

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON HOUSING AND BUILDINGS

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HELD AT: COUNCIL CHAMBERS - CITY HALL

B E F O R E: Pierina Ana Sanchez, Chairperson

COUNCIL MEMBERS:

Alexa Aviles
Charles Barron
Eric Dinowitz
Oswald Feliz
Crystal Hudson
Keith Powers
Lincoln Restler
Shahana K. Hanif
David M. Carr
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A P P E A R A N C E S

Kim Dargo, Deputy Commissioner for Development at New York City Department of Housing Preservation and Development

Lucy Joffe, Assistant Commissioner for Housing Policy at Department of Housing Preservation and Development

Guillermo Patino, Deputy Commissioner for External Affairs at the New York City Department of Buildings

Joseph Ackroyd, Assistant Commissioner for Technical Affairs and Code Development

Esther Brunner, Deputy Director of the Mayor's Office of Environmental Coordination

Harvey Epstein, New York State Assembly Member

Moses Gates, Vice President for Housing and Neighborhood Planning at Regional Plan Association

Jishian Ravinthiran, Legal Aid Society

Sylvia Morse, Policy Program Manager at the Pratt Center for Community Development

Ryan Chavez, Director of the Basement Apartment Conversion Pilot Program at Cypress Hills Local Development Corporation

Katherine Leitch, Senior Policy Analyst at the Citizen's Housing and Planning Council

Alia Soomro, Deputy Director for New York City Policy at the New York League of Conservation Voters

A P P E A R A N C E S (CONTINUED)

Shravanthi Kanekal, Resiliency Planner with the
New York City Environmental Justice Alliance

Sadia Rahman, Deputy Director of Policy at Chhaya
Community Development Corporation

Rami Dinnawi, Environmental Justice Coordinator
for El Puente

2 SERGEANT-AT-ARMS: Microphone check, one,
3 two, one, two. Today's date is January 24, 2023. This
4 is the Committee on Housing and Buildings. It's being
5 recorded by Michael Leonardo in the Council Chambers.

6 SERGEANT-AT-ARMS: Please start the
7 webinar.

8 Good afternoon and welcome to today's New
9 York City Council hearing of the Committee on Housing
10 and Buildings.

11 To minimize disruptions, please place all
12 electronic devices to vibrate or silent mode.

13 If you wish to submit testimony, you may
14 send it to testimony@council.nyc.gov. Again, that's
15 testimony@council.nyc.gov.

16 Thank you for your cooperation. Chair, we
17 are ready to begin.

18 CHAIRPERSON SANCHEZ: [GAVEL] Good
19 afternoon, everyone. I am Council Member Pierina
20 Sanchez, Chair of this Committee on Housing and
21 Buildings. I want to thank you all for joining
22 today's hearing to discuss accessory dwelling units
23 and basement apartment legalization. The Committee
24 will also hear several bills relating to matters that
25 I will discuss in a moment.

2 I would like to acknowledge my Colleagues
3 from the City Council who are present, Council Member
4 Barron and Council Member Feliz is with us virtually.

5 It has been 18 long months since historic
6 rainfall during Hurricane Ida flooded tens of
7 thousands of homes and took 11 New Yorkers from
8 basement apartments in Queens. The dangers faced by
9 residents in unregulated units is undeniable. I want
10 to lift up and honor some of those lives that we
11 tragically lost that day. Yue Lian Chen, Hongsheng
12 Leng, Darlene Lee, Lopsang Lama and his parents, Ang
13 Gelu Lama and Mingma, Mr. Bravo.

14 These lives are a reminder that when we
15 talk about basement apartments, the stakes are
16 people's lives. For nearly a decade, advocates for
17 basement apartment legalization have fought for the
18 legalization of basement units as a way to bring
19 existing dwelling units up to residential code by
20 assuring they have proper exits, enough light and air
21 to be safe, and a framework similar to how the city
22 brought unpermitted loft apartments in former
23 industrial spaces in 1982 Loft Law could be used.
24 Legalizing accessory dwelling units which include
25 basement apartments, garages, and more that can be

converted to legal units in New York City are an opportunity to make New Yorkers safer where they already live as well as an opportunity for the city to increase its much needed affordable housing stock, but as these apartments currently exist, they present several regulatory and safety challenges. As climate change and climate disasters rage forward as they have in the past years, flood risk has become a more prominent reason for seeking basement conversion, but these units can also be fire traps, carbon monoxide poisoning risks, and all of this must be mitigated. It is hard to know the precise number of these units, yet advocates, think tanks, and even the city have provided stunning estimates. A Pratt Center analysis for the BASE campaign finds that there's at least 200,000 potential basement and cellar units. With strategic zoning changes, it could be even 400,000. The City estimated roughly 100,000 New Yorkers already live in 50,000 unregulated basement apartments. Regional Plan Association has estimated 114,000 ADUs could be further legalized in the next decade in New York City, and, most recently, the City's Comptroller, Brad Lander, estimated that there could be as many as 424 basement and cellar units

1 citywide. The reality is that tenants, often working-
2 class immigrants, people of color, live in these
3 apartments outside of the former renter market. Being
4 unregulated means that there are inherent risks
5 associated with basement apartments including unsafe
6 housing conditions, fires, illegal eviction, and with
7 growing consequences of climate change, flooding. We
8 want property owners to come forward and legalize
9 these units so that the tenants already living there
10 can have safe and habitable homes and because it's
11 one way the City can start addressing the housing
12 crisis. The East New York Basement Pilot legislation
13 passed in 2019 was one way that this City Council
14 worked to encourage this work at the local level, but
15 the program has faced challenges. The COVID-19
16 pandemic and budget cuts left few projects initiated,
17 so much so that the initial deadline for applying to
18 the program was extended. The cost of construction
19 and relocation also greatly exceeded the City's
20 maximum subsidy of 120,000 dollars, creating an
21 unattainable cost for many homeowners. Only six
22 applied and are going through the program.

23
24 My hope with this hearing today is that
25 we can learn from the challenges to inform future

2 efforts and legislation. We cannot wait for another
3 hurricane season to pass. We're hearing Resolution
4 161 sponsored by Council Member Hanif which calls on
5 the State to pass legislation to legalize basement
6 apartments in New York City in support of our state
7 partners who are considering this exact issue.

8 Finally, I want to recognize the
9 advocates from the BASE coalition who have advocated
10 for these changes for years. Chhaya CDC, CHPC,
11 Communities Resist, Cypress Hills Local Development
12 Corporation, Queens Legal Services, Center for New
13 York City Neighborhoods, Pratt Center for Community
14 Development.

15 Next, as we look at retrofitting New York
16 City basement homes to meet the challenges of climate
17 change, we're also considering several pieces of
18 legislation today. Two bills come to the Committee at
19 the request of the Mayor.

20 Intro 875 relates to technical
21 corrections to the New York City Construction Code
22 which were last updated by Local Law 126 of 2021. I
23 want to acknowledge upfront that this version of the
24 bill includes language regarding renewable energy
25 credits crafted by the administration that this

2 Council has serious concerns about. In particular,
3 about the potential for RECs, renewable energy
4 credits, to undermine the robust climate,
5 environmental, economic, and health goals of Local
6 Law 97. Thus, to the extent that RECs are going to be
7 allowed, we want to ensure proper regulation
8 including considering caps on their use. I've heard
9 anywhere from 10 percent of a building's emission
10 reduction to 30 percent. I look forward to discussing
11 this with DOB in greater detail today and going
12 forward to understand the parameters envisioned by
13 the Department to achieve the environmental goals of
14 Local Law 97.

15 The second bill at the request of the
16 Mayor is Intro 876 relating to green building
17 standards and repealing Section 224.1 of the New York
18 City Charter.

19 In addition, we're going to be hearing
20 Intro 150, sponsored by Council Member Brannan,
21 relating to electric vehicle charging stations in
22 open parking lots and parking garages.

23 Lastly, Intro 886, sponsored by Council
24 Member Powers and I, extending the moratorium on
25

2 accessory sign violations by another two years to
3 protect our small businesses.

4 We have a lot on the agenda today, and
5 there is a lot of important work that needs to be
6 done to make the city a safer and fairer place to
7 live. To that end, I look forward to a productive
8 discussion with the administration and with advocates
9 today.

10 I would like to thank my Staff, as
11 always, my Chief, Sam Cardenas, my Legislative
12 Director Kadeem Robinson, as well as Housing and
13 Buildings Committee Staff, Audrey Son, Taylor Zelony,
14 Jose Conde, Charles Kim, and Dan Kroop.

15 With that, I'd like to turn it over to my
16 Colleagues who have introductory remarks. Before I do
17 so, I want to acknowledge that we've been joined by
18 Council Member Powers, Council Member Restler, and
19 Council Member Ari Kagan, and Council Member Carr.

20 Council Member Powers.

21 COUNCIL MEMBER POWERS: Thank you. It's
22 nice to see everyone here today. Nice to see my
23 friends from HPD here as well today.

24 I'm here to speak on a bill that I
25 introduced just recently with the Chair and a number

2 of my Colleagues which is related to extending the
3 moratorium on signage, against enforcement on signage
4 here for many of our storefronts and small businesses
5 here. This is a law that we passed last term, and I
6 think we've extended at least once in response to a
7 number of sweeps that were happening where businesses
8 were getting fines for, sometimes out of their
9 knowledge, illegal signage, and it was a common sense
10 law to pass back then to give us all a little more
11 time to figure out what's the right path forward and,
12 as we see the expiration of that law earlier this
13 year, it felt urgent but common sense to reintroduce
14 a bill to continue extend that moratorium. I do want
15 to note I do see the administration is supportive of
16 that so I'm thankful of them, and I also want to note
17 there, which I did not know about, have a program
18 that you can call 3-1-1 to get a no-fine inspection
19 which I think is a great strategy for how to handle
20 small businesses in this city, is to give them tools,
21 hold off on fining them, and frankly to me, I don't
22 see why we are fining small businesses for things
23 that are not related to public health or public
24 safety or anything like that. It feels sort of common
25 sense to continue this in perpetuity in order to

2 create a better program here and thank the DOB for
3 their work on this in the past as we had the
4 moratorium in place. Thank you to all of my
5 Colleagues. I encourage everyone to sign on to it.
6 It's a really easy way to help the small businesses
7 here and the storefronts all in our districts, and I
8 want to thank the businesses in my district who
9 raised this to me at the end of last year because I
10 would not have known about it if not for those
11 businesses who brought it to my attention.

12 With that, I'll hand it back to the
13 Chair. Thanks, everyone, for indulging me.

14 CHAIRPERSON SANCHEZ: Thank you so much,
15 Council Member Powers. I join you in hoping that our
16 Colleagues sign on to the legislation.

17 I will now turn it over to our Committee
18 Counsel, Audrey Son, to administer the oath.

19 COMMITTEE COUNSEL SON: Please raise your
20 right hand.

21 Do you affirm to tell the truth, the
22 whole truth, and nothing but the truth in your
23 testimony before this Committee and to respond
24 honestly to Council Member questions?

25 DEPUTY COMMISSIONER DARGA: Yes.

2 ASSISTANT COMMISSIONER JOFFE: Yes.

3 COMMITTEE COUNSEL SON: Thank you. You may
4 begin when ready. Just a note to the members of the
5 administration who are present to answer questions.
6 I'll administer the oath again if at any point you
7 are called up to respond to questions.

8 DEPUTY COMMISSIONER DARGA: Good
9 afternoon, Chair Sanchez and Members of the Committee
10 on Housing and Buildings. My name is Kim Darga, the
11 Deputy Commissioner for Development at the New York
12 City Department of Housing Preservation and
13 Development, joined by my Colleague, Lucy Joffe,
14 Assistant Commissioner for Housing Policy, to discuss
15 HPD's work related to accessory dwelling units, ADUs.

16 ADUs are secondary, self-contained
17 dwelling units located on the same lot as a primary
18 dwelling. ADUs can play an important role in Mayor
19 Adams' goal to address our longstanding housing and
20 affordability crisis and to increase New York City's
21 housing supply by 500,000 units over the next decade
22 by providing additional housing opportunities in low-
23 density communities. In addition, they represent an
24 important tool in combatting the City's longstanding
25 housing crisis and the City's legacy of housing

1 segregation. Neighborhoods that are low-density
2 generally have had very few lower-cost housing
3 options including rental homes, effectively excluding
4 low- and moderate-income New Yorkers of color. ADUs
5 are another tool we can use to create housing
6 opportunities in these neighborhoods that have been
7 out of reach for generations. We also recognize that
8 many New Yorkers have created ADUs outside of the
9 current legal requirements for a variety of reasons.
10 Some homeowners need rental income to be able to
11 remain in their homes, to make space for an aging
12 parent who needs to be close by, or to house a child
13 who's having trouble finding somewhere to live in the
14 city where they were raised. Many renters are finding
15 that illegal ADUs often located in basements and
16 cellars are the only housing they can afford in their
17 community. These basement apartments already service
18 an important supplement to the housing stock that
19 disproportionately serves low-income owners and
20 tenants, immigrants, and other New Yorkers who lack
21 access to affordable options in the housing market.
22 While ADUs can provide much needed housing, complex
23 and often outdated codes and regulations make it
24 difficult to bring these units into safe and legal
25

2 use, creating the potential for unsafe living
3 conditions where residents lack sufficient light,
4 ventilation, and egress. Flooding can exacerbate
5 safety risk for basement occupants because their
6 homes are below street level. As we tragically
7 learned in the aftermath of Hurricane Ida, this can
8 be a matter of life and death.

9 The City has been working to make it
10 easier to create accessory dwelling units and to
11 legalize basement apartments without compromising on
12 safety. The City committed to making it easier to
13 build new ADUs in Mayor Adams' Housing Our Neighbors
14 Blueprint and Where We Live New York City. The
15 administration has most recently committed to local
16 reforms to make it easier to build new ADUs through
17 the City of Yes Zoning for Housing Opportunity
18 Initiative. These commitments build on earlier work
19 through which the City partnered with the City
20 Council on a Basement Pilot program launched in July
21 2019 in Brooklyn Community Board 5. The goal of the
22 pilot was to test potential strategies to facilitate
23 basement conversions including understanding the
24 impact of local code changes and the feasibility of
25 bringing basements and cellars into safe and legal

residential use. Working with Cypress Hills Local Development Corporation, HPD contacted roughly 8,000 homeowners, screened roughly 800 for preliminary eligibility, and conducted in-depth physical and financial home assessments for over 100 properties. Twelve of these homeowners met basic eligibility standards and expressed interest before the pandemic, and we are actively working with five owners. Working with homeowners to undertake these conversion projects has demonstrated that under current regulations, too few basements can be legally converted and made safe. Even when it is possible, it is at a very significant cost. Regulatory changes at the local and state level to address requirements of the Multiple Dwelling Law along with zoning and building code requirements are necessary to make basement legalization feasible as well as to facilitate the development of ADUs. The City also needs the State Legislature to amend existing loan authorities as part of a bill package called Affordability Plus so that HPD can provide sufficient financing to make basement legalization possible for low- and moderate-income homeowners.

2 Much of what we need requires state
3 legislation which is why HPD was supportive of the
4 legislative efforts in Albany last session that would
5 allow the City to waive sections of the Multiple
6 Dwelling Law to facilitate the conversion of basement
7 and cellars to apartments. We will also need local
8 partnership to make it possible to build new
9 accessory dwelling units and legalize basement
10 apartments, and we need support from the Council and
11 New Yorkers in recognizing the important function
12 that ADUs and safe, legal basement apartments can
13 play in our housing market and in rectifying
14 longstanding obstacles to fair housing that have
15 limited housing choices for New Yorkers of color.

16 Some regulatory barriers to the
17 development of ADUs and the legalization of basements
18 are rooted in a history of discrimination and
19 exclusion. Removing those obstacles and updating our
20 zoning and housing regulations will allow us to
21 better meet New Yorkers' current and very urgent
22 housing needs and to combat the legacy of redlining
23 and segregation in our city and the region.

24 We'd like to thank the City Council for
25 hosting this conversation today since we are all

2 going to need to work together along with our
3 Colleagues in Albany to address this issue
4 holistically. Thank you for the opportunity to
5 testify today, and we look forward to your questions.

6 CHAIRPERSON SANCHEZ: Thank you so much. I
7 also have testimony here from DOB and MOEC. Are you
8 going to be testifying?

9 DEPUTY COMMISSIONER DARGA: I think we're
10 submitting in writing for the written record.

11 CHAIRPERSON SANCHEZ: Excellent. Okay. All
12 right. Thank you so much for that. The very first
13 question that I want to ask is about a pretty
14 stunning statistic that you read during your
15 testimony; 8,000 homeowners were contacted by HPD,
16 100 were assessed, and 12 ultimately met eligibility.
17 You talked in general about some of the regulatory
18 barriers, but could you break that down further for
19 us? What were some of the particular regulatory
20 barriers that got in the way of so many homeowners?

21 DEPUTY COMMISSIONER DARGA: Sure. Let me
22 just start by saying there were about 21,000
23 properties in Brooklyn's Community Board 5 that we
24 started with. Of those, approximately 8,000 were
25 potentially eligible just based on data so we're

2 talking about small residential properties. We were
3 looking owner-occupied properties. We excluded
4 properties in the coastal flood zone, and there were
5 a few other factors. We also looked at zoning as a
6 preliminary screen to make sure that the properties
7 could potentially be eligible. From that was the
8 8,000. There were about 2,000 of the 8,000 of the
9 homeowners that engaged in actual conversation with
10 either the City or our partners, and, of those, about
11 800 were preliminarily interested. I think that in
12 and of itself is a really important takeaway from the
13 pilot program which is that of the homeowners that
14 were surveyed, the interest rate was about 40 percent
15 or even 10 percent if you're looking at the 8,000
16 that were even contacted. That's a pretty significant
17 rate of interest of homeowners that I think were
18 intrigued because this is a way to increase the value
19 of their property, to address the needs of family
20 members for additional housing, to improve their
21 livelihoods by increasing income and revenue for
22 their families. That I think is one takeaway. From
23 that 800, we did detailed home assessments after
24 doing some prescreening for the 800, detailed home
25 assessments for just over 100 properties. Those

2 detailed home assessments did a deeper dive into
3 potential eligibility. This was actually going out to
4 the buildings, inspecting the site, making sure there
5 were not physical obstacles that would've prevented a
6 conversion from moving forward, making sure that what
7 on paper looked potentially eligible that in-person
8 was actually eligible, talking to the owners about
9 their ability to undertake a project so really doing
10 the really in-depth study. Before the pandemic
11 started, we did cost estimates for about 100, and 12
12 of those homeowners were interested and thought that
13 between the City's program and their own resources
14 could undertake the project. I think had the pandemic
15 not hit, we probably would've had time to go through
16 that process with a few more folks, but,
17 unfortunately, the pandemic really impacted the
18 ability to engage further. There were 12 owners by
19 February/March 2020 that were interested. Eight of
20 those owners actually submitted to DOB by the
21 legislative deadline so the legislation that the City
22 Council passed that was enacted and effective by mid-
23 2019, we ended up extending because of the pandemic,
24 the date to file with DOB was mid 2021. Basically,
25 eight folks filed by then. Of the eight, one has

2 closed on financing at this point in time and is in
3 construction, four homes are working toward plan
4 approval and I'm happy to talk more about those in a
5 moment, and, unfortunately, three were found
6 ineligible. Two of those were related to zoning
7 issues and one was related to ceiling height
8 unfortunately. The nice thing is part of the pilot, I
9 think that the goal was really to understand the
10 various codes and regulations better and the impact
11 of those codes and regulations as well as other
12 factors on feasibility of conversions, and so while
13 the number of actual buildings that I think are
14 making it all the way through the pilot program
15 process is pretty small, the amount of information
16 that we have collected through the process and what
17 we understand today is much more than we understood a
18 few years ago.

19 CHAIRPERSON SANCHEZ: Thank you so much,
20 so five in total?

21 DEPUTY COMMISSIONER DARGA: Five that are
22 active in the program at this point.

23 CHAIRPERSON SANCHEZ: Okay, so five are
24 still in the program. In Fiscal Year 2019, a total of
25 4.5 million dollars in expense funds and 6.8 million

2 in capital funds were added to the Basement Apartment
3 Pilot Program. At that time, it was estimated that
4 5,000 affordable units could be created. Pausing to
5 look at that gap, I guess you spoke to this a little
6 bit on the barriers that were faced so let me
7 actually skip that one.

8 Moving to the learnings of working with
9 these five property owners, these five homeowners,
10 can you talk a little bit about the kind of work that
11 was required for the conversion, what kind of
12 technical assistance did the homeowners need in order
13 to remain in the program at this stage?

14 DEPUTY COMMISSIONER DARGA: Sure. As I
15 mentioned, on face value I think while we were trying
16 to target about 40 homeowners, we have five active,
17 that doesn't seem like a great ratio, but as I
18 mentioned, the goal was really to try to understand
19 the impact of the regulations and other factors as
20 well as the code changes authorized by City Council,
21 the impact that those would have on viability, and in
22 terms of other factors, one of the things I think we
23 were really interested in understanding was owner
24 interest and what type of support owners would need
25 to navigate a conversion projection. There are a

1 couple of takeaways. First, the regulations are
2 extremely complex. We're talking about building code,
3 zoning, we're talking about state regulations that
4 make it pretty complicated even for an architect to
5 navigate the process and certainly very complex for a
6 traditional owner that may not be an architect
7 themselves to be able to go through this process. The
8 regulatory framework, beyond being complex, the
9 regulations impose significant requirements that add
10 real costs that make it very difficult for a
11 conversion project to be financed. Let me speak a
12 little more specifically to that. I mentioned first
13 and foremost the pilot didn't really address zoning.
14 We agreed back in pre-2019 that that was going to be
15 something we would come back to, that we really
16 wanted to look at the Building Code requirements.
17 What we found is that the Local Code amendments that
18 were authorized as part of the 2019 legislation to
19 look at fire safety and ventilation and light were
20 certainly impactful, but they are not enough. The
21 2019 code looked at modifications for one-family
22 homes converting to two-family and for two-family
23 adding kind of a bedroom. They did not deal with the
24 requirements for a two-family home to be converted to
25

2 a three-family home. The reason that is impactful is
3 because you go from being a private dwelling to a
4 multiple dwelling then all the state regulations
5 related to the Multiple Dwelling Law come into play.
6 We have found that the Multiple Dwelling Law
7 requirements basically double the cost of a
8 conversion project so costs that may have been a
9 couple hundred thousand are much more than that at
10 this point in time.

11 CHAIRPERSON SANCHEZ: Thank you so much
12 for that, Deputy Commissioner. By the way,
13 congratulations, Deputy Commissioner.

14 DEPUTY COMMISSIONER DARGA: Thank you.

15 CHAIRPERSON SANCHEZ: Can you talk about
16 what some of those new requirements are when you
17 become a multiple dwelling?

18 DEPUTY COMMISSIONER DARGA: Sure. The
19 Multiple Dwelling Law imposes requirements related to
20 safety of a multiple dwelling so traditional multiple
21 dwelling in New York City, you're talking a home that
22 is three, four, five, or more stories so the idea is
23 these are individual units and you want to make sure
24 there is sound attenuation, that you are dealing
25 egress from multiple units on different floors

2 potentially, and fire safety issues, and I think what
3 we have found is that for an existing private
4 dwelling that might be one unit above ground today or
5 two units above ground and you're adding a unit on
6 the ground floor that those requirements that are
7 really about the height of a multiple dwelling don't
8 really make sense the same way. One of the
9 requirements of the Multiple Dwelling Law is to
10 address roof safety. When we're converting a basement
11 to a legal residential unit, we're not changing the
12 height of the home overall, we're just converting use
13 of an existing space and so a requirement, the roof
14 is no different, the building above ground is no
15 different so adding requirements like you need a
16 railing or different parapet on the roof are really
17 completely unnecessary. There are other things in
18 there like the Basement Pilot, one of the code
19 requirements coming out of the 2019 legislation was
20 that to deal with fire safety there was an agreement
21 to sprinkler the basement apartment. That's one of
22 the major risks everyone is concerned with. In
23 converting to a multiple dwelling, you not only have
24 to sprinkler the new basement unit, you also have to
25 install a sprinkler system in the existing units in

2 the home so there are a number of requirements like
3 that that make it very, very expensive, and I think
4 we all need to grapple with whether or not we are
5 actually striking the right balance between safety
6 and feasibility.

7 CHAIRPERSON SANCHEZ: Okay. I'm going to
8 ask just one more question and then I'm going to turn
9 it over to the resolution sponsor, Council Member
10 Hanif, for some opening remarks on the legislation as
11 well as some questions.

12 Being optimistic about the passage in
13 Albany of basement legalization, ADU legalization,
14 what does the administration have in the works in
15 terms of planning for a broad scale legalization of
16 basement apartments?

17 DEPUTY COMMISSIONER DARGA: Absolutely.
18 I'm so glad you asked this. This administration, this
19 is a real priority, and we're trying to tackle this
20 on many fronts. We're not waiting for the pilot to be
21 over in order to tackle the issue. Certainly, the
22 pilot has informed a lot of what we know at this
23 point in time. We're trying to act on some of that
24 now. First, we are continuing to work with folks in
25 the pilot. We are also exploring whether there are

2 other ways that we can help owners financially. We've
3 applied to the State for some funding to continue to
4 experiment with that. At the local level, we are as
5 part of the City of Yes Zoning for Housing
6 Opportunity Initiative we are considering citywide
7 text amendments that would particularly look at
8 amongst other things low-density parts of the city
9 and how to potentially make conversions or ADUs more
10 feasible. That work is just starting, and it will
11 take a real partnership with City Council to tackle
12 that, but it really would mean the ability to convert
13 existing basements or cellars or build ADUs across
14 New York City. Those are a couple of the big things
15 that we are working on. We certainly are very
16 interested in what our State Colleagues also do. This
17 really is something that needs to be taken seriously
18 both at the City and the State level in order for us
19 to make any real progress. The State requirements, if
20 we don't tackle them, will really limit the ability
21 to do conversions because of financial feasibility
22 issues in New York City.

23 Just one other note, the Building Code
24 changes that were authorized in 2019, those have
25 expired at this point. If you didn't file by the

2 deadline, by June 2021, the deadline is past so it's
3 really not open for other folks so I think in
4 addition to looking at zoning, ultimately we're going
5 to have to look at the local code again.

6 CHAIRPERSON SANCHEZ: Great. Thank you so
7 much, Deputy Commissioner. I now want to call on
8 Council Member Hanif, but I also want to recognize
9 that we've been joined by Council Member Caban.

10 COUNCIL MEMBER HANIF: Thank you to Chair
11 Sanchez and the Committee on Housing and Buildings
12 for holding this important hearing and including
13 Resolution 161 being included on today's agenda. I
14 also want to extend gratitude to Council Member
15 Krishnan and Public Advocate Williams for introducing
16 this Resolution alongside me and to the 19 additional
17 Council Members who have signed on as sponsors.

18 Resolution 161 calls on the State
19 Legislature to pass and the Governor to sign
20 legislation introduced by Assembly Member Epstein and
21 State Senator Kavanagh that would create a pathway to
22 safely retrofit and legalize basement apartments.
23 Right now, there are at least 100,000 New Yorkers
24 living in basement apartments that are currently
25 classified as illegal. The vast majority of these

2 residents are working-class immigrant New Yorkers who
3 cannot afford other types of housing. Because these
4 units are illegal, they do not have safety
5 regulations or protections and tenants often do not
6 report unsafe conditions out of fear that they will
7 lose their homes. This dynamic has devastating
8 results as we saw in September 2021 when flooding
9 caused by Hurricane Ida killed 11 people who were
10 living in substandard basement apartments. As the
11 threat of more frequent and severe storms looms on
12 the horizon due to climate change, we must do
13 everything we can to prevent a repeat of this
14 tragedy. With the skyrocketing price of housing in
15 our city, we know that basement apartments are not
16 going to disappear. Bringing these units up to code
17 and making them safe is the best path forward for our
18 communities. This will increase our city's safe
19 housing stock, present opportunities for small
20 homeowners to rent out, and extend tenant protections
21 to those previously carved out.

22 I additionally want to share that as we
23 call on the State to act here, our City needs to step
24 up and lead as well. As a condition of the East New
25 York Rezoning, the City committed to operating the

2 Basement Apartment Conversion Pilot Program,
3 Brooklyn's Community District 5. This program had
4 successfully launched, but in recent Fiscal Years
5 funding has been stripped away from the budget. This
6 funding must be restored and expanded.

7 I'm going to close by thanking all of the
8 Members of the BASE Campaign who have led much of the
9 organizing and policy work around this issue. I also
10 deeply appreciate groups presenting recommendations
11 today that could strengthen the legislation further
12 and ensure it can be implemented in a way that meets
13 its intent.

14 I'll pass it back now to Chair Sanchez.
15 Thank you.

16 CHAIRPERSON SANCHEZ: Thank you so much,
17 Council Member Hanif.

18 What I'm going to do is have folks ask
19 questions if you have them for HPD, and then I would
20 like to ask DOB and MOEC to actually read your
21 testimony into the record because we're doing this
22 live folks so it's hard to juggle so it'd be good to
23 hear what you all have to say and then we can
24 continue with those questions. Do Colleagues want to
25

2 ask questions? I want to recognize Council Member
3 Barron first.

4 COUNCIL MEMBER BARRON: Thank you very
5 much. The East New York Project to me was a failure.
6 It was not a success. 10 percent certainly isn't a
7 success, and defunding it is certainly not something
8 I would consider successful.

9 Secondly, we have to really look into the
10 reasons why all of these homeowners would do this
11 without having it regulated or doing by regulation.
12 Cost is an issue, particularly with architects and
13 all of the costs. The bureaucracy of getting permits
14 and the regulations is another reason why people do
15 it. Racism is the other reason why people don't go
16 through the system because of things like you
17 mentioned, redlining and other kinds of things.
18 There's a lot of racism in the process so if we're
19 going to resolve this, then it has to be a genuine
20 commitment to these pilot projects. Not something
21 that you say 8,000 people, we got 100 of them and 10
22 percent so we're happy and then defund. To me, that's
23 not my idea of something being successful so there
24 needs to be money in it for homeowners who are
25 struggling in community just to meet mortgage and

2 trying to do certain things. There needs to be a
3 financial commitment, not rhetoric, not studies, not
4 pilots, but a real financial commitment and a real
5 streamlining of the regulatory process because if
6 that doesn't happen we're going to have a very big
7 problem. I'll give an example. It may not be totally
8 related, but I had an issue in my community where I
9 think they were building garages in front of the
10 house without getting the proper permits, and someone
11 was coming by who wanted to gentrify our
12 neighborhood, and they went and they started
13 complaining to the Department of Buildings so they
14 can get fines and they was accumulating a bunch of
15 fines and then when they didn't pay the fines they
16 were going to have them in foreclosure so watch out
17 for that strategy and tactic too where there are some
18 rich developers who will send someone around and get
19 all these fines. I was able to get in touch with the
20 Department of Buildings and, when we saw the pattern
21 that was happening, the person didn't want to say who
22 they were, they were just putting it in, we were able
23 to come to a compromise where DOB said the fines were
24 like 20, 30, 40, 50,000 so they reduce all the fines
25 to 1,000 dollars and then they worked with all of the

2 homeowners to get these things legitimized with the
3 funding assistance and with some regulatory
4 assistance so I think we should put that into place
5 and that kind of context. Sometimes we talk about
6 issues, but when you put it into context of an East
7 New York community or a Brownsville or a Harlem or a
8 South Bronx community where low-income people are
9 challenged and even if you're homeowners in these
10 communities, there are still a lot of challenges so I
11 would just want you to keep that in mind as we go
12 forth with these bills and regulations.

13 DEPUTY COMMISSIONER DARGA: Thank you,
14 Council Member. Maybe a couple of comments. We
15 understand the frustration on the funding cuts
16 related to the Basement Program. We were absolutely
17 disappointed, but the City was faced with making some
18 very hard choices at the beginning of the pandemic...

19 COUNCIL MEMBER BARRON: Well, let me just
20 say this real quick, sorry, Madam Chair, for
21 interrupting. I don't want to hear that. We're not
22 frustrated. We're livid that these things, so it's
23 not a little passive frustration, and the City does
24 have money and why didn't it happen?

2 DEPUTY COMMISSIONER DARGA: If I can
3 complete my thought here, HPD, the City could not
4 allocate expense funding at the time. There were a
5 lot of other emergencies that the City was
6 addressing. We did raise separately a million dollars
7 to continue the pilot program. The City has
8 continued..

9 COUNCIL MEMBER BARRON: Madam Chair, I do
10 have to leave, and I don't mean to be rude, but I
11 know you keep repeating something that just simply is
12 not true, the City did not have money because of the
13 pandemic. That is simply not true. You're with an
14 agency. We see the whole budget.

15 DEPUTY COMMISSIONER DARGA: Okay.

16 COUNCIL MEMBER BARRON: We know that is
17 not true so let's tell the truth and come up with
18 real solutions, but that is not true no matter how
19 many more times you say it, and a million dollars is
20 chump change as we say in the neighborhood when it
21 comes to dealing with this issue.

22 DEPUTY COMMISSIONER DARGA: Okay, so I
23 can't change the past. I can tell you what we did
24 about it. We raised about a million dollars in non-
25 city sources to continue the pilot program. We did

2 work with every active owner that enrolled by the
3 time pandemic hit. We agree with you. We have to
4 streamline this. There is absolutely no question that
5 the myriad regulations and the complexity in
6 navigating those regulations is a really significant
7 problem, and we agree that both in terms of fines,
8 this was I think one of the lessons learned from what
9 worked in the 2019 legislation is that we need to be
10 flexible about addressing violations and fines for
11 people that are willing to do what they need to do to
12 make it right, and we also agree that we need to be
13 able to have resources to help every type of
14 homeowner, that this can't be just a program
15 ultimately that benefits wealthy people that have
16 means to actually be able to undertake these very
17 expensive projects. To address all of these things,
18 we really need support both at the local level and
19 dealing with zoning requirements, code requirements,
20 and at the state level related to regulations that
21 make this very difficult for a normal person to be
22 able to actually do.

23 CHAIRPERSON SANCHEZ: Thank you, Council
24 Member Barron, and it's a really good point. Fiscal
25 2023-2027 Capital Commitment Plan has 1.08 million

2 dollars in capital funds for the program, and that's
3 compared to that 6.8 million that was there before,
4 and that's the capital side. That's not even the
5 expense side so just a followup on the Council
6 Member's question. How much have we spent with the
7 five homes that we have?

8 DEPUTY COMMISSIONER DARGA: I don't have
9 how much we have spent. I can tell you that the final
10 cost for the project that closed on construction was
11 above what we can actually lend through our loan
12 authority, which is another issue that we have to
13 address I haven't mentioned yet. HPD is authorized
14 state law to make loans for particular purposes, and
15 the state law that we use limits the amount of
16 assistance that we can provide a homeowner to 60,000
17 dollars per unit so for a one-family home converting
18 to two families, that's a maximum of 120,000 dollars.
19 The preliminary cost information that we had from
20 that initial kind of survey work that we did was that
21 most of the conversion projects would cost between
22 200,000 and 500,000 dollars. The participants that
23 actually moved forward in the pilot program, the 12
24 that started the process, most of them were on the
25 lower end of that spectrum in part because we don't

2 have the ability to actually help them because of the
3 caps we have under state law. The owner that did
4 close so far on the conversion project, closed on
5 financing, secure it, is in construction now, the
6 costs were above 120,000. We actually secured other
7 sources of funds to help that homeowner move forward.
8 The four remaining properties in the pilot program
9 have cost estimates now between 500,000 and a million
10 dollars.

11 CHAIRPERSON SANCHEZ: For the conversion
12 of one unit, one- to two-family?

13 DEPUTY COMMISSIONER DARGA: Yes.

14 CHAIRPERSON SANCHEZ: Half a million?

15 DEPUTY COMMISSIONER DARGA: I'm bringing
16 that up because if we don't address these
17 regulations, it is not going to be possible to do
18 this work.

19 CHAIRPERSON SANCHEZ: What kind of
20 reductions in cost do you anticipate that the
21 regulatory changes?

22 DEPUTY COMMISSIONER DARGA: The MDL
23 requirements have basically doubled the costs of
24 these projects. If we don't address the MDL

2 requirements, the cost will be out of reach for
3 almost everybody in New York City.

4 CHAIRPERSON SANCHEZ: Thank you so much,
5 Deputy Commissioner.

6 Council Member Hanif.

7 COUNCIL MEMBER HANIF: Thank you. Just to
8 get clarity on this number again. The cost to convert
9 a basement apartment is half a million?

10 DEPUTY COMMISSIONER DARGA: The cost that
11 we're seeing right now for the four remaining homes
12 in the pilot program are above half a million
13 dollars.

14 COUNCIL MEMBER HANIF: So 12 is the amount
15 that were converted or in the process of being
16 converted?

17 DEPUTY COMMISSIONER DARGA: There were 12
18 homeowners that at the beginning of the pandemic,
19 that was the stage where we were doing outreach and
20 assessments of homeowners potentially for
21 eligibility, there were 12 that had gone through that
22 screening, were eligible and had costs on the lower
23 end of that range that I quoted, the kind of 200,000
24 to 500,000 dollar range, and know what we could under
25 a loan authority that was a major concern for us

2 because we were working with low-income homeowners.

3 Some of the homeowners were moderate income, but it's
4 overall lower-income folks, and so 12 by the time the
5 pandemic started had indicated interest. We went
6 through a financial screening with them. Cypress
7 Hills helped us go through that process with all the
8 homeowners to determine if they had the ability to
9 help cover costs if the cost went above 120,000.

10 Nobody at that point in time would've anticipated the
11 cost associated with the MDL requirements. Of the 12,
12 only eight filed with DOB on time. There were a
13 number of issues in there. That was during the
14 pandemic. Some folks' personal situations had changed
15 and so they were no longer interested, but eight did
16 file, and I think maybe you came in after I mentioned
17 this, but three of them subsequently dropped out
18 because of zoning or ceiling height issues so there
19 are five active at this point. Dropped out meaning
20 they're just not feasible under current regulations.
21 This is not an interest issue. This is a regulatory
22 issue. The five that remain, one has closed and is in
23 construction, four are two-unit properties converting
24 to three units and therefore the Multiple Dwelling
25 Law regulations kick in, and that is driving the cost

2 up really subsequently, both in terms of design
3 because you have to have an architect review this and
4 design the building appropriately but also the cost
5 of actually doing the work itself.

6 COUNCIL MEMBER HANIF: That was just for
7 12 or less because three dropped out.

8 DEPUTY COMMISSIONER DARGA: Of the initial
9 12, four dropped out for personal other reasons
10 during the pandemic, eight filed by the deadline with
11 DOB. Of the eight, five are interested and eligible
12 after going through this whole process.

13 COUNCIL MEMBER HANIF: What was the
14 original timeline? How long is a conversion supposed
15 to take or what is the anticipated timeline?

16 DEPUTY COMMISSIONER DARGA: That's a great
17 question. Not this long. The pilot program, Council
18 passed a law that authorized that owners that filed
19 within 18 months of the effective date could receive
20 basically a (INAUDIBLE) that would, if they completed
21 the work, allow them to legalize a basement or cellar
22 unit. That period was extended with the partnership
23 of Council because of the pandemic so the ultimate
24 deadline was June 2021 which gave eventually
25 basically two years from the effective date to file

2 with DOB. I think but for the complexity of the
3 pandemic this would not have taken this long, and now
4 I think the issue is working through the complexity
5 of the Multiple Dwelling Law to help these final
6 homeowners get to where they need to be.

7 COUNCIL MEMBER HANIF: What steps need to
8 be taken at the State level if the State were to pass
9 A9802/S8783, how many housing units could be
10 potentially created and in how many years?

11 DEPUTY COMMISSIONER DARGA: That's a big
12 question. Let me try to tackle it on a couple of
13 parts. First, I would just say that we absolutely
14 support efforts at the State level to reduce the
15 barriers associated with creation of ADUs as well as
16 conversion of basement or cellar units, and I think
17 the legislation referenced, I haven't fully digested,
18 I think the legislation referenced was legislation
19 that we had supported last year that would have
20 provided amnesty if there was an existing occupied
21 unit. I think one thing to note is that absolutely we
22 need to be doing everything we can to provide safe
23 housing for people that are living in spaces today.
24 We also have a housing supply issue in New York City
25 that is creating a housing crisis, and so I think

2 that we need to think about this as both a safety
3 issue and a housing supply issue, and anything we do
4 should eliminate barriers with those two issues in
5 mind.

6 COUNCIL MEMBER HANIF: So then what steps
7 are necessary to ensure tenant safety throughout the
8 process? Were the eight units converted, were there
9 residents staying at the basements that were
10 transferred or staying somewhere else? Could you walk
11 us through that?

12 DEPUTY COMMISSIONER DARGA: This is a
13 tricky issue. I think this is important to note. HPD
14 is an enforcement agency as well as providing
15 incentives so we have our community-based partner
16 that is responsible if there are residents with
17 working with them to relocate during construction
18 period. If we know there's somebody illegally living
19 in a property, we have potentially to vacate a
20 building which would create additional housing
21 instability so our community-based partners are the
22 ones that are working with those residents. We do
23 know that for some of the buildings..

24 COUNCIL MEMBER HANIF: For the
25 relocations?

2 DEPUTY COMMISSIONER DARGA: If there's
3 relocation necessary in order to do construction work
4 to legalize the basement or cellar. We do know based
5 on the initial survey and home assessment information
6 that there were a number of illegally occupied
7 basements and cellars.

8 COUNCIL MEMBER HANIF: Were they safely
9 relocated?

10 DEPUTY COMMISSIONER DARGA: If the project
11 moved forward, they would be relocated.

12 COUNCIL MEMBER HANIF: Okay. I just want
13 to better understand so no one through HPD is being
14 forced to vacate but rather there's a community
15 partner that you all work with to ensure that..

16 DEPUTY COMMISSIONER DARGA: To help them
17 relocate during construction because you can't do
18 these types of projects with people living in those
19 spaces.

20 COUNCIL MEMBER HANIF: Right. Finally,
21 just trying to understand, according to the
22 Comptroller's August 2022 report, 10 percent of
23 basement units in one-, two-, and three-family
24 buildings face flooding risks, and this is estimated
25 to increase to over 30 percent by 2050. What steps

2 are being taken to ensure that these units are not at
3 risk of flooding as storms intensify? Thank you so
4 much.

5 DEPUTY COMMISSIONER DARGA: Yeah. This is
6 so complicated. Safety is absolutely I think one of
7 the utmost priorities here, and it's tricky to
8 balance that with the need to provide more housing,
9 especially where you know there are illegal units. As
10 part of the pilot, we explicitly excluded coastal
11 areas with coastal flood risk. I think Ida changed
12 our perspective on this issue to a large degree. We
13 had been thinking coastal flood risk. There's also
14 inland flood risk, and we saw the very dire
15 consequences of not grappling with that issue. I
16 would say I don't know that there's a clear exact
17 path for balancing these things. It may not be
18 possible to legalize every basement or cellar because
19 you can't adequately manage the risk. That being
20 said, we have two studies we're undertaking to try to
21 understand this better. First, the City more
22 generally led by MOCEJ is undertaking a backwater
23 valve study which will hopefully give us a better
24 understanding of where backwater valves can actually
25 be impactful in managing this type of risk. The other

2 thing that we are doing, we applied for CDBG-DR funds
3 in order to do a basement apartment flood mitigation
4 study to specifically understand what type of
5 mitigation might be necessary in order to reduce
6 flood-related risk in basement or cellar dwellings
7 specifically.

8 COUNCIL MEMBER HANIF: Do the costs you
9 mentioned earlier include flooding mitigation or
10 climate protection?

11 DEPUTY COMMISSIONER DARGA: No, they don't
12 because we explicitly excluded properties that had a
13 coastal flood risk, and I don't know offhand how much
14 of this particular community, so this is Brooklyn
15 Community Board 5, where there are inland flooding
16 issues, but I don't remember that being a specific
17 issue during the pilot program.

18 COUNCIL MEMBER HANIF: Finally, when will
19 these studies be released or available to the public?

20 DEPUTY COMMISSIONER DARGA: I believe that
21 the backwater valve study should be complete late
22 this year, and the basement apartment flood
23 mitigation study we just got awarded those funds and
24 so I think within two years we should have that
25 information.

2 COUNCIL MEMBER HANIF: Thank you.

3 CHAIRPERSON SANCHEZ: Thank you, Council
4 Member Hanif.

5 I'd like to also acknowledge that we've
6 been joined by Council Member Aviles.

7 To follow up on what you're sharing with
8 us about the costs, you said some of these
9 conversions are costing between half a million and a
10 million dollars and that for those conversions that
11 are now triggering MDL requirements that is doubling
12 the costs, so what are the other factors that are
13 causing this to cost 500,000 dollars?

14 DEPUTY COMMISSIONER DARGA: The cost of
15 doing these conversion projects, putting aside the
16 MDL requirements, cost escalation has driven costs up
17 across the board for doing renovation projects so the
18 earlier cost information we have would've been a
19 couple hundred thousand dollars and we were working
20 with homeowners to access other sources to address
21 the gap between what we can fund under our loan
22 authorities and the cost of the projects. The MDL
23 requirements are the requirements that have basically
24 doubled the cost so the range is now between half a
25 million and a million dollars.

2 CHAIRPERSON SANCHEZ: Okay, thank you.

3 Turning to a future focus, what steps do you think
4 are necessary to safely legalize basement apartments.
5 We've seen the legislation. They are specific changes
6 that are giving the City authority to determine
7 appropriate ceiling heights, parking requirements,
8 and certain MDL waivers. What are some of those
9 details? What is a safe ceiling height? What are some
10 of those MDL requirements? You mentioned changes to
11 roofs, but what are some of the others? Just to add
12 on to that, are there any anticipated changes that
13 need to happen through local law?

14 DEPUTY COMMISSIONER DARGA: I will do my
15 best. I am not a code expert. I will just preference
16 my response with that. Based on what I've seen in the
17 pilot program, I'll do my best to try to answer the
18 question. First and foremost, I think the amendments
19 that we made at the local level to the code related
20 to ceiling height, egress, light, ventilation have
21 certainly made a difference in terms of viability so
22 certainly any program going forward, I see no reason
23 at this point in time based on what we've seen to
24 reconsider some of that although I think we would
25 want to engage Department of Buildings and the Fire

2 Department and many others to make sure and certainly
3 look at flood risk in relation to some of those
4 issues as well. I think we also at the local level
5 have to address zoning. The number of owners that
6 were ineligible to participate because of zoning-
7 related requirements was very significant so my
8 recollection is about a third of the properties that
9 we had talked with had coverage issues, parking
10 issues, fire issues, floor area issues and so those
11 were the most common barriers from a zoning
12 perspective in being able to move forward. Those are
13 going to be issues that exist whether you're thinking
14 about ADUs or legalization of basement or cellar
15 units. At the local level, those are two big
16 takeaways. I would say in addition to the regulatory
17 issues, as I mentioned, I think regulatory change can
18 reduce cost, but we still need a way to support
19 owners in actually moving forward. We did some kind
20 of assessment of what has happened nationally around
21 ADUs over the last few years, and some places have
22 gone so far as to have templates of how to undertake
23 this or checklists to help owners navigate this. It's
24 very complex work. As part of the pilot, we had
25 community-based organizations helping, we had the

2 City helping, we had architects involved so we need
3 to figure out a way to make it easier for normal
4 people to actually undertake this.

5 At the State level, there are the two big
6 things. We have a loan authority problem we have to
7 fix, 60,000 a unit has been in statute for decades.
8 It doesn't even help us, at this point it's a limit
9 in just being able to help a homeowner do basic
10 repairs. Certainly, it's not sufficient to address a
11 conversion project, or if we wanted to go to ADUs
12 wouldn't be enough to help with ADUs. I talked about
13 the Multiple Dwelling Law requirements. We really
14 need the ability for those requirements to be waived.
15 You could think about in a private dwelling that is
16 adding another unit as an ADU instead of a multiple
17 dwelling, you could come up with a different
18 definition that would potentially exempt either in
19 local zoning or at the state level those buildings
20 from having to comply with certain requirements.
21 Again, I'm not a code expert. I think we ultimately
22 would need DOB, Fire, lots of other people to help
23 look at those to make sure, certainly DCP, to help us
24 look at the myriad regulations to make sure we're

2 addressing appropriately, but those were the big
3 issues that we've seen.

4 ASSISTANT COMMISSIONER JOFFE: If I may,
5 I'll just add that this is a cornerstone of our Fair
6 Housing strategy. We really need the support of the
7 Council and of New Yorkers to recognize the
8 importance of these issues in order to be able to
9 move forward. All of these steps will take that
10 partnership.

11 CHAIRPERSON SANCHEZ: Thank you so much.
12 Moving to tenant protection and the right to return,
13 the State Legislation as currently written includes
14 language about a right to return, but the State with
15 the City's enablement would be conferring a new
16 income source to house owners so what affordability
17 restrictions or commitments would the administration
18 be supportive of?

19 DEPUTY COMMISSIONER DARGA: I think this
20 is a much more complex issue than it seems on face
21 value, and that's coming from somebody that finances
22 affordable housing. What we have seen is that today
23 in the pilot program we're working with lower-income
24 homeowners. Those homeowners really need additional
25 revenue to stabilize their own households

2 financially. The pilot is taking place in a community
3 that has had much more high foreclosure risk, lots of
4 issues that homeowners are facing, and so I think
5 whatever we do to protect tenants also has to keep in
6 mind that there are owners that may be facing their
7 own challenges. In the pilot program, we do have
8 basically an option of the resident to return at
9 their last rent charged if there is a resident, and
10 we also have through the financing program a
11 requirement that if the unit is vacant, there's not a
12 returning resident, that the owner lease to a
13 household at a rent that is affordable at or below 80
14 percent AMI, but we have an ability to waive that
15 requirement if there is potential hardship for the
16 homeowner itself. What we've seen in our home repair
17 programs is that many of the homeowners are highly
18 dependent on rental income, and this is in the one-
19 to four-family home space, highly dependent on rental
20 income for their own livelihood. In fact, it
21 sometimes is the primary source of income or one of
22 the primary sources of income. Again, I think this is
23 much more complicated than it seems on face value. Of
24 course, we want to protect residents, but that's not

2 the only constituency that we want to make sure this
3 works for in a program like this.

4 CHAIRPERSON SANCHEZ: That makes a lot of
5 sense. Thank you so much. I think one of the pieces
6 of feedback that we've received from some advocates
7 is the ability to continue to have that conversation
8 and for this Council to be able to weigh in on those
9 protections moving forward.

10 I am now going to ask DOB to read their
11 testimony into the record and then I'll glance over
12 at my Colleagues to see if they have questions so we
13 can keep going.

14 Actually, MOEC, can you read right after
15 DOB?

16 I'd like to acknowledge Council Member
17 Hudson for the record.

18 COMMITTEE COUNSEL SON: I'll just quickly
19 administer the oath. Please raise your right hand.

20 Do you affirm to tell the truth, the
21 whole truth, and nothing but the truth in your
22 testimony before this Committee and to respond
23 honestly to Council Member questions?

24 DEPUTY COMMISSIONER PATINO: I do.

25 DEPUTY DIRECTOR BRUNNER: I do, yes.

2 COMMITTEE COUNSEL SON: Thank you.

3 DEPUTY COMMISSIONER PATINO: Good

4 afternoon, Chair Sanchez and Members of the Committee
5 on Housing and Buildings. I am Guillermo Patino,
6 Deputy Commissioner for External Affairs at the New
7 York City Department of Buildings. I am joined today
8 by Joseph Ackroyd, Assistant Commissioner for
9 Technical Affairs and Code Development. We are
10 pleased to offer testimony in support of Intro 875
11 which makes technical corrections, clarifications,
12 and modifications to certain provisions of the 2022
13 New York City Construction Codes, Intro 886 which
14 extends the moratorium on the issuance of business
15 sign violations for two additional years, and Intro
16 150 which expands electric vehicle charging readiness
17 requirements and requires the installation of
18 electric vehicle charging stations.

19 The Department is required to keep the
20 Construction Codes up to date with the International
21 Code Council's I-Codes and began its previous
22 Construction Code revision cycle in 2015. This
23 public/private partnership which spanned several
24 years involved over 650 industry professionals and
25 stakeholders who volunteered their time and sat on

2 various committees which were organized by
3 discipline. This Code revision effort resulted in
4 over 40,000 hours of service by committee members.
5 Committee members included architects, engineers,
6 attorneys, other city agencies as well as
7 representatives from the construction, labor, and
8 real estate industry. The Department is extremely
9 grateful to all the committee members who volunteered
10 their time to modernize the city's Construction
11 Codes. This work resulted in the 2022 Construction
12 Codes which went into effect in November 2022. The
13 Department is supportive of Intro 875 which consists
14 of approximately 400 amendments to the 2022
15 Construction Codes. These amendments primarily
16 address grammatical issues and make other minor
17 fixes. In addition, there are several changes that
18 are more substantive in nature. These substantive
19 changes expand on issues addressed in the
20 Construction Codes including eliminating the final
21 inspection requirement for temporary construction
22 equipment which will result in cost savings for
23 owners without impacting safety, clarifying that the
24 uses of renewable energy credits to comply with
25 building emissions limits are for emissions generated

2 by the consumption of electricity, and allowing the
3 Department to limit the deductions allowed for
4 renewable energy credits, expanding the allowing for
5 small encroachments into the public right of way when
6 additional installation is required to reduce
7 greenhouse gas emissions, eliminating the requirement
8 for the Department to witness fire pump acceptance
9 tests which are conducted by qualified individuals
10 while maintaining the ability to audit as needed, and
11 aligning site safety plan submission requirements
12 according to application filing date rather than the
13 date of Department approval which allows these
14 requirements to be consistently applied in accordance
15 with the Department's industry guidance regarding
16 this matter. Of note, the Department is already
17 organizing a new series of committees to help draft
18 the next set of revisions to the Construction Codes.
19 Applications to join the upcoming Code revision cycle
20 will be accepted by the Department through the end of
21 this month. Extensive outreach to the industry is
22 being conducted, and we encourage those who are
23 interested in helping the Department shape the future
24 of New York City's build environment to apply. The
25 Department anticipates that it will begin submitting

2 proposed revisions to the City Council updating the
3 Construction Codes in 2024.

4 Turning now to Intro 886 regarding
5 business signs. Business signs must comply with
6 requirements in both the New York City Building Code
7 and the New York City Zoning Resolution. The
8 regulations in the Building Code address permitting
9 and structural issues, and the regulations in the
10 Zoning Resolution address issues including
11 permissible surface area, projection, and height.
12 Collectively, these regulations exist to protect the
13 public from dangerous or illegally installed signs
14 and to reduce visual clutter. The Department has
15 taken the existing moratorium as an opportunity to
16 focus on educating businesses about sign regulations
17 and to introduce new resources to assist businesses
18 with the process of installing signs. We have sent
19 letters to businesses who have received violations
20 from the Department for illegally installed in the
21 past accompanied by information about sign
22 regulations and the moratorium on the issuance of
23 business sign violations which went into effect in
24 2019. While educating businesses about existing
25 regulations is critical, we believe more can be done

2 to support businesses. Last summer, the Department
3 launched an annual No Penalty Business Sign
4 Inspection Program which allowed businesses to
5 request an inspection from the Department to
6 determine if their sign complies with applicable
7 regulations by calling 3-1-1. That's a program that
8 we expect to continue moving forward as well. This
9 type of compliance inspection incentivizes small
10 business owners and other property owners to ensure
11 their buildings are safe without the worry of a
12 penalty if there's an issue that needs to be
13 corrected. The Department has also updated the
14 resources on its website pertaining to sign
15 installation and has simplified the sign permit
16 process. We also recently announced the availability
17 of dedicated resources to assist small businesses
18 with any issues they might have including questions
19 pertaining to installing a sign or about any other
20 construction project they may be pursuing. The
21 Department is fully supportive of Intro 886, which
22 will extend the moratorium on the issuance of
23 business sign violations for two additional years. We
24 recognize the need to continue to support small
25 businesses, and this bill does just that. We look

2 forward to working with this Committee to make it
3 easier and more affordable for businesses to bring
4 their signs into compliance with applicable
5 regulations.

6 Finally, the Department is also
7 supportive of the intent of Intro 150, which would
8 expand electric vehicle charging readiness
9 requirements and requires the installation of
10 electric vehicle charging stations. Electric vehicles
11 present an opportunity to reduce greenhouse gas
12 emissions and to improve air quality, which is
13 aligned with New York City's goal of reaching carbon
14 neutrality by 2050. This proposal builds upon
15 existing Building Code requirements that require that
16 parking lots be capable of supporting electric
17 vehicle charging stations and goes further by
18 requiring that electric vehicle charging stations be
19 installed in certain instances. We look forward to
20 working with the City Council and our partner
21 agencies on this proposal.

22 We thank the City Council for its
23 continued support and look forward to continuing our
24 work together to improve the Department for the
25 benefit of all New Yorkers. Thank you.

2 CHAIRPERSON SANCHEZ: Thank you.

3 DEPUTY DIRECTOR BRUNNER: Hello. Good
4 afternoon, Chair Sanchez and the Members of the
5 Committee on Housing and Buildings. My name is Esther
6 Brunner, and I am the Deputy Director of the Mayor's
7 Office of Environmental Coordination. We are very
8 pleased to offer testimony in support of Intro 876,
9 which seeks to update the City's green building
10 standards for city-owned and some city-funded capital
11 projects involving building as organized in Charter
12 Section 224.1, Green Buildings Standards.

13 The City's Green Buildings Standards were
14 established as part of Local Law 86 in 2005 and later
15 updated as part of Local Laws 31 and 32 of 2016.
16 These policies place energy efficiency and LEED
17 design standards on city-funded and city-owned
18 capital projects, ensuring that city buildings help
19 deliver the deep carbon reductions we need to meet
20 our ambitious climate goals. The recommended
21 amendments as part of Intro 876 would streamline
22 compliance, simplify the required pathways for
23 rigorous energy reduction, align standards with the
24 recently adopted New York City Energy Conservation
25 Code, and align with Local Law 97 of 2019 to

1 drastically building carbon emissions and also align
2 with Local Law 154 of 2021 to move toward
3 electrification for new buildings. This effort
4 largely centers on ensuring that the referenced
5 standards cited in the Charter Section are updated to
6 current iterations and can be updated to versions of
7 such standards being released without requiring
8 legislation. The Office is supportive of Intro 876
9 because as the entity responsible for issuing the
10 rules for this Charter Section as well as organizing
11 the mandated reporting regarding the outcome of
12 compliance and reporting related to the laws, we have
13 become familiar with some of the implementation
14 challenges and necessary updates to support capital
15 building teams. These proposed changes to the laws
16 are minor and not policy changes but are critically
17 needed to ensure the efficacy of the laws and improve
18 their implementation. This legislation is needed to
19 support the advancement of capital projects across
20 the citywide capital portfolio by providing much
21 needed direction and guidance to ensure
22 sustainability goals are met within the development
23 and in a way that's mutually supportive and
24

2 reinforcing of recent efforts around emission and
3 renewable energy.

4 We thank the City Council and this
5 Committee for its continued support in advancing
6 legislation to address the climate crisis and improve
7 the sustainability of our building processes and the
8 structures they create. We welcome any questions you
9 may have. Thank you.

10 CHAIRPERSON SANCHEZ: Thank you so much,
11 Deputy Director and Deputy Commissioner.

12 Just to start and then I'm going to turn
13 over to Council Member Restler who has been patiently
14 waiting for a bit. For DOB, the clean-up bill
15 includes a section on the limitation of the use of
16 renewable energy credits that may be issued via rule.
17 The Department lists three factors that it will
18 consider in issuing this rule. Regarding those
19 factors, first, how will or does DOB determine the
20 availability or expected availability of renewable
21 energy credits. Second, how does DOB currently
22 approach environmental justice? What is the
23 definition that DOB is contemplating? Third, who
24 would complete the environmental justice assessment?

2 Would DOB consult with experts and stakeholders and,
3 if yes, which ones?

4 DEPUTY COMMISSIONER PATINO: Thank you.

5 First, I'll start by mentioning that last month was a
6 significant month in terms of Local Law 97
7 implementation. The Department issued the Advisory
8 Board report. The Department has been working with
9 stakeholders very closely for the past several years,
10 and over 300 meetings were held as part of that
11 process. The report we issued last month includes the
12 recommendations that came out of that Advisory Board
13 process so we're very thankful for all the Advisory
14 Board members that participated in that process.

15 Secondly, I'll mention that last month we
16 also finalized our first major Local Law 97 rule, and
17 that rule did take a significant step forward as it
18 relates to renewable energy credits, or RECs, and it
19 specified that RECs can only be used to offset
20 electricity emissions and not for emissions produced
21 on-site, for example from oil or gas boilers, and we
22 believe this is a very fair approach and it's in line
23 with how the state and the federal government
24 approach RECs, but we believe that our ability to
25 make future determinations around the use of RECs can

2 be made clearer so that's why we included language in
3 the clean-up bill that you mentioned, Intro 875, that
4 does just that. The bill allows us to make further
5 determinations around the use of RECs, and we're
6 going to be doing that by rule so the rule will also
7 be a public process. There will be a public hearing
8 for that rule, and we're approaching this issue very
9 carefully. We appreciate that it's a significant
10 issue, both for the stakeholders, the advocate
11 community, and for the building owners who need to
12 comply with Local Law 97 so we're going to take a
13 very careful approach, and right now we've engaged
14 NYSERDA to study this issue so we're talking to
15 NYSERDA both to better understand the RECs market,
16 how the RECs market will operate and how RECs will
17 impact Local Law 97 compliance so we're currently
18 engaged with NYSERDA as part of that process.

19 CHAIRPERSON SANCHEZ: Okay, before you
20 turn to the environmental justice question, just
21 wanted to do a quick followup. The Comptroller's
22 Office produced a report in December on Local Law 97
23 modelling different RECs limit scenarios so 10
24 percent, 30 percent, and 50 percent. The Office
25 outlined the impacts of various RECs limits on the

2 overall targeted emissions reductions. I understand
3 the limitation for electrification, but what about
4 limiting the overall reduction required by a
5 building, limiting how much of that is able to be
6 offset via RECs?

7 DEPUTY COMMISSIONER PATINO: That's
8 something we're studying right now along with our
9 partners at NYSERDA to better understand the market
10 and how RECs will impact the implementation of Local
11 Law 97 so that's why we're not putting forward limits
12 in the bill before you today. We're just clarifying
13 that the Department has the ability to limit RECs
14 further, and our plan is to do that by rule, and we
15 certainly look forward to engaging the City Council
16 as part of that process as well.

17 CHAIRPERSON SANCHEZ: Okay. Thank you.
18 Moving to the environmental justice factor, who would
19 be completing the environmental justice impact
20 assessment? Will DOB consult experts and
21 stakeholders? If so, which ones? What exactly do you
22 envision that the impact assessment would entail?

23 DEPUTY COMMISSIONER PATINO: That's
24 something we're currently studying as well with our
25

2 partners at NYSERDA so we'll have more updates for
3 you on that front as well.

4 CHAIRPERSON SANCHEZ: Okay. The third
5 factor is a catchall. Any other relevant factor
6 determined to be related to the use or restriction on
7 the use of such credits? I'm a little troubled by the
8 lack of specificity here. What are other relevant
9 factors that DOB could consider?

10 DEPUTY COMMISSIONER PATINO: That's also
11 something we're currently looking at. Right now,
12 we're studying this issue with NYSERDA. Once we
13 conclude that study and those conversations, we'll be
14 looking to promulgate rules around this issue so
15 we're certainly going to be sharing more information
16 with you on this issue moving forward.

17 CHAIRPERSON SANCHEZ: Okay. Thank you. As
18 you know, this Council, myself, we're laser-focused
19 on making sure that the environmental benefits of
20 Local Law 97 are not eroded in any way, and so we're
21 very vigilant about any discussion about renewable
22 energy credits.

23 DEPUTY COMMISSIONER PATINO: Thank you. We
24 appreciate that and completely agree.

2 CHAIRPERSON SANCHEZ: Of course. Council
3 Member Restler.

4 COUNCIL MEMBER RESTLER: Thank you so
5 much, Chair Sanchez. We are really fortunate to have
6 you leading and in this role, serving as the Chair of
7 this vital Committee. I also want to just echo your
8 congratulations to Kim on your appointment as Deputy
9 Commissioner. It's good to see you. We're fortunate
10 as a city to have you in that role, Deputy
11 Commissioner Darga, and I also just want to thank
12 Guillermo who is incredibly responsive and helpful. I
13 imagine that like every other Council Member in the
14 City of New York we have DOB-related crises at the
15 most random hours of the night and on weekends, and I
16 am deeply appreciative of your help in addressing
17 issues in real time in our community. Thank you for
18 going above and beyond.

19 I just wanted to echo some of the points
20 that Chair Sanchez was making as it relates to Intro
21 875, this Code bill. Firstly, I want to underscore
22 again at this point DOB has no specific percentage in
23 mind for a cap that you would put on RECs, there's no
24 analysis that's been conducted internally to inform
25 what cap you would plan to impose?

2 DEPUTY COMMISSIONER PATINO: Not at this
3 time. We don't have a limit that we would propose at
4 this time. We're really committed to looking at this
5 issue carefully. This administration has taken a very
6 careful approach to the implementation of Local Law
7 97. DOB has established a Sustainability Bureau which
8 is led by Laura Popa, and she is fully committed to
9 this issue as well so we're taking a very careful
10 approach to this, and our goal is to study this issue
11 carefully and then to come forward with...

12 COUNCIL MEMBER RESTLER: I really
13 appreciate that, Deputy Commissioner. Careful is
14 important but so is speed, and we have no time to
15 waste, and so should the Council move forward on this
16 Code bill, what would be the timeline for DOB getting
17 these rules implemented?

18 DEPUTY COMMISSIONER PATINO: We anticipate
19 doing a lot of rulemaking around Local Law 97 this
20 year so emissions limits begin in 2024 and then
21 owners begin reporting their compliance to the
22 Department of Buildings in 2025 so we fully
23 appreciate how important it is for owners to have
24 guidance around this issue and for the advocate

2 community who is really focused on this issue as well
3 so we're...

4 COUNCIL MEMBER RESTLER: You're not
5 prepared to give any timeline specificity beyond this
6 calendar year?

7 DEPUTY COMMISSIONER PATINO: Regarding the
8 RECs market, we don't expect Tier 4 RECs to be
9 available until 2027, but we know that owners who
10 need to comply with this law need information a lot
11 earlier than that so we're fully focused on this
12 issue, and we'll certainly provide you with a more
13 firm timeline when we have one.

14 COUNCIL MEMBER RESTLER: But did I hear
15 you correctly that you would plan on having a hearing
16 on these rules this calendar year?

17 DEPUTY COMMISSIONER PATINO: The bulk of
18 our Local Law 97 rulemaking will happen this year,
19 but rulemaking around the RECs issue specifically the
20 timeline still remains to be seen and our
21 conversation with NYSERDA will definitely inform
22 that.

23 COUNCIL MEMBER RESTLER: I don't know if
24 you're a lawyer, but is it the perspective of DOB
25 that this legislation is essential in order to pass

2 further rules relating to RECs and to impose further
3 caps?

4 DEPUTY COMMISSIONER PATINO: We do believe
5 that our ability to make future determinations on the
6 issue of RECs and to place a cap on RECs that we
7 would need this legislation, yes.

8 COUNCIL MEMBER RESTLER: One final
9 question and then I'll make a comment if that's okay.
10 As of reports late last year, DOB had the highest
11 rate of vacancy of any rate in the city, and the work
12 of DOB inspectors and the enforcement work you all do
13 is essential to our collective safety. I am deeply
14 concerned about the dramatic reduction in headcount
15 that we're experiencing across all of city government
16 and you all are under oath so you have to be honest
17 with me, I know you are too, how are the vacancies at
18 DOB impacting your ability to swiftly implement Local
19 Law 97?

20 DEPUTY COMMISSIONER PATINO: Thank you.
21 We're definitely hiring for the Sustainability Bureau
22 which was recently established, and the way that we
23 plan to implement Local Law 97, we needed a smaller
24 team to begin with, and our plan is for that team to
25 definitely grow as the Law continues to be

2 implemented. We can definitely update you on those
3 hiring efforts as well.

4 COUNCIL MEMBER RESTLER: Deputy

5 Commissioner, I appreciate your responses, and I
6 appreciate the thoughtfulness with regard that you're
7 trying to bring to Local Law 97 and that I know
8 Deputy Commissioner Popa is trying to bring as well.
9 I just have to underscore it's not just
10 thoughtfulness. It's also speed, and we need to move
11 aggressively and swiftly to limit RECs. The loopholes
12 that we have right now are wholly unacceptable, and
13 if DOB does not act appropriately then I certainly
14 believe the Council must and so if you all are unable
15 to resolve this in rulemaking then we should push
16 through aggressive legislation to impose those
17 requirements ourselves. Thank you.

18 CHAIRPERSON SANCHEZ: Thank you so much,

19 Council Member Restler. Following up on the same
20 issue, you mentioned this, DOB is currently working
21 on a renewable energy credits limit study with
22 NYSERDA. What's the timeline for the completion of
23 the study?

24 DEPUTY COMMISSIONER PATINO: We don't have
25 a timeline for completing the study at this time, but

2 we'll certainly update you on this issue moving
3 forward. Again, we would have to promulgate rules in
4 order to further limit the use of RECs.

5 CHAIRPERSON SANCHEZ: When did the study
6 begin?

7 DEPUTY COMMISSIONER PATINO: We're
8 engaging NYSERDA in those conversations currently.

9 CHAIRPERSON SANCHEZ: So it hasn't
10 started? You're in discussions?

11 DEPUTY COMMISSIONER PATINO: No, we've
12 already began discussing this issue with NYSERDA. I
13 can get back to you with the specific date in which
14 we began engaging them. I'll back to you on that.

15 CHAIRPERSON SANCHEZ: Okay. Will the City
16 be releasing the modelling analysis to the public?

17 DEPUTY COMMISSIONER PATINO: I'll get back
18 to you on that as well.

19 CHAIRPERSON SANCHEZ: Okay. Any sense of
20 what the next steps would be once the study is
21 completed?

22 DEPUTY COMMISSIONER PATINO: We would have
23 to work on drafting a rule in order to limit RECs
24 further, and that's a public process as well so there
25 would be a public hearing as part of that process and

2 then after the hearing we would have to move to
3 promulgate a final rule.

4 CHAIRPERSON SANCHEZ: Thank you so much.

5 The next question is on Intro 876. For the sake of
6 the public, can you please walk us through the
7 provisions of this bill and how this bill will change
8 the existing Green Buildings Law?

9 DEPUTY DIRECTOR BRUNNER: Thank you, Chair
10 Sanchez, for your question. This Charter Section,
11 again, is comprised of the original law from 2005 and
12 then amendments from 2013, and basically it provides
13 two different tracks of Green Building Standards and
14 implementation applicable to the City's own buildings
15 and a very, very small universe of city co-funded
16 buildings, and the two tracks are one, for larger
17 projects that they have to be built to LEED Green
18 Building Standards so LEED Gold for certain occupancy
19 groups and just LEED Certified for others then the
20 second track is city buildings through systems
21 replacements. There again, there is a certain
22 monetary threshold which if reached the law kicks in,
23 and that is true for the LEED threshold as well.
24 There it actually matters what the construction costs
25 of the city project will be. There are different

2 ranges, and depending on which range a project falls
3 it has to certify to certain levels and/or also
4 fulfill additional energy cost-saving requirements.
5 The idea overall is that the City leads by example.
6 That was the original idea in 2005 with sustainable
7 and green buildings.

8 CHAIRPERSON SANCHEZ: Thank you so much.

9 The bill as currently drafted grants the Mayor the
10 authority to allow alternative standards to be
11 adopted for certain occupancy groups, specifically
12 the legislation allows for less stringent alternative
13 standards to be adopted for these occupancy groups so
14 can you explain why this waiver is necessary? Is
15 there a way for those occupancy groups to meet the
16 same or at least equally stringent standards as other
17 buildings?

18 DEPUTY DIRECTOR BRUNNER: The proposed
19 amendments in today's build-up bill are not making
20 any changes to mayoral authorities so that is an
21 original provision from the 2005 bill, and so the
22 idea I think at that point was we were in an entirely
23 different environment in terms of Green Building. At
24 the time, a lot of city agencies were very concerned
25 about how they would implement those provisions, and

2 that also led to an exemption provision that our
3 office is authorized to grant under certain
4 conditions. Just to give you an example with the
5 mayoral authority to allow for a different standard
6 than LEED, that made a lot of sense, for example, for
7 the SCA at the time, the School Construction
8 Authority, because there was no LEED-specific
9 framework for school buildings so this is a very
10 unique type of building where they were just not able
11 to meet the regular residential or commercial
12 frameworks under LEED so they were allowed to develop
13 their own Green Building Schools Guide. A similar
14 example is the most recent one we have worked on was
15 an application or request from the Department of
16 Environmental Protection asking to use an industrial
17 Green Building standard, which is envisioned, because
18 they have so many assets where there are no human-
19 occupied spaces like pump stations or certain storage
20 spaces where people do not work so they can be
21 unheated and not lit where they don't have the same
22 types of energy demand as other buildings have that
23 include offices or locker rooms for example so that I
24 think is the initial intent with allowing for
25 alternative standards under very specific conditions

2 and for only very specific occupancy groups. Yes,
3 there may be the necessity to go to a less stringent
4 level than otherwise will be required than if you go
5 for a LEED Certified or LEED Gold Certified level.

6 CHAIRPERSON SANCHEZ: Thank you so much.

7 Last set of questions for me and looking over to
8 Colleagues if y'all have any additional questions.
9 With respect to Intro 886, glad to hear the
10 administration is supportive of this and looking
11 forward to working on making sure that our small
12 businesses are not penalized. Does DOB have this
13 estimate, how many noncompliant signs remain in the
14 City of New York?

15 DEPUTY COMMISSIONER PATINO: We don't have
16 that estimate, but I can look into this issue further
17 and see what information we can pull. Perhaps we can
18 look into how many violations we issued for illegally
19 installed signs in the past and try to gauge that,
20 but we have seen consistently an uptick in the number
21 of sign permits that have been pulled since the
22 moratorium has been in place which is promising.

23 CHAIRPERSON SANCHEZ: Okay. Thank you.

24 Just looking backwards, prior to the current
25 moratorium, in 2016 and 2017, DOB received about

1 1,000 such complaints resulting in 800 inspections
2 and about 500 violations. If the City Council does
3 not enact this proposed legislation, what happens to
4 the businesses that have not been able to correct
5 their signs?
6

7 DEPUTY COMMISSIONER PATINO: They would
8 potentially be on the hook for violation should we
9 receive a complaint. We're not proactively enforcing
10 this requirement so what happened pre-moratorium was
11 that we were receiving complaints and in 2018 there
12 was a significant uptick in complaints so we're
13 obligated to respond to every complaint we receive so
14 potentially they could receive violations, but I will
15 note as part of the Mayor's Executive Order 2 Small
16 Business Forward, one proposal that DOB did put
17 forward is that we're no longer going to be imposing
18 6,000 dollar work without a permit penalties on small
19 businesses so the regulatory framework is certainly
20 much more improved than it was in 2018 for
21 businesses, and we've also extended the time period
22 that a time period that a business has to correct
23 violations so should they receive a violation once
24 the moratorium does end, they will no longer be on
25

2 the hook for a 6,000 dollar work without a permit
3 penalty and they'll also have more time to correct.

4 CHAIRPERSON SANCHEZ: Thank you. According
5 to the latest information that we have, there are
6 only 25 special sign hangers who are licensed to do
7 the remediation work required here. This is a very
8 limited pool of workers for a lot of businesses in
9 the City of New York so what are some ideas that the
10 Department has considered to increase the number of
11 workers that are allowed to do sign hanging?

12 DEPUTY COMMISSIONER PATINO: As part of
13 the original law that put into place the moratorium,
14 we were tasked with establishing a taskforce to
15 explore this issue, and one of the ideas that came
16 out of this taskforce was allowing other folks to
17 also be able to install signs. One of the proposals
18 was perhaps allowing general contractors to install
19 smaller signs so that was one idea that came out of
20 that taskforce which would certainly open up the pool
21 of individuals who could hang signs.

22 CHAIRPERSON SANCHEZ: Thank you so much.
23 Actually, just one question on Intro 150. Are there
24 currently any incentive programs available for the

2 City to level the playing field for EV supply
3 equipment installation?

4 DEPUTY COMMISSIONER PATINO: I'm not aware
5 of any offhand, but we'll look into this and get back
6 to you.

7 CHAIRPERSON SANCHEZ: We have to do more
8 because private owners are not necessarily going to
9 allow this. I want to acknowledge Council Member
10 Aviles.

11 COUNCIL MEMBER AVILES: Thank you so much,
12 Chair Sanchez. I have a couple of questions across
13 all the pieces of legislation, but since we last were
14 talking about 150 in terms of the charging stations.
15 Does this include charging for e-bikes or are we
16 specifically just talking about cars?

17 DEPUTY COMMISSIONER PATINO: This would
18 just be specifically for vehicles so not e-bikes.

19 COUNCIL MEMBER AVILES: Is the City
20 recognizing the significant increase in the usage of
21 e-bike and e-bike usage and the need for charging
22 infrastructure that is public outside of people's
23 homes as it relates to all the safety issues, have
24 you been considering that in terms of expanding the
25 infrastructure, and what would that look like?

2 DEPUTY COMMISSIONER PATINO: That's a
3 really good point, Council Member. We're certainly
4 supportive of the intent of this bill, but I think we
5 definitely want to discuss the technical requirements
6 in the bill and what are the percentages for EV
7 charging readiness and the actual installation of EV
8 chargers are appropriate so I think we should
9 certainly discuss that issue as part of that
10 conversation as well.

11 COUNCIL MEMBER AVILES: That's great.
12 We've written to the federal government around the
13 need for this and particularly the integration of e-
14 bikes and that specific consideration so we don't go
15 so far down as to build an infrastructure that then
16 we have to adapt which we know is significantly more
17 expensive in the end so I implore you to include e-
18 bikes into that consideration across the city.

19 In terms of Local Law 97, could you
20 repeat what the rule, you mentioned the group
21 finalized one specific rule, could you repeat what
22 that was again in terms of the RECs?

23 DEPUTY COMMISSIONER PATINO: Yeah, of
24 course. Last month, we finalized our first major
25 Local Law 97 rule, and what that rule does is it

2 explains to building owners how they can calculate
3 their building emissions for the purposes of
4 complying with the law, how they're going to be
5 submitting those emissions to the Department for
6 review in 2025 in terms of how they're complying with
7 the law, and finally the last thing that I mentioned
8 is that we also took a step forward on the issue of
9 RECs and we're limiting deductions from RECs to just
10 electricity uses within a building so not emissions
11 produced on-site for example through oil or gas
12 boilers so we did limit the use of RECs to just
13 electricity in that rule that we finalized in
14 December.

15 COUNCIL MEMBER AVILES: Got it. Thank you
16 so much. I just have to underscore my Colleague,
17 Council Member Lincoln Restler's call for urgency and
18 speed. I think what we heard here today obviously is
19 that there's a lot of rulemaking that needs to happen
20 that will happen this year, but a very kind of dot,
21 dot, dot in terms of the wrapping up of the study and
22 in terms of like really moving forward with the RECs.
23 I think time is not on our side with climate change
24 and, while we need to move thoughtfully, we do need
25 to move with urgency because the loopholes are quite

2 significant so I have to underscore that. I think we
3 feel very urgent around this issue to make sure we
4 close those loopholes and not linger on for quite a
5 long time.

6 I think I forgot my last question. I may
7 have to turn it over to the Chair and then I'll maybe
8 remember. Thank you.

9 CHAIRPERSON SANCHEZ: No problem. HPD, one
10 last question that I have for you. You talked a
11 little bit about your existing loan authority and the
12 need for Affordability Plus so can you just
13 specifically describe what changes you would be
14 seeking through Affordability Plus to enable more
15 convergence?

16 DEPUTY COMMISSIONER DARGA: Absolutely.
17 Most of HPD's loan authorities which are granted
18 through the state are decades old. With regards to
19 ADUs and conversions, there are a couple of issues.
20 One, the statute that we use to provide assistance to
21 one- to four-family homes caps the level of
22 assistance at 60,000 dollars per dwelling unit so a
23 one-family converting to a two-family, the maximum
24 loan would be a 120,000 dollars. For a two-family
25 converting to a three-family, the maximum loan would

2 be 180,000 dollars. Even if HPD wanted to provide
3 more assistance, we could not so that's issue one.

4 Issue two, because of the loan
5 authorities that we have including the loan authority
6 for one- to four-family homes dates back decades, the
7 primary issue that the public purpose that we are
8 achieving through making a loan is primarily related
9 to addressing blight, which makes sense if you think
10 of the era in which these loan authorities were
11 created. We are looking for more flexibility under
12 our loan authority to address myriad housing issues
13 including resiliency, conversions, a number of
14 housing issues that property owners are dealing with
15 today. Those are the two big issues that we need to
16 address with regards to conversions or ADUs. There's
17 a whole slew of other issues when we're talking about
18 housing more generally.

19 CHAIRPERSON SANCHEZ: Thank you so much
20 HPD, DOB, MOEC, Members of the Administration for
21 taking my gratitude, but I have a Council Member who
22 has remembered her question.

23 COUNCIL MEMBER AVILES: I just remembered.
24 Thank you. I'm so sorry to interrupt. It was actually
25 for HPD. Particularly when you mentioned the study

2 around the backwater valves, is that specifically
3 relegated to their impact for potential ADUs or is
4 that kind of general usage?

5 DEPUTY COMMISSIONER DARGA: I will speak
6 about what I know, but maybe some of my Colleagues
7 know more. The backwater valve study specifically was
8 something that we wanted to do after Ida because of
9 inland flood-related issues to understand the
10 effectiveness of using backwater valves to manage the
11 risk in terms of geography and other issues.

12 COUNCIL MEMBER AVILES: Great. I represent
13 District 38 in South Brooklyn and certainly
14 experience quite a lot of flooding any time we have
15 rain so this has been an intervention that I think we
16 have heard a lot of mixed reviews about. Some
17 homeowners say it's great, and others are like that's
18 the greatest waste of money and time, and I'm utterly
19 frustrated so I think we definitely have to figure
20 out how to support our homeowners and bring relief on
21 this issue.

22 I was curious if the learnings around the
23 ADUs, obviously we're trying to correct the housing
24 stock that is varied and quite old is many ways, have
25 we updated regulations around how new structures when

2 they're being built so that they don't have some of
3 these issues that we're seeing with older stock that
4 was built during different times and under different
5 regulations in terms of like what an accessory
6 dwelling units could look like?

7 DEPUTY COMMISSIONER DARGA: I don't know
8 that I can adequately answer that question. I think
9 certainly from a zoning perspective, there are
10 substantial limitations. I'm going to do my best to
11 answer it, but I might need some help from others or
12 I may have to circle back. The zoning regulations
13 certainly do substantially constrain what can be
14 built today, and that impacts both ADUs as well as
15 conversion projects, and that is because of coverage
16 requirements as well as floor area ratios, unit
17 limits, parking requirements, a whole slew of issues.
18 In addition to that, within the Building Code, I
19 don't know. I don't know if my Colleague is prepared
20 to talk about that. If not, we can get back to you.

21 COUNCIL MEMBER AVILES: Yeah. I'm sure
22 much has evolved since many of those decades and
23 maybe some of this is moot, but maybe some of it is
24 not and we continue to kind of perpetuate some things

2 that are going to need to be addressed in the future.
3 Thank you.

4 ASSISTANT COMMISSIONER JOFFE: I'll just
5 add on that. Some of this that we've been talking
6 about is legalizing basements, and that's where you
7 will find some of our work dealing with existing
8 structures, but as we've talked about off and on
9 today some of this is about creating the space to
10 build new accessory dwelling units and so while that
11 might be about new housing that we're constructing
12 generally, it might be totally unrelated but not have
13 the same constraints as basements and, as we
14 mentioned, zoning can be an issue for that as well.
15 We do see this as a really important part of both
16 combatting the housing supply crisis that we're
17 struggling with here in the city, the lack of
18 accessible, low-cost options for New Yorkers, and New
19 Yorkers should be able to choose the neighborhood
20 that works best for them so this is also a really
21 important fair housing consideration for us and one
22 of the reasons why we're so committed both to the
23 creation of ADUs and to legalizing basements.

24 COUNCIL MEMBER AVILES: Thank you so much.
25 One last question, Chair, for DOB. I'm not sure if

2 I'm calling it the right thing, but in terms of the
3 moratorium around the fine for not having the sign,
4 the 6,000 dollar fine which is what I know it as in
5 community with having quite a number of residents who
6 have been fined the 6,000 dollar fee, is that
7 moratorium retroactive to a certain date or is that a
8 waiving of that fee moving forward?

9 DEPUTY COMMISSIONER PATINO: It applied to
10 violations I believe violations issued after 2019 so
11 nothing before 2019.

12 COUNCIL MEMBER AVILES: After 2019?

13 DEPUTY COMMISSIONER PATINO: Right.

14 COUNCIL MEMBER AVILES: Interesting. Okay.

15 Thank you.

16 DEPUTY COMMISSIONER PATINO: You're
17 welcome, but it will also apply moving forward
18 because we amended our regulations to do away with
19 that fine altogether for small businesses.

20 COUNCIL MEMBER AVILES: That's great. I'd
21 love to in the future need to talk a little bit more
22 about that entire process and the burden of how the
23 violations are put forward. Residents have been told
24 they have to pay the violations whether or not they
25 plead guilty first and then it sounds like a very

2 illogical process in many ways so I'd love to talk
3 some more offline.

4 DEPUTY COMMISSIONER PATINO: Of course.
5 Thank you.

6 CHAIRPERSON SANCHEZ: All right. I'd also
7 like to acknowledge that we've been joined by Council
8 Member Dinowitz.

9 With that, for real this time, thank you
10 to the Administration for your testimony today.
11 Please consider us partners in the conversations
12 around legalizing basements. There's a lot of
13 priorities that we want to meet, the affordability,
14 the tenant protections, but also the homeowner
15 benefits and everything in between so thank you for
16 the discussion, and we look forward to aging these
17 bills together.

18 COMMITTEE COUNSEL SON: We will now turn
19 to testimony from participants from the public.
20 Please listen for your name to be called whether you
21 are here in person or joining via Zoom.

22 If you are joining via Zoom, when it is
23 your turn to testify, you will be prompted to unmute.
24 Please accept the prompt and begin your testimony.

2 In the interest of time, public testimony
3 will be limited to two minutes per person.

4 We will begin with Moses Gates, Jishian
5 Ravinthiran, Sylvia Morse, Ryan Chavez, and Katherine
6 Leitch. If you're here in person, you may come up to
7 the witness table.

8 Thank you. Mr. Gates, if you're ready,
9 you may begin.

10 MOSES GATES: Thanks so much for having
11 me. Thank you, Chair Sanchez and City Council. I
12 wanted to quickly address the ADU issue and how we
13 can really help address our housing crisis through
14 better incentives and better framework for accessory
15 dwelling units. There's really two different
16 regulatory issues that we need to address. The first
17 one is the zoning issue, and that's what I wanted to
18 spend most of my time on. Without the proper zoning
19 as you heard from HPD, there's no way to really move
20 forward with any legalization of accessory dwelling
21 units in many of our areas. If you do have the proper
22 zoning, there are still many hurdles to overcome as
23 you also heard the expense through the Multiple
24 Dwelling Law, a state law that only applies to New
25 York City and was put in place before our existing

2 Building Code was put in place I might add so that
3 provides a lot of constraints as does some other
4 Building Code issues and, of course, the financing
5 and the financial environment that we find ourselves
6 under. With zoning, the first thing I always want to
7 point out is in New York City only about 10 percent
8 of the housing stock consists of single-family homes,
9 but they take up 40 percent of the residential land,
10 and between single-family and two-family homes, they
11 take up two-thirds of the residential land here in
12 New York City. This is not only in places like the
13 South Shore of Staten Island or Far Eastern Queens.
14 There are many, many places zoned for exclusively
15 single-family use that are closer into the center of
16 the city, very subway accessible, and areas that
17 really have the existing infrastructure to
18 accommodate more residents through one- to two-family
19 conversions and through accessory dwelling units. You
20 would think that we would be incentivizing this, but
21 instead we've gone the opposite way. Over the last 20
22 years, we've actually had 10,000 more parcels zoned
23 for single-family home use than we did in 2002 so
24 we're going the opposite way. We believe at Regional
25 Plan Association that we could add about 100,000

2 units through just the better zoning incentives and
3 reducing some of those MDL requirements for accessory
4 dwelling units, many of which as I've pointed out
5 would be in these transit-accessible locations near
6 jobs, near transit, near the subway. That's based on
7 one-third of the possible universe that could be
8 created through these reforms. As you heard from HPD,
9 with about 40 percent uptick in East New York, that's
10 something we think is well within the realm of
11 feasibility.

12 CHAIRPERSON SANCHEZ: Thank you so much.
13 We've actually been joined by the bill sponsor in
14 Albany, Assembly Member Harvey Epstein, so if panel
15 wouldn't mind to hold for a second so we can hear
16 from Assembly Member Epstein.

17 ASSEMBLY MEMBER EPSTEIN: Thank you,
18 Council Member. I am sorry to interrupt your
19 proceedings. I really do appreciate you taking the
20 time to let me speak. We're up here in Albany and so
21 I appreciate you allowing me to do that remotely.

22 First of all, thank you for holding this
23 Committee on basement apartments. Estimates say that
24 there's at least 115,000 basement apartments in New
25 York City. Chhaya and Pratt Center say there's closer

1 to 300,000 to 500,000 units. Honestly, during law
2 school, when I lived in Flushing Queens, I lived in
3 one and so basement apartments play a critical role
4 in our housing stock and we need to make sure that
5 they're regulated and safe units. We all know about a
6 year and a half ago we lost 11 New Yorkers who were
7 living in basement apartments after Hurricane Ida
8 flooded their units. We can do better. We can protect
9 those New Yorkers. Tragedies like those are avoidable
10 if we recognize the existence of basement apartments
11 and create pathways to legalize them and that's what
12 this resolution does and that's what my bill in
13 Albany does as well. The bill which is (INAUDIBLE) to
14 the resolution before you creates a pathway to
15 legalization and creates multiple opportunities to
16 waive issues like the Multiple Dwelling Law which now
17 prevents some of those units from becoming legal.
18 It's not about safety; it's just kind of legislative
19 problems that we need to overcome. Tens of thousands
20 of New Yorkers could benefit from a safe and
21 affordable apartment as long as the City Council and
22 the State Legislature work together to pass this
23 legislation. Luckily, Governor Kathy Hochul just
24 two weeks ago talked about support for basement
25

2 legalization, and we've heard from Mayor Adams who
3 has also been supportive. It's really important to
4 know that we have an affordable housing crisis with
5 60,000 homeless New Yorkers every day, people living
6 in homeless shelters, seeing migrants coming to New
7 York and having no place to live. This can create one
8 facet of the affordable units that we need around our
9 city.

10 I look forward to working with the City
11 Council to pass this resolution and then we'll be
12 able to move forward and pass this statewide. It's a
13 critical moment in New York, and we have to decide
14 with our priorities what we're going to do. We need
15 to stand with New Yorkers who are the most vulnerable
16 who are living in those basement apartments and
17 ensure that this resolution gets passed and we help
18 create a pathway to legalization for all those
19 families that are living in basement units.

20 Thank you, again, for allowing me to take
21 a moment to speak, and I encourage all my Colleagues
22 on the Council to support this resolution.

23 CHAIRPERSON SANCHEZ: Thank you so much,
24 Assembly Member, to you and to Senator Kavanaugh, for
25 championing this in Albany. Appreciate you.

2 COMMITTEE COUNSEL SON: Go ahead.

3 JISHIAN RAVINTHIRAN: Thank you,

4 Chairperson Sanchez and Members of the Committee. My

5 name is Jishian Ravinthiran, pronouns he/him, and I

6 am very happy to be here on behalf of the Legal Aid

7 Society. Many of our clients are particularly

8 immigrants and people of color who live in the

9 basement units at the heart of this resolution, which

10 seeks to support the State legislative proposal A1075

11 allowing the City to establish a program to safely

12 legalize these units.

13 We believe A1075 is a step forward for

14 ensuring tenants have a right to live somewhere with

15 security, peace, and dignity, and to name just one

16 example of how much of a beneficial impact this could

17 have, in one of my cases the ceiling collapsed on a

18 client and her 3-year-old daughter. However, our

19 concern is it only guarantees tenants an option to

20 return to the unit after necessary alterations. Since

21 these apartments are unregulated, there's nothing to

22 stop a landlord from giving tenants their right to

23 return but also hiking the price of these units or

24 even terminating their unregulated tenancy as

25 currently allowed by law to make them leave. This is

2 common now, and it'll get worse as landlords seek to
3 justify rent increased based on these alterations.
4 For example, in that same case the landlord had tried
5 to hike the rent from 1,000 dollars a month to 1,700
6 dollars a month. We would hope that this Committee
7 and the Council collaborate with their Colleagues in
8 Albany to provide for good-cause eviction protections
9 in these basement units to ensure that they aren't
10 subject to these type of rent increases and also have
11 a right to a lease renewal. This is particularly
12 important because the State Legislature proposal
13 exempts certain owner-occupied buildings that these
14 basement units are typically a part of.

15 Lastly, there's nothing in the bill
16 currently that addresses the displacement of tenants.
17 In that case, for example, I don't know what I
18 would've told a single mother and her two minor kids
19 to go while these renovations were being made. Thank
20 you.

21 CHAIRPERSON SANCHEZ: Thank you for that.
22 Just a quick followup. Is it Legal Aid Society's
23 position that these amendments should be made in the
24 State Legislation or enable the Council to make the
25 changes?

2 JISHIAN RAVINTHIRAN: Yes, we believe it
3 should be in the State Legislation because they would
4 need to provide the authority to the City Council to
5 provide for those good-cause eviction protections.

6 CHAIRPERSON SANCHEZ: Thank you so much.

7 JISHIAN RAVINTHIRAN: Thank you.

8 COMMITTEE COUNSEL SON: Thank you. We will
9 now move to Sylvia Morse, Ryan Chavez, and Katherine
10 Leitch.

11 SYLVIA MORSE: Hello, can you hear me?

12 CHAIRPERSON SANCHEZ: Yes.

13 COMMITTEE COUNSEL SON: Yes.

14 SYLVIA MORSE: Thank you. Good afternoon,
15 Chair Sanchez and Members of the Committee. Thank you
16 for holding this hearing on the urgent issue on
17 basement legalization. I'm Sylvia Morse, the Policy
18 Program Manager at the Pratt Center for Community
19 Development who has been working on basement
20 apartment safety for 15 years with the BASE
21 Coalition. Basement apartments are a critical part of
22 the city's low-income housing stock, home to tens of
23 thousands of New Yorkers. Pratt Center found that
24 unaccounted-for units are concentrated in Community
25 Districts that are majority people of color and who

1 are rent-burdened and poverty rates are higher than
2 citywide. Amidst our city's housing affordability
3 crisis, many low-income New Yorkers will continue to
4 rely on basement apartments. Yet, because this
5 housing is unregulated, residents lack basic tenant
6 protections and may be living in unsafe conditions in
7 the event of fire or floods and increasing risks
8 citywide as tragically shown by the deaths of 11 New
9 Yorkers during Hurricane Ida living in basements. To
10 make basement apartments safe, they must be
11 legalized. The most crucial next step is amending the
12 State's Multiple Dwelling Law or MDL as discussed
13 often today to allow New York City to create a
14 basement legalization program as proposed in the bill
15 introduced in Albany last year and echoed in Governor
16 Hochul's Housing Compact. Under current law, two- and
17 three-family small homes adding a basement unit would
18 be subject to MDL. The key learning from the East New
19 York pilot program is that the MDL adds significant
20 regulatory complexity and, most importantly,
21 prohibitive six-figure increases to conversion costs.
22 Pratt Center found that half of the city's
23 potentially convertible basements and cellars are in
24 two- and three-family homes, which would be
25

2 effectively excluded from a basement conversion
3 program absent state reform. We urge this Committee
4 and City Council to pass Resolution 161 in support of
5 an amendment to the New York Multiple Dwelling Law.

6 At the city level, we will need to enact
7 zoning changes including allowing accessory dwelling
8 units, amending parking requirements, and addressing
9 how cellar conversions are accounted for in FAR
10 calculations. While we're encouraged to see that the
11 City has signaled support for these zoning text
12 amendments, they're not expected to go through ULURP
13 until 2024. City Council will play a key role in...

14 SERGEANT-AT-ARMS: Your time expired.

15 SYLVIA MORSE: The public's understanding
16 of the necessity of zoning changes for basement
17 conversions as a housing justice issue and ultimately
18 any approval of these reforms. I'll be submitting
19 full testimony in writing. Thanks so much for your
20 time.

21 CHAIRPERSON SANCHEZ: Thank you so much
22 and thanks to Pratt Center for leading on this issue
23 for 15 years.

24 COMMITTEE COUNSEL SON: Thank you. Ryan
25 Chavez followed by Katherine Leitch.

2 RYAN CHAVEZ: Good afternoon. Can everyone
3 hear me?

4 CHAIRPERSON SANCHEZ: Yes.

5 RYAN CHAVEZ: Good afternoon, Chair
6 Sanchez and Members of the Committee. My name is Ryan
7 Chavez, Director of the Basement Apartment Conversion
8 Pilot Program at Cypress Hills Local Development
9 Corporation. Founded in 1983, Cypress is a non-profit
10 community development organization and settlement
11 house based in East New York. We are also members of
12 the BASE Coalition. As you know, four years ago New
13 York City in partnership with Cypress launched the
14 East New York Basement Conversion Pilot. Through our
15 ongoing work on this pilot, we have found that under
16 current Codes, it is extraordinarily difficult to
17 bring most basement apartments into compliance. This
18 is due to several different regulatory barriers. In
19 some cases, these barriers make it legally impossible
20 to add a new unit. Minimum parking requirements is
21 one example of this, and this is a barrier that the
22 city has the power to lower. In other cases, the
23 barrier is not legally prohibitive but rather makes
24 the conversion financially infeasible. The State's
25 Multiple Dwelling Law, or MDL, is one example of

2 this. When a two-family home wants to add a basement
3 unit, this forces the homeowner to comply with the
4 MDL for the first time, and it's not just the
5 basement that needs to comply. The entire building
6 must be brought into compliance up to the rooftop.
7 This is astronomically expensive and generally has
8 nothing to do with making the basement space safe so
9 you may see reports regarding high construction costs
10 for the East New York Pilot. This is largely due to
11 the rules on the books now for basement apartments.
12 High construction costs are a policy decision, and we
13 need our policymakers to make modest reforms,
14 particularly at the State level to help lower these
15 costs. As such, we strongly support State legislation
16 that would make these reforms and urge the City
17 Council to support this as well. Thank you very much
18 for the opportunity to comment, and I'll be
19 submitting further comments in written form.

20 CHAIRPERSON SANCHEZ: Thank you so much.

21 COMMITTEE COUNSEL SON: Thank you. We will
22 now turn to Katherine Leitch followed by Warren
23 Schreiber and Jacqueline Crawley (phonetic).

24 SERGEANT-AT-ARMS: You may begin.

2 KATHERINE LEITCH: Good afternoon. Can
3 everyone hear me adequately?

4 COMMITTEE COUNSEL SON: Yes.

5 KATHERINE LEITCH: Great. My name is Kate
6 Leitch. I am a Senior Policy Analyst at the Citizen's
7 Housing and Planning Council. CHPC has spent over a
8 decade researching basement conversions, and we are
9 the program evaluator for the East New York Pilot. In
10 all facets of our work, we have seen that the snarl
11 of city and state regulations make it either
12 financially or physically infeasible for homeowners
13 to bring their basement apartments into compliance.
14 The City must streamline a path to legalization that
15 ensures that critical safety standards like emergency
16 egress are met, but without State action the City can
17 only improve conditions in single-family homes, and
18 this is because two-family homes or multiple
19 dwellings that add a basement apartment are dually
20 regulated by both City and State. Overlapping City
21 and State regulations make administration and
22 compliance more costly and more difficult. It also
23 makes amending and refining a basement legalization
24 program needlessly complex. This is the central
25 reason why government has not yet acted to address

2 this urgent issue. Additionally, the expertise on
3 these issues resides locally within the city agencies
4 that administer the regulations including the MDL and
5 with the non-profits and community groups that have
6 spent years navigating the complexities of basement
7 legalization. By giving the City authority to provide
8 relief from the MDL, the State would enable the City
9 to assert its own rigorous building and occupancy
10 standards in circumstances that are endemic to the
11 City. We urge City Council to pass the Resolution 161
12 calling on the State to cut through a layer of
13 unnecessary regulation and to empower the City to
14 meet its own needs. Thank you. We are also submitting
15 written testimony.

16 CHAIRPERSON SANCHEZ: Thank you.

17 COMMITTEE COUNSEL SON: Thank you. Warren
18 Schreiber followed by Jacqueline Crawley and Alia
19 Soomro (phonetic).

20 SERGEANT-AT-ARMS: You may begin.

21 COMMITTEE COUNSEL SON: It appears Mr.
22 Schreiber is not present. We'll move to Jacqueline
23 Crawley.

24 Jacqueline Crawley is also not currently
25 present so we'll move to Alia Soomro.

2 CHAIRPERSON SANCHEZ: Sorry. RPA, before
3 you leave, this is a question for any of the previous
4 panelists. In terms of changes or amending the MDL,
5 are you all advocating or what are you uniquely
6 advocating to change in particular? Is it let's
7 create a new category for accessory dwelling units or
8 is it particular components of the MDL?

9 MOSES GATES: I will let others answer
10 this question too because I think we all might have
11 slightly different answers. I would say the largest
12 exemption that could be made in the MDL is exempting
13 the two-family homes that convert to three-family
14 homes through a basement apartment or otherwise to
15 exempt them I would say most necessarily from
16 bringing the entire building up to MDL standards and
17 codes, but also to exempt the basement apartment to
18 essentially treat it as a one-family to two-family
19 conversion under the Multiple Dwelling Law. On a
20 numbers perspective, that would be the most valuable
21 in being able to scale up any conversion programs
22 without incurring that additional cost, but I think
23 other organizations will probably have some more
24 nuanced answers to this.

2 CHAIRPERSON SANCHEZ: All right. Thank
3 you. Anyone else want to add anything?

4 COMMITTEE COUNSEL SON: Any of the
5 panelists that were joining via Zoom have a response
6 to the question? Just use the Zoom raise hand
7 function, and you will receive a prompt to unmute.

8 JISHIAN RAVINTHIRAN: I think we
9 understand that there's a very large snarl of
10 regulations here that need to be streamlined. One of
11 the things we would caution the City Council is I
12 believe in previous iterations of the State bill they
13 were thinking of eliminating a second egress
14 requirement. We're definitely not building experts at
15 the Legal Aid Society, but we are hoping that the
16 Committee prioritizes tenant safety as they
17 streamline these processes.

18 CHAIRPERSON SANCHEZ: Thank you so much.

19 COMMITTEE COUNSEL SON: Thank you. We will
20 now move to Alia Soomro followed by Shravanthi
21 Kanekal and April McIver.

22 ALIA SOOMRO: Good afternoon. My name is
23 Alia Soomro, and I'm the Deputy Director for New York
24 City Policy at the New York League of Conservation
25 Voters. Thank you, Chair Sanchez and Members of the

2 Housing and Buildings Committee, for the opportunity
3 to testify today.

4 One of NYLCV's top policy goals is moving
5 New Yorkers away from fossil fuel powered vehicles to
6 fight climate change and improve the city's air
7 quality. Fossil fuel powered vehicles damage our
8 public health by emitting harmful pollutants, most
9 often concentrating air pollution in low-income and
10 communities of color due to historic environmental
11 racism in the siting of toxic waste facilities and
12 our country's historic highway construction. NYLCV
13 supports the passage of Intro 150 sponsored by
14 Council Member Justin Brannan which would require
15 that 40 percent of all parking spaces in existing
16 garages and open lots be capable of supporting EV
17 charging stations by 2030. Expanding EV charging
18 infrastructure is vital as the City strives to meet
19 the State's emissions reduction goal set out in the
20 CLCPA. As our power grid switches to renewable energy
21 such as solar, wind, and hydro power, EVs will become
22 an even cleaner way to get around as they have a much
23 smaller carbon footprint on average than conventional
24 cars. While we recognize that EVs are not the sole
25 solution to fighting climate change, it is one tool

2 in our mitigation toolbox. Prioritizing EV charging
3 infrastructure in existing parking lots along with
4 policies that invest in our public transportation
5 system make our streets safer and more pedestrian
6 friendly and encourage alternative modes of
7 transportation are key to making our city more
8 equitable.

9 We look forward to working with the City
10 Council and city agencies to move this bill forward.
11 This legislation was included in our 2021 City
12 Council Environmental Scorecard and will be included
13 in our 2022 Scorecard. We urge you to prioritize
14 Intro 150 and vote yes when the bill comes up to a
15 vote. Thank you for the opportunity to speak.

16 CHAIRPERSON SANCHEZ: Thank you so much.

17 COMMITTEE COUNSEL SON: Thank you. Before
18 moving to the next panelist, we're going to return to
19 Katherine Leitch who had a response to the Chair's
20 previous question.

21 KATHERINE LEITCH: I just wanted to add
22 that we think that the proposed legislation would be
23 a great success, but we do hope that the State
24 provides enough latitude for the City to amend and
25

2 refine any legalization program so we don't end up
3 back here in short order.

4 COMMITTEE COUNSEL SON: Thank you. We will
5 now move to Shrvanathi Kanekal followed by April
6 McIver and Kadisha Davis (phonetic).

7 SERGEANT-AT-ARMS: Time will begin.

8 SHRAVANTHI KANEKAL: Good afternoon, Chair
9 Sanchez and Members of the Council. My name is
10 Shrvanathi Kanekal, and I am the Resiliency Planner
11 with the New York City Environmental Justice
12 Alliance, also known as NYCEJA. I'm testifying today
13 on behalf of NYCEJA and the Climate Works for All
14 Coalition which has actively been working to first
15 pass Local Law 97 and then towards its equitable
16 implementation since its introduction in 2019. I will
17 be speaking to the pieces of Intro 875 specifically
18 around renewable energy credits. Climate Works for
19 All strongly supports the need to limit the
20 percentage of a building's electricity overage that
21 can be offset by RECs. This will encourage more
22 building retrofits, reduce emissions, and uphold the
23 intent of Local Law 97 to decarbonize our buildings.
24 Ensuring that buildings transition away from using
25 fossil fuels can have a number of beneficial equality

2 and healthy impacts, especially in environmental
3 justice communities. As per analysis conducted by the
4 Comptroller's Office, if RECs were applicable only to
5 10 percent of electricity overage, the overall
6 reduction in emissions would be 93 percent. If that
7 limit was set at 30 percent, building emissions
8 reductions would be at 79 percent. This analysis
9 makes it clear that restrictions on the use of RECs
10 for compliance would preserve the ability of Local
11 Law 97 to achieve its goal to significantly reduce
12 emissions in New York City's building sector. Climate
13 Works for All supports a 10 percent RECs limit with
14 no more than 30 percent for buildings overage.

15 Additionally, our Coalition wants to see
16 rapid decarbonization of buildings to meet state and
17 climate goals. False solutions and technology such as
18 carbon capture that don't actually reduce carbon
19 emissions are not the path forward to Local Law 97
20 compliance, and we are increasingly concerned with
21 technologies like this being developed and deployed
22 in the city as we speak with minimal oversight.

23 I'd also like to highlight a couple of
24 amendments to the legislation. We're calling for...

25 SERGEANT-AT-ARMS: Time expired.

2 SHRAVANTHI KANEKAL: I can submit our
3 written comments.

4 CHAIRPERSON SANCHEZ: You can finish up.

5 SHRAVANTHI KANEKAL: Oh, thank you, Chair.
6 Just two more points. We'd like the legislation to
7 change that from "the Department may" to "the
8 Department shall." This is to confirm DOB's authority
9 to ensure that a limit is actually put on the
10 purchase of RECs and it would be implemented. We also
11 would recommend that each REC limit be introduced as
12 soon as possible or that a clear timeline be given
13 for when those regulations will be determined.

14 Lastly, we'd like a clear explanation of
15 what environmental justice impacts are being
16 considered and to clarify who, if anyone, with DOB
17 would be consulted on this particular issue. We want
18 to make sure that co-pollutant and emissions
19 reductions are in EJ communities and that there are
20 no unintended consequences in communities that have
21 historically suffered from air pollution.

22 Sorry for going over and thank you for
23 the opportunity to testify today.

24 CHAIRPERSON SANCHEZ: No problem. Thank
25 you so much. Very helpful.

2 COMMITTEE COUNSEL SON: Thank you. We will
3 next hear from April McIver, Kadisha Davis, and Sadia
4 Rahman.

5 SERGEANT-AT-ARMS: Starting time.

6 COMMITTEE COUNSEL SON: I believe April
7 McIver is not on so we will move to Kadisha Davis.

8 SERGEANT-AT-ARMS: Starting time.

9 COMMITTEE COUNSEL SON: Okay. I believe
10 Kadisha Davis is no longer on so we will move to
11 Sadia Rahman.

12 SERGEANT-AT-ARMS: Starting time.

13 SADIA RAHMAN: Thank you, Chair Sanchez
14 and the rest of the Committee. Good afternoon. I'm
15 sorry, I'm catching my breath. I just ran out to go
16 pick up my kids and came back so I'm a little out of
17 breath.

18 My name is Sadia Rahman. I am the Deputy
19 Director of Policy at Chhaya CDC, which was founded
20 to address the housing and economic needs of low-
21 income South Asian and Indo-Caribbean New Yorkers.
22 Chhaya is a founding member of the New York City BASE
23 Campaign, and for over 15 years the Campaign has been
24 fighting on behalf of low-income homeowners and
25 basement tenants to make their apartments a safe,

2 legal part of the housing stock in New York City. We
3 support Resolution 161, which calls on the State
4 Legislature to pass A9802 and S8783.

5 As you are all aware, New York has long
6 suffered an affordable housing crisis, and the COVID-
7 19 pandemic exacerbated the issues of struggling
8 tenants and homeowners. On the frontline of this
9 crisis are low- and moderate-income immigrants,
10 communities of color, and essential workers. Many are
11 undocumented and have limited English proficiency,
12 and basement apartments are one of the few affordable
13 housing options available to many in our communities.
14 Tenants are struggling to find affordable housing,
15 aspiring homeowners can no longer afford to buy in
16 their neighborhoods, and existing homeowners are
17 struggling even to make their mortgage payments with
18 rising inflation costs. Legalizing basement units can
19 be the difference between sustainable homeownership
20 and displacement. These apartments are also a means
21 to add to the affordable housing stock, preserve our
22 diverse communities, and prevent displacement. With
23 the passage of this legislation, in time thousands of
24 affordable housing units would be created. Best of
25 all, the beneficiaries of the rental income wouldn't

2 be sort of largescale developers but instead
3 struggling homeowners. The bill is a strong tool to
4 prevent the type of displacement that threatens low-
5 and moderate-income homeowners, particularly in
6 communities of color, who have been historically
7 marginalized. As council Member Barron mentioned
8 earlier, these are also historic victims of racism..

9 SERGEANT-AT-ARMS: Time expired.

10 SADIA RAHMAN: Policies. Many members have
11 referenced the catastrophe of Hurricane Ida. If we
12 don't move forward on this, then we go backwards, and
13 if Ida proved anything it's that we can't afford to
14 go backwards. We can't afford to go to the pre-pilot
15 policy of heightened enforcement with DOB fines,
16 vacate orders, and evictions. We need to move forward
17 and we need to create a pathway in this resolution,
18 and the State bills are the first step to creating
19 safe livable conditions for New Yorkers living in
20 basement apartments.

21 CHAIRPERSON SANCHEZ: Thank you.

22 SADIA RAHMAN: Thank you and I appreciate
23 the time to testify.

24 CHAIRPERSON SANCHEZ: Thank you so much.

2 COMMITTEE COUNSEL SON: Thank you. We will
3 now move to Rami Dinnawi, Kiera Armstrong (phonetic),
4 and Duong Nuk Phet (phonetic).

5 SERGEANT-AT-ARMS: Starting time.

6 RAMI DINNAWI: Good afternoon. Thank you,
7 Chair Sanchez and Members of the Committee, for the
8 opportunity to be able to testify and provide
9 feedback for you here today. My name is Rami Dinnawi.
10 I am the Environmental Justice Coordinator for El
11 Puente, a human rights organization based in South
12 Williamsburg, and a member of the Climate Works for
13 All Coalition. I'm here to talk to you about the
14 provision in Intro 875 that addresses renewable
15 energy credits as it pertains to Local Law 97.

16 Seeing as Local Law 97's compliance
17 period is upon us, we call on the administration to
18 add an amendment that outlines a timeline for when
19 these regulations and rules on RECs will be
20 determined. In addition, we are also calling on DOB
21 to limit renewable energy credits to 10 percent of
22 building overage, and that is to ensure compliance of
23 almost 93 percent of targeted buildings. This
24 percentage is based on a thorough report released by
25 the Comptroller in late of last year. The legislation

2 also mentioned EJ impacts as a key consideration as
3 it relates to renewable energy credits so we call on
4 DOB to explain and clarify what does the agency
5 consider to be environmental justice impacts and
6 whether DOB will require an environmental justice
7 expert board or advisory board to consult on this
8 matter. Finally, to avoid any misinterpretation of
9 the directive that this legislation affords DOB, we
10 call on changing the language verb from "may" to
11 "shall" to move us to a more definitive answer that
12 will ensure DOB's authority on this matter.

13 I want to thank you for your time and for
14 the opportunity to allow us to testify, and we will
15 be submitting written testimony. Thank you.

16 CHAIRPERSON SANCHEZ: Thank you so much,
17 Rami.

18 COMMITTEE COUNSEL SON: Thank you. We will
19 now hear from Kiera Armstrong followed by Duong Nok
20 Phet.

21 It appears that Kiera Armstrong is no
22 longer present so we will move to Duong Nok Phet.

23 SERGEANT-AT-ARMS: Starting time.

24

25

2 COMMITTEE COUNSEL SON: All right, it
3 appears this individual is also no longer on the Zoom
4 call which brings us to the end of public testimony.

5 CHAIRPERSON SANCHEZ: Thank you so much. I
6 want to thank the Committee Staff, my Staff at the
7 District office for a great hearing, thank you to the
8 administration for your testimony and participation.
9 I look forward to being a partner in the legalization
10 of basement apartments and to protecting the climate
11 goals of Local Law 97 together. Thank you. [GAVEL]

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date January 29, 2023