



THE CITY OF NEW YORK
OFFICE OF THE PRESIDENT
BOROUGH OF MANHATTAN

SCOTT M. STRINGER
BOROUGH PRESIDENT

June 6, 2007

STATEMENT OF MANHATTAN BOROUGH PRESIDENT
SCOTT M. STRINGER
BEFORE
NEW YORK CITY COUNCIL COMMITTEE ON EDUCATION

In Support of

Resolution 836 – Calling on the State Legislature to amend the Public Authority Law to resolve ambiguities and manage disconcerting legislative gaps in the New York City School Construction Authority's (SCA) leasing program

Thursday, June 7, 2007

Good afternoon Chairperson Jackson and members of the Education Committee. Thank you for the opportunity to testify in support of Resolution 836 – which calls on the State Legislature to pass legislation that would improve and clarify the New York City School Construction Authority's (SCA) leasing program. Aimed at protecting the health and general welfare of our City's 1.1 million public school students, Resolution 836 assures the SCA's use of environmentally safe locations to create new and improved education sites. Amending the current Public Authority Law will clarify that leased facilities are subject to the same public and environmental review processes as new school construction. This in turn will ensure that the SCA uses its leasing authority responsibly to create healthy, suitable places for children to learn.

Unfortunately, we know from experience what building on or renovating polluted sites can do to child health and education. The SCA has already leased buildings which were deemed to be environmentally unsound and unfit to house schools. Disregarding the democratic process, local Community Boards and even the City Council are not notified of the SCA's siting plans and have no opportunity to object to or put forth concerns, suggestions or alternatives. Intro A.8838 – the state legislation which Resolution 836 supports – would require the SCA to notify Community Boards, the City Council, and environmental analysts of site plans and would clarify that leased facilities, like newly constructed schools, are subject to much-needed public and environmental review processes.

According to State Environmental Quality Review Act ("SEQRA"), actions that will have a significant environmental impact must be reviewed by environmental analysts. The SCA has argued that because leased buildings do not constitute new structures, they do not have a significant environmental impact and therefore are exempt from SEQRA's review procedures. However, changing a building's purpose and implementing those changes does impact the surrounding community. Whether it is a newly constructed school or a renovated factory, the population inside the building should be the critical factor in terms of environmental review. The SCA is charged with creating educational centers. Why should some of its school siting decisions be excused from public review intended to protect the health and well-being of children? The proposed legislation does not seek to halt the construction of educational facilities; it aspires to ensure that those facilities are safe for their occupants.

Several studies have drawn strong correlations between the environment and human health. Amending the Public Authority Law to require the SCA to hold leased facilities to the same standards and processes as newly constructed buildings will diminish the possible health risks associated with using environmentally unsound sites. The City has already leased toxic property, where environmental tests revealed levels of toxic chemicals between 10 and 25,320 times above state standards, as seen in the Soundview Educational Complex. In other converted sites, such as P.S. 65 in Ozone Park, Queens and P.S. 141 in Harlem, children have reported health problems ranging from asthma and nausea, to facial paralysis (Bell's palsy).

The City's population is continuing to grow. The real estate market is booming and vacant land on which to construct new school facilities is diminishing. I can appreciate the pressure our public school system is under to accommodate more students in the face of dwindling siting options and fully accept the fact that an increasing number of schools will be created by renovating buildings previously used for other purposes rather than constructing new facilities. This new emphasis on leasing as opposed to construction only underscores the need for public oversight of the SCA's leasing program. If passed, Intro A.8838 would require the SCA to follow the same procedures irrespective of how an educational facility is developed.

Requiring an environmental analysis of a potential site does not thwart the SCA's mission. Notifying Community Boards and the City Council is not an insurmountable burden. Rather, it ensures that future schools will be healthy, safe places, embraced by their communities and supported by the City.

In conclusion, I believe Intro A.8838 is a piece of legislation critical for the maintenance of the health and well-being of our city's public school students. I strongly urge the City Council to pass Resolution 836 in its support before the end of the current state legislative session. By signaling its support for Intro A.8838, the Council will underscore the necessity of the SCA adhering to uniform processes, whether building on an empty lot or renovating an old warehouse. Resolution 836 defends and supports the democratic process by encouraging community participation and political review. I have no doubt that requiring environmental review of potential sites will help ensure that no school is sited in a location that is unfit and potentially harmful.

Thank you for allowing me to comment on this issue. I look forward to working with the City Council to realize this important legislation.

**TESTIMONY OF KAYLYN ACTON-CHADEE,
FORMER STUDENT AT P.S. 65 (A LEASED EDUCATIONAL FACILITY ON
CONTAMINATED PROPERTY IN QUEENS)**

THE NEW YORK CITY COUNCIL COMMITTEE ON EDUCATION

**RESOLUTION 836 – A RESOLUTION CALLING UPON THE STATE
LEGISLATURE TO AMEND THE PUBLIC AUTHORITIES LAW IN RELATION
TO SITING REQUIREMENTS FOR THE NEW YORK CITY SCHOOL
CONSTRUCTION AUTHORITY'S LEASING PROGRAM**

JUNE 7, 2007

Thank you Chairperson Jackson and members of the Education Committee for this opportunity to testify. My name is Kaylyn Acton-Chadee and I'm 14 years old. I'm here to testify in favor of Resolution 836 to make sure that other children never have to go through what I have had to go through. From 1999 to 2002, I attended PS 65 in Ozone Park, Queens. PS 65 was a former factory where high levels of TCE – a suspected carcinogen – were discovered underneath the school building. In June of 1996, the Daily News also reported that former factory workers had come forward and admitted to routinely dumping chemicals and waste oil into wells in the basement of the building.

Within a couple of months of beginning school there I began to have difficulty breathing. In my final year at PS 65 I was told that I had asthma, though there is no history of this illness in my family. My grades also declined during this period due to my illness. Since leaving the school my health has improved, and so have my grades. Nonetheless, I will likely have asthma for the rest of my life. While I attended the school none of my doctors knew of the contamination issues, nor did my parents. My mother read a newspaper article about the contamination and we realized that my illness, and the illnesses of some of my friends, was probably linked to this toxic waste. Had my parents known of this contamination earlier, the doctor might have been better able to treat me, and my parents would probably have taken me out of the school to prevent further damage. It is my understanding that the Department of Education knew about the contamination issues at PS 65 well before families were informed. My family and some others have brought a legal action against the City for our injuries. The case has not yet been decided.

As part of a City-sponsored project I have created a Quality of Life Proposal calling for this school to be shut down and reopened at a new address. I'm here today to ask the Council to pass Resolution 836 calling on the state legislature to pass a law to close the loophole in the School Construction Authority's leasing program. The law will require the SCA to notify the community and do a thorough environmental review where they plan to open leased schools on contaminated land. This law will ensure that other students can avoid being exposed to contamination that might make them sick.

Thank you for your support.



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**TESTIMONY OF VERONICA EADY
ON BEHALF OF NEW YORK LAWYERS FOR THE PUBLIC INTEREST
BEFORE THE NEW YORK CITY COUNCIL
COMMITTEE ON EDUCATION**

**RESOLUTION 836 – IN SUPPORT OF STATE LEGISLATION TO AMEND THE
PUBLIC AUTHORITIES LAW IN REGARDS TO THE NEW YORK CITY
SCHOOL CONSTRUCTION AUTHORITY’S LEASING PROGRAM**

JUNE 7, 2007

Thank you for this opportunity to provide testimony today in favor of Resolution 836. My name is Veronica Eady, and I am a senior staff attorney at New York Lawyers for the Public Interest. NYLPI is a nonprofit civil rights law firm formed in 1976 to address the unmet legal needs of New Yorkers. In 1991, NYLPI formed its Environmental Justice and Community Development Project to represent communities facing disproportionate environmental burdens.

I represent the Concerned Residents Organization, a community-based advocacy group formed in 2000 in response to concerns about the Soundview Educational Campus being located on the site of the former Loral Electronics Systems in the Bronx. The members of CRO live in several buildings that sit across the street from the Loral site.

For 48 years, the Loral site was used for manufacturing military electronics systems and storage of hazardous materials. Loral used 13 federally and state regulated hazardous materials during the manufacturing process. When the SCA decided to open the school by leasing an existing Loral building, which was used for painting and manufacturing

among other things, they did not consult with the community, parents, Community Board 9, or City Council members.

The school has been open for three years, even though the SCA's own environmental investigation found very high levels of heavy metals in the soil and groundwater.

Arsenic, barium, cadmium, chromium, and mercury were found at levels as high as four times the state standards for soil, and over a thousand times the state standards for groundwater. Lead samples registered at over 25,000 times the state standard.

Despite this significant contamination, the SCA completed its environmental investigation, obtained a zoning over-ride to locate a school in a manufacturing district, and entered a 30-year lease worth \$38,600,000 – all within 20 days and without any oversight. One of the chief concerns of the community is that the only cleanup at the site consisted of the removal 12 inches of soil around the perimeter of the school and the paving of a driveway. CRO members have told me that the landscaping planted in those 12 inches of soil become discolored – presumably from remaining contamination – and have to be regularly replaced. In fact, to my knowledge there is no sub-surface barrier to keep contamination from migrating underneath the school from the rest of the 11-acre property, which remains contaminated. The school sits on a small corner of the property, while the rest of the property is used for parking and refueling long haul trucks and dumping tires and other refuse on the banks of the Bronx River, the community's only natural resource.

Had this school been subject to a public siting process and City Council approval, students, faculty, and staff at the school as well as the neighboring community as a whole would be a safer, healthier place.

I am thrilled that the City Council, and in particular the Education Committee, is exercising leadership on this issue. Our elected officials to the City Council are an integral part of our communities, and as such have the personal knowledge and special insights into what sites in our communities are appropriate for schools, regardless of whether the site is leased or owned by the City. I strongly support Resolution 836 and the public authorities legislation that would close the leasing loophole and is currently pending before the state Assembly. I urge the Education Committee to pass this resolution.

Thank you.

**THE CONCERNED RESIDENTS ORGANIZATION
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**TESTIMONY OF MARY McKINNEY
ON BEHALF OF THE CONCERNED RESIDENTS ORGANIZATION
BEFORE THE NEW YORK CITY COUNCIL
COMMITTEE ON EDUCATION**

**RESOLUTION 836 – IN SUPPORT OF STATE LEGISLATION TO AMEND THE PUBLIC
AUTHORITIES LAW IN REGARDS TO THE NEW YORK CITY SCHOOL CONSTRUCTION
AUTHORITY’S LEASING PROGRAM**

June 7, 2007

Chairman Jackson and other Education Committee Members, thank you for this opportunity to provide testimony in favor of City Council Resolution 836.

My name is Mary McKinney. I am the Chairperson and Executive Director of the Concerned Residents Organization. In 2000, the residents of my community formed the Concerned Residents Organization in response to a school, the Soundview Educational Campus, being sited on the abandoned, severely contaminated site of Loral Electronics Systems across the street from our homes. Because it is a leased school, there was no formal siting process even though the site is severely contaminated.

The Loral site was a factory that manufactured electronics equipment for the military for almost 50 years. It closed in 1996 and was never cleaned up. We first learned of the School Construction Authority’s plans to open a school in one of the existing manufacturing buildings months after the SCA had signed a 30-year lease for the building at a price of over \$1 million per year. In fact, the SCA signed the lease in March of 2004 and the school opened in September in 2004. The school sits on a corner of the site while the rest of the site still to this day has abandoned and dilapidated buildings, wrecked cars, dumped tires, carnival equipment, garbage dumpsters, and parked long haul municipal solid waste trucks and tanker fuel trucks. CRO members have witnessed the fuel trucks refuel the other trucks on site. The school is separated from the rest of the site by only a chain link fence. The site is not secure, so anyone

can enter the site. The school has no ball fields or playgrounds or outdoor space whatsoever. As long-time neighbors of this site, we feel it is a danger to the environment and the community, and it is not a suitable site for a school.

There have been approximately 24 separate violations recorded by the Department of Buildings in recent years, including several for illegal land uses I just described. Fines assessed by the Department of Sanitation last year have still been unpaid. CRO has brought all of these issues to the attention of SCA, and they refuse to return our numerous calls, letters, and e-mails.

Given the SCA's lack of attention to the ongoing illegal activities at this leased property in my neighborhood and the lack of cleanup at the site, it is clear that any school, whether leased or not, should have a public process and City Council approval. It is also clear that no school should be sited on a contaminated property without a formal siting process and a proper environmental cleanup that complies with state and federal environmental laws. You have the opportunity here today to make sure that the SCA does not repeat the same mistakes at future leased schools. To that end, CRO supports Resolution 836 and asks you to pass it before of the end of the current legislative session to ensure that future leased schools receive proper scrutiny for the safety of children, school faculty and staff, and community.

Thank you.

Testimony of
Bronx Committee For Toxic Free Schools
Bronx Health REACH
Center for Health, Environment & Justice (CHEJ)
Chinese Progressive Association
Class Size Matters
Concerned Residents Organization
Environmental Advocates of New York
Environmental Defense
Healthy Schools Network
Hillcrest Citizens for Neighborhood Preservation
Institute for Health & the Environment, University at Albany, SUNY
Institute for Urban Family Health
Make the Road by Walking
New York City Environmental Justice Alliance (NYCEJA)
New York Immigration Coalition
New York Lawyers for the Public Interest (NYLPI)
New York League of Conservation Voters (NYLCV)
New York Public Interest Research Group (NYPIRG)
Northwest Bronx Community & Clergy Coalition
Nos Quedamos/We Stay
Parents@PS65/Neighborhood Against TCE
Puerto Rican Legal Defense and Education Fund (PRLDEF)
Sierra Club
Sustainable South Bronx
West Harlem Environmental Action, Inc. (WE ACT)

before the

NEW YORK CITY COUNCIL COMMITTEE ON EDUCATION

Hearing on

**RESOLUTION 836 – IN SUPPORT OF STATE LEGISLATION TO AMEND THE
NYC SCHOOL CONSTRUCTION AUTHORITY’S LEASING PROGRAM**

June 7, 2007

Good Afternoon Chairperson Jackson and members of the Education Committee. Thank you for the opportunity to provide testimony today. My name is Dave Palmer, and I am a Staff Attorney with New York Lawyers for the Public Interest (NYLPI). NYLPI is a nonprofit civil rights law firm formed in 1976 to address the unmet legal needs of New Yorkers. In 1991, NYLPI formed its Environmental Justice & Community Development Project to represent communities facing disproportionate environmental burdens. My organization represents the Concerned Residents Organization from the Soundview section of the Bronx. Our client will be testifying separately. With me is Kizzy Charles-Guzmán, Environmental Policy Coordinator for West Harlem Environmental Action (WE ACT). **We are testifying today on behalf of the 25 organizations listed above – which include some of the State and City’s leading environmental justice, healthy schools, children’s health and environmental organizations – all in favor of Resolution 836 calling on the State Legislature to**

amend the Public Authorities Law to close a dangerous loophole in the New York City School Construction Authority's (SCA) leasing program. For the hearing record, a list of individual signers can be found at the end of this testimony.

Loophole in the SCA's Leasing Program

As this committee is well aware, new schools are springing up across New York City in order to alleviate overcrowding and to replace old facilities. As part of this effort, the SCA, in addition to creating seats through new construction, will also lease existing facilities to turn them into schools. Given the limited space available, we are concerned that some of these leased facilities will be sited on contaminated properties – as has happened in the past. For example, in 2004, a contaminated factory was turned into a high school, the Soundview Educational Campus. This also happened at P.S. 65 in Ozone Park, Queens. Perhaps the most infamous example is P.S. 141 in Harlem, opened in 1997. After millions were spent on turning this leased dry cleaning plant into a school, the City was forced to close it down after it was found that students were being exposed to chemical fumes. This toxic exposure occurred despite a loud outcry from the community and Public Advocate's office that more testing was needed to ensure that the site was truly safe.

Siting schools on contaminated properties is risky business, as exposure to toxic chemicals can lead to behavioral problems, learning disabilities and decreased I.Q. for children. When new schools are constructed on contaminated land there is a process for addressing community concerns. To build a new school, state law requires the SCA to submit a site plan to the local community board, gives the City Council an opportunity to review the site plan, and requires environmental review¹ – all of which give communities notice and an opportunity to participate. It was this process that enabled meaningful input from the community and the Council on the recent siting of four new schools on the contaminated Mott Haven Site that many of the groups supporting this resolution were involved with. That process is likely to result in a much safer schools site, despite remaining concerns. Unfortunately, the SCA argues that its leasing program is not subject to the same requirements as new construction.² Under the current scheme for leasing, even where there is known contamination, there may be no environmental review of proposed leased sites and no opportunity for the community and Council to weigh-in.

¹ Public Authorities Law §§ 1730-1733.

² The Appellate Division, in *Park South-Tenants Corp. v. Board of Education of the City of New York*, 208 A.D.2d 394 (1994), held that the SCA's leasing program was not subject to the community participation and political approval processes codified in the Public Authorities Law (PAL). PAL § 1731. The SCA also interprets this decision as exempting their leasing program from environmental review requirements – a position with no basis in the law. *Park South* was a good policy-based decision that extinguished the racially-motivated efforts of a community group to keep a school out of their neighborhood. However, the court's failure to conduct a thorough analysis of the statutory scheme inadvertently created bad precedent. Using this precedent to avoid accountability, the SCA places children at risk because toxic chemicals pose a danger whether found in a leased facility or uncovered during new construction.

The SCA, according to the Department of Education's (DOE) five-year capital plan and the most recent February amendment, is planning to lease over 30 existing buildings across the City to turn them into schools. The few pages detailing proposed leased school sites, found deep within the 600 plus pages of the Department of Education's 5 year capital plan and its subsequent amendments, may be the only notice of plans to lease facilities for school purposes that the New York City Council (or any New Yorker) ever receives. For these 30 plus sites, there will likely be no site application submitted to the local community boards, nor to the City Council. And, while there may be some environmental review, it will likely not be sufficiently comparable to the requirements set forth in the State Environmental Quality Review Act, a law applicable to new school construction. It is anti-democratic to shut out local communities and the City Council from any school siting process. And, it makes no sense to do so simply because a school is leased instead of newly constructed – contamination issues could be present at both. Council involvement is absolutely essential to these decisions as it is an effective check on the Mayor and the School Construction Authority's school siting powers. As noted above, the Council has played a key role in ensuring stronger cleanups at contaminated school sites in the past. Further, failure to conduct sufficient environmental review, given the history of placing children on contaminated school properties without providing for the proper testing and without all the necessary precautions in place, is reckless.

Closing the Loophole

We believe communities should have a right to know of leased facilities proposed nearby, and that the Council should have the ability to weigh in on those siting decisions. Students and teachers have a right to a healthy school environment, and this can only be provided after a thorough environmental review. Thus, state legislation is needed to amend the Public Authorities Law to clarify expressly that leased facilities are subject to the same community participation and political and environmental review processes applied to new school construction. As noted, New York City and State's top environmental justice groups, healthy schools advocates, and environmental organizations support this change. Assembly Member Catherine T. Nolan, Chair of the Assembly's Education Committee, has submitted legislation in the Assembly (A.8838) to close this loophole. Senator Frank Padavan has agreed to sponsor legislation in the Senate.

We are here today to urge the Council to pass Resolution 836 in support of this proposed state legislation. We thank Chairperson Jackson for introducing this Resolution and we thank Public Advocate Betsy Gotbaum and the members of the City Council who are sponsoring it. In closing, our organizations support efforts to provide new school seats, and we have no interest in stopping safe new capacity projects. But the City has an obligation to ensure that new seats are healthy seats, and the only way to ensure healthy seats is to mandate a healthy process with sufficient community notice, Council scrutiny, and thorough environmental review. **We urge you to pass Resolution 836 before the end of the state legislative session.**

Thank you for the opportunity to testify.

Chaira Salem & Jane Maisel
Bronx Committee for Toxic Free Schools

Charmaine Ruddock
Bronx Health REACH

Stacey Gonzalez & Anne Rabe
**Center for Health, Environment & Justice
(CHEJ)**

Mae Lee
Chinese Progressive Association

Leonie Haimson
Class Size Matters

Mary McKinney
Concerned Residents Organization

Tim Sweeney
Environmental Advocates of New York

Ramon Cruz
Environmental Defense

Stephen Boese
Healthy Schools Network

Bob Trabold
**Hillcrest Citizens for Neighborhood
Preservation**

David Carpenter, MD
**Institute for Health & the Environment,
University at Albany, SUNY**

Neil S. Calman, MD
Institute for Urban Family Health

Andrew Friedman
Make the Road by Walking

Elizabeth Yeampierre
**New York City Environmental Justice
Alliance (NYCEJA)**

José Davila
New York Immigration Coalition

Dave Palmer
**New York Lawyers for the Public Interest
(NYLPI)**

Alison Hirsh
**New York League of Conservation Voters
(NYLCV)**

Laura Haight
**New York Public Interest Research Group
(NYPIRG)**

James Mumm
**Northwest Bronx Community and Clergy
Coalition (NWBCCC)**

Yolanda Gonzalez
Nos Quedamos/We Stay

Katie Acton
Parents@PS65/Neighborhood Against TCE

Christina Iturralde
**Puerto Rican Legal Defense and Education
Fund (PRLDEF)**

Theresa Cassiack
Sierra Club

Majora Carter
Sustainable South Bronx

Kizzy Charles-Guzmán
WE ACT for Environmental Justice