

NEW YORK CITY DEPARTMENT OF BUILDINGS
HEARING BEFORE THE NEW YORK CITY COUNCIL
COMMITTEE ON TRANSPORTATION

November 27, 2018

Good afternoon, Chair Rodriguez and members of the Transportation Committee. I am Patrick A. Wehle, Assistant Commissioner of External Affairs at the New York City Department of Buildings (“the Department”). I am pleased to be here to offer testimony on three of the bills before the Committee today, Introductory Numbers 131, 953 and 1015.

Intro. 131 would require the Department to order that use of a driveway be discontinued and that a curb and sidewalk be restored where it finds that a curb cut does not comply with the New York City Building Code (“Building Code”) or the Zoning Resolution. It would also require that owners certify to the Department that any proposed construction will not cause a curb cut to be in noncompliance with the Building Code or Zoning Resolution, and, if such construction causes such noncompliance, that the curb and sidewalk will be restored.

The Department enforces both the Building Code and the Zoning Resolution as it relates to curb cuts. If construction documents submitted to the Department indicate that a curb cut will be installed, the Department ensures, through the review of plans, that any proposed curb cut complies with the Building Code and Zoning Resolution before issuing a permit. Additionally, when the Department receives a curb cut complaint, the Department performs an inspection, which includes checking for compliance with the Building Code and Zoning Resolution. Where noncompliance is discovered, the Department issues a violation and curing the violation requires restoring the sidewalk and curb if such violation was issued for illegally creating a curb cut.

Further, as part of an application to the Department to perform work, owners are already required to certify that they will comply with all applicable laws, rules and regulations. The Department's enforcement of curb cut regulations and existing owner certification requirements are in keeping with what is being proposed in this bill, therefore, the Department does not believe this bill would improve existing processes.

Intro. 953 would require the Department to notify community boards within seven days of receiving an application for a permit to install a curb cut. The community board would then have 60 days to submit comments and recommendations to the Department with respect to such permit application. The Department must then consider such comments and recommendations before granting or denying a permit. The bill would also require the Department to conduct an inspection before issuing a permit for a curb cut.

Given the significant impact construction can have on New Yorkers, the Department recognizes the importance of sharing information with the public. As such, the Department has made enormous strides in improving the public's access to its data, with the goal of every building construction project having a clear and transparent status. Building on My Block, which is a searchable online database that is organized by Community Board for easy reference, allows users to search by property address or Community Board to find major projects near them. The Building Information System or the DOB NOW Public Portal, allows users to see the latest developments at construction sites of interest, including complaint, violation, application, and permit information. In accordance with the Open Data Law, the Department is also publishing daily updates to all job applications and permits on the New York City Open Data Portal, which allows users to access the latest status of any construction project or group of projects.

As I mentioned earlier on in my testimony, the Department ensures that any proposed curb cut complies with the Building Code and Zoning Resolution before issuing a permit, and if such proposed curb cut complies, it is obligated to issue a permit. While the Department welcomes feedback from communities impacted by construction, it does not support delaying permit issuance for two months for construction work that can be performed as-of-right.

The Department is also not supportive of performing an inspection prior to issuing a permit to install a curb cut. Illegal curb cuts are typically installed absent Department scrutiny and therefore without a permit. As such, performing an inspection prior to permit issuance would add little value, and strain the Department's limited resources. The Department regulates the safe and lawful use of over a million buildings and 45,000 active construction sites. In addition to the over 100,000 complaints it responds to, the Department performs nearly 190,000 development inspections each year. The Department's mandate has expanded rather dramatically of late to include performing inspections to ensure that workers have appropriate safety training under Local Law 196, along with inspections to ensure tenants are protected from construction as harassment. The Department estimates that performing an inspection before issuing a permit to install a curb cut could result in an additional 1,500 inspections per year. The Department believes that it can effectively enforce curb cut regulations through plan exam and complaint response, as is existing practice, without performing an inspection prior to permit issuance.

Intro. 1015 would require the Department to share curb cut complaints with the relevant Police Department precinct within two days of receiving such complaints where it has not issued a curb cut permit at the location that is the subject of the complaint.

Last year, the Department performed nearly 3,000 inspections in response to curb cut complaints, which resulted in the issuance of 504 violations. As a matter of practice, the Department responds to every complaint that it receives, irrespective of whether a permit has been issued at the location that is the subject of the complaint. Further, while the Department is not opposed to sharing information with the Police Department, the Department fails to see how sharing curb cut complaints with them would be useful, particularly when only 17% of complaints result in the issuance of a violation.

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

**NYC DEPARTMENT OF TRANSPORTATION TESTIMONY
HEARING BEFORE THE CITY COUNCIL COMMITTEE ON TRANSPORTATION
ON INTROS. 131, 283, 327, 329, 330, 438, 939, 953, 1015 and a Preconsidered Intro.
November 27, 2018**

Good afternoon Chairman Rodriguez and members of the Transportation Committee. On behalf of Commissioner Trottenberg, I am Leon Heyward, Deputy Commissioner for Sidewalks and Inspection Management, or SIM, and I am joined by Rebecca Zack, Assistant Commissioner for Intergovernmental and Community Affairs. I am also joined by Patrick Wehle, Assistant Commissioner of External Affairs at the Department of Buildings and Oleg Chernyavsky, the Executive Director of Legislative Affairs at NYPD and Deputy Chief Michael Pilecki from the NYPD's Traffic Enforcement District. Thank you for inviting us here on behalf of Mayor de Blasio to discuss the bills before the committee today.

First, two bills regarding the painting of curbs. The Preconsidered Intro. by Council Member Deutsch (previously Intro. 623) would require DOT to paint curbs red in all bus stops and the distance on either side of a fire hydrant from which parking, standing, or stopping is prohibited, which is 15 feet. I want to start by saying that maintaining hydrant access for FDNY and facilitating efficient movement for our city's many bus riders are both very high priorities on our streets, hence the importance of both of these regulations.

DOT understands that the intent of the bill's sponsors is to make life easier for drivers trying to figure out where they may or may not park. However, DOT strongly opposes curb painting as a solution because of serious maintenance challenges and potential for tampering which have a significant impact on its effectiveness.

To regulate the use of our many millions of feet of curb space, a combination of signage and rules is the most accurate, effective, and cost-efficient method to inform drivers where they are allowed to park. While it is universally understood not to park in front of a hydrant, painted curbs are subject to being worn and scarred. Use of painted curbs is susceptible to unauthorized tampering by property owners or others painting their own curb markings.

Curb painting also conflicts with the preservation of historic bluestone curbs or the use of other distinctive curbing material. Nor is it compatible with the use of bioswales. In addition, the lengths and locations of bus stops and other parking restrictions are sometimes modified. In these cases signs are easier to relocate than painted curbs. For these reasons, DOT currently does not paint curbs to designate their use and doing so would require an entirely new set of specifications and standards and a new operational unit.

With approximately 110,000 hydrants city-wide, at 15 feet on each side, this proposal would require DOT to paint nearly 3.3 million linear feet of curb. And with approximately 16,000 bus stops city-wide with an average length of 100 feet, it would require DOT to paint 1.6 million linear feet, for a total of nearly 5 million linear feet.

All told this constitutes over *900 miles of curb*, in other words about the distance from here to St. Louis. As DOT previously testified in September 2017, complying with the requirements of the bill would cost several million dollars for installation and recurring maintenance costs of over a million dollars annually.

This considerable diversion of resources for street painting operations would detract from our two vital Vision Zero priorities when it comes to markings—creating new safety projects and redesigns, and refreshing our existing markings—and thereby affect our ability to make progress on eliminating traffic deaths and serious injuries. For all of these reasons, DOT opposes the Intro.

The second bill dealing with painting curbs, Intro. 438 by Council Member Constantinides, would make it legal for a property owner to paint an authorized curb cut, which is currently a violation of the New York City Administrative Code on street defacement including the curb. DOT conducts enforcement to discourage this practice, because it can be misconstrued to indicate where it may or may not be legal to park, in contradiction to traffic rules and posted regulations, and can thereby cause confusion and be subject to abuse. So DOT opposes sanctioning this practice. In the case of enforcement, our inspectors issue a notice of defacement to give the property owner a chance to correct the condition before imposing a violation.

Regarding Intros. 131, by Council Member Lander, 939, by Council Member Holden, 953, by Council Member Yeger, and 1015, by Council Member Ulrich, DOT defers to the Department of Buildings' authority to approve curb cuts for private driveways. And we defer to NYPD on the enforcement of illegal parking in a driveway in violation of New York City Traffic Rules.

For DOT's part, in the case of an unauthorized curb cut, Intro. 953 would require us to issue a commissioner's order for an illegal curb cut and restore such a curb to our specifications within six months, at the expense of the property owner or owners or any other person responsible for creating such cut, if not first restored by the party responsible.

First, it must be emphasized that DOB and not DOT reviews construction documents which indicate that a curb cut will be created before issuing a permit. DOB also issues violations for illegal curb cuts and requires restoring the sidewalk and curb to the original condition.

Second, while DOT understands that unauthorized curb cuts are a significant problem, with effects on both the use of the street and on safety, meeting such a requirement within the timeframe proposed would likely require a significant new contract and resources for DOT, and should be weighed against all the competing needs of the agency to enhance safety and mobility and maintain our street infrastructure in good repair.

Now turning to some bills on the cleaning, condition, and maintenance of our streets and some other transportation infrastructure. First, Intro. 285, by Council Member Richards, would

require DOT to clean and maintain all medians once a year and create a web-based system to track our progress.

The existing division of labor among city agencies for cleaning various city properties takes into account the similarity of various tasks to the other work performed by various agencies, availability of personnel and equipment, and potential for each agency to integrate the cleaning of particular properties into their regular operations.

According to this division of labor, DOT is responsible for 200 miles of arterial highways, such as the Bruckner and Belt Parkway, and the 2,400 landscaped acres of the NYC arterial system. At the same time on our street network, un-landscaped center medians, malls, traffic islands and triangles are the responsibility of Sanitation, while such areas which are landscaped are generally maintained by Parks.

DOT would be happy to discuss any particular location with elected officials or community boards in collaboration with our Sanitation and Parks Department partners, to think creatively about available resources. However, taking into account all of our existing responsibilities, cleaning every median once a year as proposed is beyond the limits of DOT's current capabilities, and we therefore oppose this bill.

Intro. 329, by Chair Rodriguez, would require an annual report on the condition of DOT's bridges over a quarter mile in length, our ferries, and sidewalks under the exclusive jurisdiction of the department, meaning those adjacent to our properties and on our bridges and overpasses.

DOT already produces a Bridges and Tunnels Annual Conditions report as mandated under the New York City Charter, in addition to reporting summary information on the state of bridge repair in the Mayor's Management Report. The Division of Bridges manages the City's Capital Bridge Program, conducts bridge inspections and monitoring, and keeps the entire bridge network in a state of good repair. Our inventory includes all of the iconic East River Bridges which are well over 100 years old, requiring continual care and attention. The remaining network of nearly 800 bridges includes the Harlem River Bridges, the Belt Parkway Bridges, and elevated roadways and pedestrian bridges serving neighborhoods across the city, which are subject to the continuing effects of heavy traffic and rough winters with long cycles of ice, snow, rain, sleet and de-icing activities.

DOT conducts regular maintenance of its bridges to prevent decay and our Ten Year Capital Plan includes approximately \$8.8 billion for bridge reconstruction and major rehabilitation. DOT has a rich tradition of bridge design, construction, maintenance and administration, and will continue to use its resources and attract additional funds to provide safe spans that meet the needs of all 8.4 million New Yorkers.

While bearing in mind the information that is already provided in the Mayor's Management Report, DOT would be happy to discuss the goals of this bill when it comes to reporting on the condition of our ferry fleet and sidewalks at DOT facilities.

Our Ferries division conducts an extensive maintenance program to keep our fleet operating in excellent condition to transport over 23 million passengers a year with over 90 percent on time performance. All maintenance is in accordance with U.S. Coast Guard regulations and the class standards of the American Bureau of Shipping. The U.S. Coast Guard conducts quarterly inspections of vessels and issues a Certificate of Inspection, without which the vessels cannot operate. The Ferries division goes above and beyond what is required by the U.S. Coast Guard and maintains all vessels to the class standards of the American Bureau of Shipping.

As you know, we are well underway with the procurement of three new, 4,500 passenger-capacity Ollis Class vessels, a major investment for the future that will allow us to retire some older vessels.

When it comes to sidewalks adjacent to DOT properties, we strive to maintain them in a condition free from defects. Our Sidewalks program typically repairs over a million square feet of sidewalk annually through in-house and contract work. To enhance accessibility and mobility across every neighborhood in the city, under Mayor de Blasio we have doubled our investment in this work from \$20 million to \$46 million annually—some of which is recouped from property owners. Under the program we repair both sidewalks abutting private one-to-three-family homes, at the owner's expense, and City property. Last year we repaired approximately 341,000 square feet on City-owned property including both DOT and other City agencies, particularly the New York City Housing Authority.

Finally, Intro. 330, by Chair Rodriguez, would require a regularly updated list of sidewalk locations for which DOT is responsible for snow removal. These locations include some step streets and pedestrian overpasses and walkways and sidewalks in our municipal parking fields and at our ferry terminals. As you know, in addition to these locations DOT contributes resources to a coordinated snow removal plan for New York City, including general street clearing and de-icing under the direction of Sanitation during larger snow events. DOT is happy to further discuss the goals of this bill with the Chair.

Last, I will discuss a Vision Zero related bill, Intro. 327, also by Chair Rodriguez, which would require DOT to install curb extensions at a minimum of five intersections per borough annually. Extending the curb is a standard part of DOT's Vision Zero toolkit we frequently employ to shorten pedestrian crossing distances, enhance visibility, and as part of safer traffic configurations, and we appreciate your support for this proven approach. Last calendar year we installed curb extensions or as we call them "neckdowns" at approximately 50 locations city-wide.

However, at any given time in a particular borough we may be doing a higher amount of the kind of work involved in the creation of curb extensions, while at other times interventions

may focus on signal timing or other treatments. And the amount of work we do in each borough overall varies in proportion to the size each borough and the make-up of its streets.

Under Vision Zero we are reducing traffic-related serious injuries and fatalities by following the data, utilizing the most effective and appropriate treatments from our whole toolkit based on our engineering judgment, and dramatically increasing our productivity. So having to spend time and resources to follow a particular formula, or evaluate treatments that may not be best tailored, is not helpful to this success. Bearing all of that in mind we are happy to work with the bill sponsor on this bill.

In conclusion, the ongoing management of our vital street network, including curbs and curb cuts, cleaning, snow removal, and parking regulation, as well as the maintenance of other transportation infrastructure such as the Staten Island Ferry and the bridges that serve as crucial links in our network for millions of trips each day, are all vitally important. DOT is always striving to provide world class streets to New Yorkers and we look forward to continuing to work collaboratively with the Council to achieve that goal. After you hear from our colleagues we are happy to answer any questions.

**STATEMENT OF OLEG CHERNYAVSKY
EXECUTIVE DIRECTOR, LEGISLATIVE AFFAIRS
NEW YORK CITY POLICE DEPARTMENT**

**BEFORE THE NEW YORK CITY COUNCIL
COMMITTEE ON TRANSPORTATION
COUNCIL CHAMBERS, CITY HALL
NOVEMBER 27, 2018**

Good morning Chair Rodriguez and Members of the Council. I am Oleg Chernyavsky, the Department's Executive Director of Legislative Affairs and I am joined today by Deputy Chief Michael Pilecki from the NYPD's Traffic Enforcement District. On behalf of Police Commissioner James P. O'Neill, we are pleased to testify on two of the proposed bills which are of interest to the Department.

Intro. 939 requires the Department to confirm the legality of a curb cut prior to issuing a summons for violation of section 4-08 of title 34 of the Rules of the City of New York.

As the primary law enforcement agency in the city, the Department is tasked with, among other things, the enforcement of traffic laws, including parking violations. In carrying out these duties, the Department emphasizes in its training sessions for both officers and Traffic Enforcement Agents (TEAs) that they be certain that a legal basis exists before issuing a violation.

The Department does not want to reward illegal curb cuts which take away on-street parking spots in neighborhoods where parking is already limited. However, TEAs do not have the ability to determine which curb cuts have been created legally versus those that result from illegal actions. There exists no easily searchable database available to make such a determination. Even if such a database were to exist, TEAs, who are primarily tasked with the issuance of parking summonses, are not equipped with the technology, such as Department issued cell phones, to run such a check. Nor would it be practicable to require TEAs to travel back and forth to a precinct to run a check on a Department computer each time they encounter a vehicle parked in front of a driveway.

While the Department supports the goal of this legislation and looks forward to working with Council Member Holden on this issue, the Department would be incapable of complying with Intro. 939 as written.

Intro. 1015 requires the Department of Buildings, when in receipt of a complaint for an illegal curb cut, to forward the complaint to the appropriate precinct within two days.

This legislation presumably requires the complaint to be validated prior to it being forwarded to the Department. It however raises the same concerns I have raised regarding Intro. 939. Were the Department to receive this information, there currently is no mechanism to compile the data and allow it to be accessed by members of the service, particularly TEAs in the field, for the same reasons as I've previously mentioned.

Although we support the common goal of these bills, we have concerns with the legislation as written, and ask that serious consideration be given to the operational implications and impediments we have highlighted today as we work together in developing a workable solution to the issues you have raised.

Thank you and we look forward to answering any questions you may have.



New York City Council Committee on Transportation Hearing
November 27, 2018
Testimony of Eric McClure, Executive Director, StreetsPAC

Thank you for the opportunity to share our thought on oversight of curbs and sidewalks. StreetsPAC would like to express its support for several of the measures under consideration today by the Committee.

Intro 0131-2018 & Intro 0953-2018 – Support

We support Intros 0131-2018 and 0953-2018, which together would place greater restrictions on the creation of curb cuts, and compel the restoration of illegally removed curbs.

There are likely thousands of illegal curb cuts citywide, many of which undoubtedly create unsafe conditions for pedestrians. We support requiring property owners to restore curbs where they've been illegally removed, as well as mandating community notification for planned curb cuts. Personally, as someone who tried in vain to oppose a neighbor's curb cut – implemented on a block that already had two existing curb cuts, and for no other reason than the owner's desire to have a private parking space – I urge the committee to lend its support to this legislation.

Intro 0237-2018 – Support

We also support Intro 0237-2018, which would require the city to implement curb extensions at certain dangerous intersections.

Curb extensions have been shown to significantly improve pedestrian safety, both by shortening the distance pedestrians must travel across an intersection, and by providing increased visibility through daylighting. Curb extensions are the type of treatment that should be a high priority under Vision Zero.

Requiring the implementation of curb extensions at a minimum of five intersections in each borough annually would set the city on a path to having a robust program for creating these important aspects of safety infrastructure.

Intro T2018-1956 – Support

We also support Intro T2018-1956, which would require the city to paint curbs adjacent to fire hydrants and bus stops to alert motorists that they can't park, stand or stop there.

While drivers in New York City should be aware of the rules governing parking near hydrants and bus stops, it's clear from their behavior that many are ignorant, or dismissive, of the law. As much as the additional delineation of curbs will help drivers avoid parking illegally, it will also help police and traffic enforcement agents identify illegal parking, and issue summonses accordingly. Too often, police and TEAs give motorists the benefit of the doubt, and since illegal parking creates safety hazards around hydrants and bus stops, we support any effort at more rigorous enforcement.

One caution, however – we would vigorously oppose allowing drivers to cite absence of paint or the wearing of painted curbs as an affirmative defense in contesting a summons. We would urge that such language be included in an amended bill. This legislation should in no way be construed as a way of alleviating driver responsibility for illegal parking.

Resolution 0103-2018 – Support

Lastly, we strongly support Resolution 0103-2018, which calls upon the Port Authority of New York and New Jersey to widen the multi-use paths across the George Washington Bridge.

The planned renovations to the George Washington Bridge present a generational opportunity to increase access for pedestrians, runners, and cyclists, who are using the bridge in ever-increasing numbers. The GWB is the only walkable and bike-able connection between northern New Jersey and New York City, and now carries nearly 4,000 cyclists on weekends, on a path that is among the narrowest bridge crossings in New York City.

A widened path would also have tourism and resiliency benefits. Let's not miss this crucial opportunity to bring George Washington Bridge access into the 21st century. We urge the committee, and the full Council, to pass this resolution without hesitation.

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. VARIOUS Res. No. V

in favor in opposition

Date: 11/27/18

(PLEASE PRINT)

Name: ERIC McCURE

Address: 423 4th ST. BROOKLYN, NY 11215

I represent: STREETSPAC

Address: 17 BATTERY PLACE #204, NY NY 10004

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THE CITY OF NEW YORK**

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Date: _____

(PLEASE PRINT)

Name: Leon Heyward

Address: DC Side Walk and Ins. Mgmt

I represent: NYC DOT

Address: _____

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Name: Rebecca Zack

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Name: Chief John Chingas

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I represent: DSNY

Address: 125 Worth St. NY, NY 10013

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Date: _____

(PLEASE PRINT)

Name: Deputy Chief Michael Pilecki

Address: _____

I represent: NYPD

Address: 1 Police Plaza

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THE CITY OF NEW YORK**

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Date: _____

Executive Director (PLEASE PRINT)

Name: OLEG Chernogusky

Address: _____

I represent: NYPD

Address: 1 Police Plaza

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