to R-1 hotels, as you have proposed for Group B office buildings under FC 401.3.6.2.
- Similar to 401.3.6.2, which appears to only apply to Group B office buildings, existing Group R-1 hotels that filed a Fire Safety Plan or Emergency Action Plan on or after January 1, 2012 would receive a period of three (3) years after the effective date of the Proposed Amendments to comply with FC 401. This extension would include a three (3) year period to file the Level 1 Plans and to employ FLS certified staff.

- Such a grace period would not extend to Group R-1 hotels that can not provide proof of filing a plan within since January 1, 2012.
- During the grace period, R-1 Group hotels that fall under this category would not receive FDNY summonses or notices of violations for the failure to have such plans in place.
- This provision would not extend the time or eliminate the requirements for the updating, revising or approving the plans that these buildings currently have in place.

We understand that, as provided under 401.4.3, many of the specifics about the Fire & Life Safety (FLS) staff certification process and the FLS staff's respective duties will be established during the Rule Making process. We also understand that under FC 401.4.5, HANYC members will be required to employ or otherwise retain sufficient FLS staff immediately upon the effective date of the Proposed Amendments in order to implement a Level 1 Plan. The uncertainty about the FLS staff's duties and the process for certification and training raises serious concerns over the expense and the time that it will take HANYC members to "train-up" their current FSD staff or to otherwise retain new staff to meet the proposed FLS staff certification requirements.

- Our request is that, where a higher level of staffing is required by Chapter 4, all R-1 Group hotels receive a twelve (12) month grace period after the effective date of the Proposed Amendments to allow for the businesses to retain, train and certify the required FLS staff.
- During the aforementioned twelve (12) month grace period, R-1 Group hotels that are required to file Level 1 Plans would not receive FDNY summonses or notices of violations for the failure to have FLS staff on duty.
- As an important point of clarification, we would also like to confirm that the FDNY will continue to support a business's election, where taken, to retain a third party company to outsource FLS staff.

Thank you for your attention to these concerns, we look forward to working with the Fire and Criminal Justice Committee as Int. 1174 moves through the process.



49 West 45th Street, Suite 900, NY NY 10036 Phone (212) 575-0950 Fax (212) 575-4844
www.thecementleague.com email: thecementleague@verizon.net

Hon. Elizabeth Crowley
Chair Fire & Criminal Justice Services Committee
New York City Council
250 Broadway Suit 1765
New York, NY 10007

FOR THE RECORD

Re: City Council Bill Int. No. 1174 / Revisions to the New York City Fire Code

Dear Council Member Elizabeth Crowley,

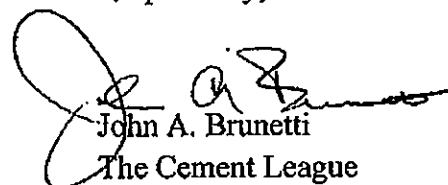
The Cement League represents New York City's major union concrete contractors. The Cement League is affiliated with construction unions providing over half the union construction work force. The Cement League recognizes the learned and monumental Fire Department's effort in its revision of the Fire Code. The Fire Code, responsive to reality, has evolved beyond combustibles to hazardous substances and emergency responses. The scope of the proposed Fire Code is easily reflected by Intro. 1174's over 800 pages.

The Cement League has no common experience in many of the matters covered by the Code. The Fire Department has met with the Cement League on many specific industry issues. The Cement League has benefitted from the expertise of the Department. These issues are well addressed by the proposed Code.

Because of the proposed Code's scope, in its present completed form - Intro. 1174, the Cement League believes that some matters need further clarification. The Cement League would appreciate the Fire Department and Committee designating the individual or individuals with whom we should discuss these Code matters.

In totality, The Cement League commends the Fire Department for a comprehensive undertaking well done.

Respectfully,


John A. Brunetti
The Cement League

STATEMENT OF THE BROADWAY LEAGUE

The Broadway League, the principal trade association for the commercial theatre industry, representing over 700 members nationwide including all Broadway houses in Times Square, supports Introductory Bill 1174, in relation to the enhancement of emergency preparedness in New York City. We thank Chairperson Crowley, as well as the other distinguished members of the Fire & Criminal Justice Committee, for entertaining our opinion on the legislation under consideration.

We encourage the Committee to adopt this proposal that, as well as bringing New York City's Fire Code up to date with modern safety practices, will afford venue operators needed flexibility in preparing for, and addressing, emergency situations. Our theatre buildings, with their unique layouts, features and operations, require an emergency preparedness approach suited specifically to these facilities. We believe the proposed legislation recognizes these distinctions, allows for a tailored approach and will result in a safer environment for both the audiences and the many people employed onstage, behind the scenes and in the front-of-house

We wish to draw attention to one provision, which already exists, that has unintended negative consequences at smaller live performance venues, such as those we represent: Proposed Section 407.5.1 requires "*...rope, tape or other thin material ... supported by lightweight posts ...*" be placed to separate standee areas. This type of removable boundary is currently mandated by Section 403.1 and remains a hazard in our theatres as demarcation equipment, no matter how lightweight or flexible, is an impediment in an evacuation scenario. We recommend repeal of this language and suggest that durable floor markings are practical, safe and sufficient.

Again, The Broadway League thanks the committee for the opportunity to state our support for this bill. We are happy to work with The Council and the FDNY towards achieving the most effective Code possible.



November 21, 2013

Good Morning Chairman Crowley and Council Members:

My name is Victoria Pitcavage, and I am the Director of the Fire Science Institute at John Jay College of Criminal Justice. This past August, I spoke at the public forum at 9 Metro Tech to stress the importance of continuing education for what we will now be calling "FLS Directors", and I want to emphasize this same point once again today.

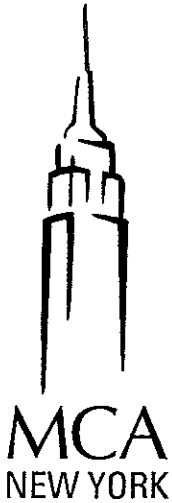
By September 30th, 2014, we will have completed a lengthy recertification cycle for our Fire Safety Directors that began back in October 1, 2010. The individuals who participated in this class noted that the experience was especially valuable, as it brought them up to date on all the new codes mandated from 9/11 that they were otherwise completely unaware of. Since Certificate of Fitness renewals and code changes both occur every three years, I believe that this informative training should be mandated at the same time to keep FLSDs up to date with any changes.

To continue on that same point, I believe that with the exception of cases involving imminent danger to the public, no code should be changed until the new codes are due to come out. When we keep changing the codes at random intervals, the directors are not made aware of these changes until three years later or if their company receives a violation, whichever happens first.

Well-run industries require that licenses be maintained through educational courses, and our respected professionals should also maintain such standards. This issue is important beyond a case-to-case basis – it is the image of FLSDs as a whole; we want to represent our organization well, and if they are not continuously being educated and informed of the very codes they are supposed to be enforcing, it makes this a much more difficult job.

Our FDNY accredited schools can continue to educate and test each FLSD every three years during a one-day training session, in which they will learn of all new codes passed since their last training. This is likely to help reduce the number of violations issued by the FDNY during inspections, especially in regard to infractions related to new codes that have been passed. This will also keep the buildings' owners and the people working in and visiting this great city as safe as possible, which is one thing we can all agree, is important to each and every one of us.

Thank you for your time – I'm happy to answer any questions you may have.



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Testimony of Shane McMorrow, Assistant Vice President, Mechanical Contractors Association of New York, Inc.

Re: Intro. 1174-2013

New York City Council Committee of Fire and Criminal Justice
November 21, 2013

FOR THE RECORD

I am submitting testimony on behalf of the Mechanical Contractors Association of New York (MCA) in order to highlight our concern with the proposed FC 901.7.2.2 section of New York City Council Intro. 1174.

The proposed section addresses the particular situations in which fire guards are required to conduct fire watch. FC 901.7.2.2 allows for a trained member of the building staff to conduct fire watch in lieu of a fire guard during the initial four hours of a planned removal from service, or after discovery of an unplanned out-of-service condition. This **4 hour** exception to the fire guard requirement is only allowed for instances in which the fire protection system that is out of service does not cover an area exceeding 50,000 square feet.

The updated Fire Code will reference NFPA 25 of 2011, a standard that allows for a system to be out of service for **10 hours** before requiring fire watch. As the Fire Code moves to referencing NFPA 25 or 2011, it follows that the code and reference standards should be consistent. With that in mind, the MCA requests that the Fire Code be amended to allow the impairment coordinator or other trained building staff to conduct fire watch during the initial **10 hours** of a planned removal from service or after discovery of an unplanned out of service condition.

Additionally, the fire department does not require notification that a system is out of service, unless that system will remain out of service for more than 8 hours. Therefore, it would, at the very least, make more sense to require a fire guard for any system that will remain out of service for more than 8 hours.

The MCA believes that changing the proposed language to confirm with either NFPA 25 of 2011 or the current FDNY notification requirement will allow for clarity and consistency. The aforementioned recommendation will also aid owners by reducing the cost of repairs, alterations, and inspections while maintaining adequate safety precautions.

We respectfully ask that the proposed FC § 901.7.2.2 be amended in order to promote the safe and efficient maintenance and alterations of fire protection systems.

Thank you.



The Voice of the Fire Sprinkler Industry

NY Regional Office
Dominick G. Kasmauskas, CFPS

FOR THE RECORD

1436 Altamont Ave. Suite 147 • Rotterdam, New York 12303 • Cell (914) 414-3337 • Fax (518) 836-0210 • Kasmauskas@NFSA.org

New York City Council Committee of Fire and Criminal Justice

21 NOV13

Re: OPPOSITION FC 901.7.2.2 of Intro. 1174-2013 as Presently Written

Today's testimony is to address concern by the National Fire Sprinkler Association's (NFSA) concern of amending a nationally recognized NFPA standard that extensively used across the United States. The proposed section of New York City Council Intro. 1174 in question, FC 901.7.2.2. section:

901.7.2.2 Fireguards required. The fire watch required when a standpipe system, sprinkler system or fire alarm system is out of service shall be maintained in accordance with FC901.7.2.2.1 and this section.

Exception: The impairment coordinator or other building staff trained and knowledgeable in conducting a fire watch may conduct a fire watch in lieu of a fire guard during the initial 4 hours of a planned removal from service, or after discovery of an unplanned out-of-service condition, provided that the floor or area in which the fire protection system is out of service does not exceed 50,000 square feet (4645 m2).

The updated Fire Code will reference NFPA 25 of 2011. NFPA 25 of 2011, Section 15.5 and 15.6 indicate how preplanned and emergency impairments of sprinkler systems "shall" be handled. NFPA 25 (2011)

Section 15.5.2(4) *Where a required fire protection system is out of service fore more than 10 hours in a 24 hour period, the impairment coordinator shall arrange for one of the following:*

- (a) Evacuation...*
- (b) Approved fire watch...*
- (c) ...temporary water supply*
- (d) ...eliminate potential ignition sources...*

The NFSA is of the opinion, with few exceptions that the codes and the referenced standards should be as consistent as possible nationwide and globally. This is based upon the tremendous amount of committee hours that have taken place for research and debate on issues such as these before carefully placing any language into a standard such as NFPA 25.

The NFSA asks that the Fire Code simply refer to NFPA 25 (2011) Section 15.5 et al as published.

Respectfully submitted,

Dominick G. Kasmauskas, CFPS
Associate Director of Regional Operations- North
& New York Regional Manager
518.937.6589

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: 11/21/2013

(PLEASE PRINT)

Name: JOSEFINA SANFELICI

Address: 229 13th ST BROOKLYN 11215

I represent: LATINAS AGAINST FDNY CUTS

Address: SAME

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Gina Bertorelli

Address: 160 Varick St, NY NY 10013

I represent: Trinity Real Estate

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

58

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

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Bruce DeBon

Address: 17 Battery Place, NY, NY 10004

I represent: Diversified Security

Address: Same

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. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Victoria Pitcavage

Address: 524 Koster Rd E. Williston NY 11596

I represent: John Jay College of Criminal Justice

Address: 524 W 59 St NY NY 10019

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1174 Res. No. _____

in favor in opposition

Date: 11/21/13

(PLEASE PRINT)

Name: Ryan Baxter

Address: 570 Lexington Ave, 2nd Fl, NY, NY 10022

I represent: Angela Pinsky, SVP of REBNY

Address: 570 Lexington Ave, 2nd Fl, NY, NY 10022

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1174 Res. No. _____

in favor in opposition

Date: 11/20/13

(PLEASE PRINT)

Name: Heddi Schemmerman

Address: _____

I represent: Croton Fire Drill Corp.

Address: 1200 Cardigan Ave

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1174 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Sylwester Giustino

Address: 1111 Park Place Suite 2201 NY NY 10021

I represent: BONA NY

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1174 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Jim Hansen FDNY

Address: _____

I represent: Director of Code Revision

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

60

I intend to appear and speak on Int. No. 1174 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Julian Bazel

Address: Department Counsel

I represent: FDNY

Address: 9 Metropolitan Center, Bklyn

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. 1176 Res. No. _____
 in favor in opposition

Date: 11.21.2013

(PLEASE PRINT)

Name: BRUCE E. JOHNSON

Address: PO Box 655 JAMESPORT NY 11947

I represent: INTERNATIONAL CODE COUNCIL ICC

Address: 500 NEW JERSEY AVE, WASHINGTON DC 20007

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

59

I intend to appear and speak on Int. No. 1174 Res. No. _____
 in favor in opposition

Date: 11/21/2013

(PLEASE PRINT)

Name: Chris Burczyk

Address: 200 Park Ave Fl 9 NY, NY 10166

I represent: Lease Construction

Address: Same as above

Please complete this card and return to the Sergeant-at-Arms