

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CONSUMER AFFAIRS AND  
BUSINESS LICENSING JOINTLY WITH THE  
COMMITTEE ON TRANSPORTATION

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September 30, 2020  
Start: 12:06 p.m.  
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HELD AT: REMOTE HEARING

B E F O R E: Andrew Cohen,  
Chairperson of Committee on  
Consumer Affairs and Business  
Licensing

Ydanis Rodriguez,  
Chairperson of the Committee on  
Transportation

COUNCIL MEMBERS:

Justin L. Brannan  
Margaret S. Chin  
Peter A. Koo  
Karen Koslowitz  
Brad S. Lander  
Kalman Yeger

## A P P E A R A N C E S (CONT.)

Commissioner Polly Trottenberg  
Department of Transportation

Commissioner Lorelei Salas  
Department of Consumer and Worker Protection

Rebecca Zack  
DOT Assistant Commissioner R

Eric Beaton  
DOT Deputy Commissioner

Steven Ettannani  
DCWP Executive Director

Joseph Jardin  
FDNY Assistant Chief

Steven Picker  
Executive Director  
from the Department of Small Business

Andrew Rigie  
Executive Director of the New York City  
Hospitality Alliance

Robert Bookman

Ellen Goldstein  
Vice President of Policy, Planning and Research  
at the Times Square Alliance

Elizabeth Lusskin  
New York City Business Association

## A P P E A R A N C E S (CONT.)

Jessica De La Rose  
Systems Advocate for the Brooklyn Center for  
Independence of the Disabled

Christine Berthet  
CHEKPEDS

William Johnson  
Licensed Tour Guide in 4<sup>th</sup> Council District

Kathleen Reilly  
New York State Restaurant Association

Ric Stoneback  
DCA Licensed New York City Tour Guide

Jay Mazur  
Retired Trade Unionist

Andy Sydor  
New York Licensed City Tour Guide

Lionelle Hamanaka  
District 6 Tour Guide

Barri Falk  
Licensed New York Site Seeing Guide

Liza Martinez  
Member of Families for Safe Streets

Thomas Proctor  
Bronx Resident

## A P P E A R A N C E S (CONT.)

Allison Raygor

Member of Family for Safe Streets

Dr. Rosamond Gianutsos

Specialist in Neuropsychological Rehabilitation

Marco Conner

Deputy Director with Transportation Alternatives

Towaki Komatsu

2 SERGEANT PEREZ: The back up is rolling.

3 SERGEANT JONES: The cloud is started.

4 SERGEANT LUGO: PC recording good.

5 SERGEANT LEONARDO: Good afternoon and welcome to  
6 the New York City Council Remote Hearing on the  
7 Committee on Consumer Affairs and Business Licensing  
8 joint with the Committee on Transportation.

9 At this time, we ask that all Council Members and  
10 Council Staff please turn on their video for  
11 verification purposes. We also ask that you please  
12 place cell phones on silent or vibrate to minimize  
13 disruptions. If you wish to submit testimony for the  
14 record, you can do so by sending it to  
15 [testimony@council.nyc.gov](mailto:testimony@council.nyc.gov). Once again, that is  
16 [testimony@council.nyc.gov](mailto:testimony@council.nyc.gov).

17 Thank you for your cooperation. Chair's, we are  
18 ready to begin.

19 CHAIRPERSON COHEN: Thank you. It's on vibrate,  
20 even vibrate is bothering me, so let's turn that  
21 down. Okay, alright, [GAVEL] good afternoon, my name  
22 is Andrew Cohen and I am the Chair of the Committee  
23 on Consumer Affairs and Business Licensing. Welcome  
24 to our joint virtual hearing today. I am joined by  
25 Council Member Rodriguez, Chair of the Committee on

1  
2 Transportation, as well as Council Members Koo, Diaz,  
3 Rose, Salamanca, Chin, Gjonaj, Holden and Lander and  
4 Yeger and Reynoso.

5       Alright, today's hearing represents an  
6 opportunity for the Council to hear from the  
7 Administration, the restaurant industry and other  
8 relevant stakeholders on the implementation of the  
9 city's outdoor dining and open restaurants program.  
10 Including whether any improvements or changes are  
11 needed.

12       In early June, this Committee acted swiftly to  
13 make outdoor dining a reality by hearing and passing  
14 Intro. 1957. At this hearing, the Council plans to  
15 hear legislation to extend the program to make a  
16 permanent feature of New York City's restaurant  
17 scene.

18       Mayor de Blasio made a similar announcement to  
19 extend the program and make it permanent. This  
20 hearing is a chance to follow up on these efforts and  
21 gain more information on what the future of outdoor  
22 dining will look like in the city. New York City's  
23 restaurants have struggled with a very slim margin,  
24 private margins at the best of times. With ongoing  
25 restrictions in place due to the COVID pandemic,

1 these margins are even smaller and some restaurants  
2 have simply been unable to bear the losses.

3 According to a report from the City Comptroller,  
4 nearly 1,300 of the city's restaurants permanently  
5 closed between March and July of this year and about  
6 187,000 food and hospitality jobs have been lost.  
7

8 The City Council has been proactive in doing all  
9 it can to alleviate the pain this COVID crisis has  
10 brought on our city's food industry and this  
11 Committee in particular has been working to pass  
12 legislation to help restaurants and food  
13 establishments to stay afloat.

14 In addition to codifying outdoor dining through  
15 the passage of Intro. 1957, we also enacted Intro.  
16 1916 which requires the city to waive and refund  
17 consent fees related to sidewalk café licensing for  
18 the duration of the COVID-19 emergency.

19 The City Council also passed a number of bills to  
20 limit the fees the third party delivery platforms can  
21 charge restaurants that use their services. The  
22 pieces of legislation we are hearing today are all  
23 aimed to further support the struggling industry.

24 Intro. 2096 for instance, sponsored by Council  
25 Member Kallos allows DCWP to issue temporary

1 operating licenses to restaurant owners who have  
2 acquired establishments that were previously  
3 operating sidewalk café's but whose licenses have  
4 expired or lapsed. This bill would permit the  
5 temporary operation of these sidewalk cafes pending  
6 approval of the new application, so long as the  
7 sidewalk café plans are identical to the previous  
8 plans, and restaurant was acquired an arm's length  
9 transaction.  
10

11 We are also hearing a Preconsidered bill  
12 sponsored by Council Member Reynoso, which will make  
13 outdoor dining a permanent feature of this city. The  
14 Mayor also recently announced that he plans to permit  
15 outdoor dining all year around. Such measures are  
16 pivotal if we are to make up for the significant  
17 losses restaurants have faced. And will also assist  
18 toward the post-COVID revival and recovery of the  
19 city. Council Member Reynoso's bill also amends the  
20 fire code to allow propane gas heaters to be used in  
21 outdoor dining areas. As the winter approaches, many  
22 restaurant tourists have called for updates to the  
23 city's fire code rules to allow for propane gas  
24 heaters, which are necessary to keep patrons warm and  
25 restaurants in business.



Current rules prohibit propane gas heaters despite the fact that they are permitted in numerous other cities including San Francisco, Philadelphia, Boston, Washington DC and Chicago. Unlike electric or natural gas heaters which aren't practical for outdoor dining, propane gas heaters are portable, easy to install and far more economical in addition.

Finally, we will also be hearing another Preconsidered bill sponsored by Council Member Salamanca. Under this legislation, food establishments would no longer have to employ licensed architects or engineers to prepare plans for sidewalk cafés. The bill would allow restaurants to save on professional fees by preparing such plans themselves.

Until restaurants can reopen to full capacity and until diners in the city become more confident about the safety of indoor dining, restaurants are unlikely to generate the revenue the produced pre-COVID.

However, the Council will continue to use all of its authority to develop creative and helpful ways to mitigate some of the fallout.

Our restaurant and hospitality industries are not only key providers of jobs and revenue, but they also

1 add to the dynamism of this great city. As such, we  
2 want to ensure we can provide whatever relief  
3 possible to this vital element of New York.

4  
5 Before we begin, I would like to thank all of the  
6 staff who worked on putting this hearing together  
7 including Committee Counsel Balgees Mihirig, Policy  
8 Analyst Leah Skrzypiec and my Legislative Director  
9 Patty Intrator and all the Council Staff working  
10 behind the scenes, especially our Sergeant at Arms  
11 who make this hearing possible.

12 Before we hear from the administration, I would  
13 like to invite my Co-Chair Chair Rodriguez to make an  
14 opening statement. Thank you.

15 CHAIRPERSON RODRIIGUEZ: Thank you Chair Cohen.  
16 Good afternoon everyone. I am Council Member Ydanis  
17 Rodriguez, the Chair of the Committee on  
18 Transportation.

19 Today, the Committee jointly with the Committee  
20 on Consumer Affairs and Business Licensing will  
21 conduct an oversight hearing on outdoor dining in the  
22 city open restaurant program during the COVID-19.  
23 One thing that I got to say before continuing is  
24 that, even though Washington DC failed to our city,  
25 the leadership of the city stand up and from the

1 Mayor, Speaker, Governor, Commissioner, all aboard  
2 trying to be creative on how to support all the  
3 sectors that are being heard by the pandemic.  
4

5 Early this month, the Transportation Committee  
6 held an oversight hearing titled DOT Response with  
7 COVID-19 and the Open Street program, where the  
8 Committee explored some of the issues and concerns  
9 related to opening streets.

10 I would like to thank Commissioner Trottenberg  
11 for attending that hearing and providing insightful  
12 information about the city operation of the Opening  
13 Street program and the steps they are taking to  
14 improve it. It is my hope that today we will build  
15 upon that initial hearing as it pertained to outdoor  
16 dining and open restaurants.

17 We want to welcome all restaurants for having the  
18 first day today where they are going to be working on  
19 25 percent capacity and we know that the Opening  
20 Street Restaurant Initiative, where they can take  
21 advantage of the sidewalk and space in the streets,  
22 we also help them to survive this pandemic.

23 We all know that the COVID-19 pandemic has  
24 devastated our city. Sadly, the city have had more  
25 than 245,000 confirmed cases of COVID-19 with almost

1 24,000 of those infected passing away. Everyone  
2 knows we don't want any single New Yorker to die.  
3 Most New Yorkers who died, they were Black, they were  
4 Latino, they are Asian, they are the poorest one.  
5

6 Our city is in bad financial shape, with the  
7 Mayor recently indicating that we have lost nearly \$9  
8 billion in revenue because of the pandemic. Various  
9 small businesses, the backbone of our city economy  
10 have been especially hit hard, as they comply with  
11 governmental orders to shut down or stop indoor  
12 dining and large gatherings to help prevent the  
13 spread of the corona virus.

14 As a result, some of our most iconic restaurants  
15 have closed for good, while all of us continue to  
16 struggle to stay afloat and are barely making it.

17 In the middle of all this turmoil, the city has  
18 had an opportunity to decide how we purpose our city  
19 streets, space and sidewalks. One way would be that  
20 was by implementing the Opening Street program that  
21 allowed New Yorkers to get outdoors for fresh air and  
22 to socialize with their neighbor in their community  
23 while maintaining social distance guidelines.

24 The city also implemented the Outdoor Dining and  
25 Open Restaurants program. This very popular program

1 has allowed city residents to enjoy the dining that  
2 they are accustomed to outdoors while also providing  
3 much needed lifeline to this establishment.  
4

5 I look forward to hearing the Administration's  
6 testimony and working with DOT and all relevant city  
7 agencies to help make the Open Restaurant program a  
8 success.

9 Thank you Chairman Cohen, I now turn the hearing  
10 back to you.

11 CHAIRPERSON COHEN: Thank you Chair Rodriguez.  
12 We've been joined by Council Members Yeger, Miller,  
13 Koslowitz, and Kallos. And now I will turn it over  
14 to Council Member Gjonaj for an opening statement as  
15 well.

16 COUNCIL MEMBER GJONAJ: Thank you. Good morning  
17 and good afternoon. First of all, I want to thank my  
18 good friends Chair Cohen and Chair Rodriguez for  
19 their leadership on this issue and conducting this  
20 very important hearing. These multi-committee  
21 hearings are not easy and I want to thank you for  
22 your generosity and allowing me to have an opening  
23 statement.

24 Like many businesses forced to cope with the  
25 devastating impact of COVID-19 pandemic, our city's

1  
2 27,000 strong restaurant industry is in desperate  
3 need of a lifeline before it is too late. And it is  
4 with a truly heavy heart that I will now say for many  
5 of them, it may already be too late.

6 A recent study featured in a recent New York  
7 Times article suggested that upwards of 70 percent of  
8 locally owned restaurants may not survive this public  
9 health crisis. Those fortunate enough to be in the  
10 position to possibly rebuild are looking toward the  
11 city to provide the leadership guidance and  
12 regulatory forums needed to give them a fighting  
13 chance.

14 Earlier this year, when restaurants had to almost  
15 exclusively depend on delivery and take out to  
16 survive, the Small Business Committee took up and  
17 passed a package of legislation to reform the  
18 business healing sky high commissions and fees  
19 structure charge the restaurant by food delivery  
20 apps. This action by the Committee and my Council  
21 colleagues undoubtedly saved businesses and the jobs  
22 that they provide or should I say that we are now at  
23 a position to help this industry survive so that they  
24 can thrive much later.

1  
2 Now, as we enter this new stage of reopening our  
3 economy, we must put in place the right structure to  
4 help restaurants help keep their doors open while  
5 doing everything possible to keep New Yorkers safe.  
6 Along with producing the regulatory burdens and  
7 reducing fees and fines, allowing New York City  
8 restaurants to have indoor capacity consistent with  
9 the rest of the state, allowing restaurants to have  
10 some form of outdoor dining is one of the most  
11 important things that the city officials can do.

12 This is why I applauded the announcement last  
13 week to chart a plan that will allow this to happen.  
14 Today, I look forward to hearing from the  
15 Administration on their plans to successfully  
16 implement permanent outdoor restaurant dining and how  
17 we plan to make this as painless as possible for  
18 restaurants dependent on the program succeeding.

19 This includes avoiding the debacles of the  
20 summer, when we had implemented open streets and open  
21 dining and had barricade requirements changed after  
22 these restaurants that were losing money, have to go  
23 back and rebuild the barricades that were originally  
24 approved.

1 This also includes removing all fees and I'm  
2 relying on both the Chairs to help navigate through  
3 this. All fees and all permits including the five  
4 apartment fee for propane tanks. But I'm just as  
5 interested as hearing from the restaurant owners and  
6 industry stakeholders on the needs and concern that  
7 they may have in implementing the program, so that  
8 the law and the policy makers can address their needs  
9 to formalize the program and the corresponding  
10 legislation in advance. So, that they don't  
11 needlessly spend more money and limited resources for  
12 this opportunity.

14 I want to thank my colleagues, Council Member  
15 Salamanca and Kallos for directing these critical and  
16 timely pieces of legislation and as Chair of Small  
17 Business Committee, I look forward to working with  
18 them and member of both the Consumer Affairs and  
19 Transportation to ensure that we get this right and  
20 in advance, a workable outdoor dining solution for  
21 restaurants that are desperate to find a workable  
22 path forward and Chairs, I just want to give out some  
23 acknowledgement to - I see Robert Bookman is on here  
24 and I believe, is your colleague on here as well  
25 Robert? I want to thank you for your continued



1 dialogue and bringing to my attention the issues of  
2 this industry. We're going to get through this  
3 together and we're going to make sure that we shape  
4 the future, so that we can all survive. Thank you  
5 Chairs.

6  
7 ROBERT BOOKMAN: Thank you Mr. Chairman.

8 CHAIRPERSON COHEN: Thank you Council Member  
9 Gjonaj. I will now ask Council Member Kallos to make  
10 an opening statement regarding Intro. 2096.

11 COUNCIL MEMBER KALLOS: Good afternoon and thank  
12 you to the Committee on Consumer Affairs and Business  
13 Licensing Chair Andy Cohen and Committee on  
14 Transportation Chair Ydanis Rodriguez for leading  
15 this hearing on making outdoor dining permanent and  
16 making it easier to get sidewalk café licenses.

17 We have had a blight of empty storefronts before  
18 the pandemic and the closure of indoor dining has  
19 only made things worse as restaurants were forced to  
20 subsist on revenue from takeout alone. I was proud  
21 to join Manhattan Borough President Gale Brewer,  
22 Council Member Keith Powers and countless others in  
23 Manhattan as we advocated for an opening of outdoor  
24 dining ahead of the Memorial Day weekend. We didn't  
25 quite hit that deadline but I do want to thank Mayor

1 de Blasio, DOT and Consumer Affairs for working with  
2 us to get that program up and off the ground. As an  
3 elected official, I will tell you anything we have  
4 touched a single parking spot in our city, we've  
5 usually had a pitched battle on our hands but  
6 something miraculous happened and that we were able  
7 to create this outdoor dining program without a huge  
8 push back. Perhaps because many of the carpoolers  
9 were not there to really quite back on it but either  
10 way I watched our communities be transformed, our  
11 streets activated and it has just been beautiful and  
12 at least from my part and from my district, a welcome  
13 addition to our city.

14 I am proud to be a Co-Sponsor of Preconsidered  
15 Introduction on this and I guess, the other piece I  
16 also wanted to talk about is one of the best parts of  
17 my job is just the opportunity to meet with  
18 residents. And so, we do First Friday, we welcome  
19 people into the office but we also rely on  
20 organizations like the New York Hospitality Alliance  
21 led by Andrew Rigie who create opportunities to put  
22 elected officials and business owners in the same  
23 place and it was not too long ago, it was in February  
24 at a rooftop event where a restaurant owner was just  
25

1 talking to me about the fact that when they pick up a  
2 restaurant or when they are doing the whole  
3 application process to get a sidewalk café, it is  
4 incredibly bureaucratic, filled with incredible  
5 amounts of red tape.  
6

7 And so, we work closely with the Hospitality  
8 Alliance, this restaurant owner and their attorney  
9 Robert Bookman on legislation and just to say, like  
10 right now, the sidewalk café process has been  
11 suspended during the pandemic. But the idea is, as  
12 we head back out of it and hopefully get through it  
13 and get back to return to normalcy, just to put it  
14 into perspective, there is about 1,416 licensed  
15 sidewalk cafés in New York City. But 1,004 of them  
16 are actually here in Manhattan.

17 And so, the sidewalk café process on average in  
18 2017 according to Consumer Affairs actually took 467  
19 days. And that's just not we have when businesses  
20 are fighting for their lives and we - sorry, it is  
21 467 days for an enclosed sidewalk café, 177 for an  
22 unenclosed and so there are huge variances in this.

23 And so, what Introduction 2096 puts forward and  
24 again, I wish I could claim credit for this. I wish  
25 it were my idea. The best thing I can do is just

1  
2 lend my office to those who really know what they are  
3 talking about, which is the restaurant owners, the  
4 New York Hospitality Alliances to just say that when  
5 you take over a business and these empty store fronts  
6 and we need people to come. When you take over a  
7 business that previously had a sidewalk café, that  
8 you can use that exact same sidewalk café with a  
9 temporary permit. That if you previously had one in  
10 the past three years, that you will be able to get it  
11 back without having to go through all the pomp and  
12 circumstance.

13 And so, I'm just hoping that with the support of  
14 the city from DOT, Consumer Affairs, of our Committee  
15 Chairs, of our Speaker and all the members here, that  
16 we can just cut some of that red tape, get rid of  
17 some bureaucracy, and make it a lot easier for  
18 businesses to stay here in our city and keep those  
19 jobs. Thank you.

20 CHAIRPERSON COHEN: Thank you Council Member  
21 Kallos. I just like to acknowledge that we have been  
22 joined by Council Members Deutsch, Powers, Brannan,  
23 and Cabrera. And now, I will ask Council Member  
24 Reynoso to make an opening statement regarding his  
25 proposed legislation.

1  
2 COUNCIL MEMBER REYNOSO: Thank you so much Chair.  
3 I will be quick. Sorry, the lighting in the house is  
4 a problem. I will be quick. I want to just say  
5 thank you to the Chairs and thank you to all of our  
6 small businesses, our restaurants and bars and  
7 lounges for just hanging in there as long as possible  
8 considering the lack of support that they have  
9 received from the federal government and in some  
10 cases the state government.

11 I do want to note that what I am asking for are  
12 city agencies to do, is to be very relaxed with how  
13 we enforce anything that is being proposed here today  
14 and has been proposed in the past when it comes to  
15 restaurants.

16 We want to make sure that we are in a position,  
17 we are allowing for restaurants and these locations  
18 to be able to rectify whatever issues they have free  
19 of fines and summonses. If there is a problem, tell  
20 them what it is and give them an opportunity to cure  
21 any issues. I recently was out with restaurant  
22 owners that said their biggest issue is actually the  
23 state liquor authority, not any agency from the city  
24 and that the state liquor authority is heavy handed,  
25 over zealous and making it very difficult for them to

1           move around or to do work. That can again save their  
2  
3           livelihoods.

4           I will give an example and then I will move on.  
5           The City of New York allows for businesses or  
6           restaurants to use adjacent properties who have  
7           permission of those owners to use that space to  
8           expand their outdoor dining experience. The State  
9           Liquor Authority does not allow for you to serve  
10          alcohol in those extended spaces or those adjacent  
11          spaces and if you do that, you lose your license.  
12          And if that's not an overhanded or aggressive move by  
13          the State Liquor Authority and by the State in  
14          sending a very clear message to small businesses that  
15          they are not being supported, I don't know what is.

16          So, again, this outdoor dining has been a huge  
17          success and it is something that I am looking forward  
18          to expanding permanently. I am very happy that we  
19          are going to be able to do this permanently and I  
20          will tell all of the folks that are not necessarily  
21          street advocates outside of cars and vehicles to look  
22          at what happened because of a crisis.

23          Imagine what we could do if we could do these  
24          type of things before a crisis. Vehicles are not the  
25          most ideal operator or user for our streetscape,

1  
2 people are and when we put people first, this is how  
3 we can reinvent New York City.

4 So, I hope that I can get more support from  
5 Council Members on other issues that I think are  
6 extremely important when it comes to street space.

7 Thank you so much Chair. I am looking forward to  
8 this hearing and making outdoor dining permanent.

9 CHAIRPERSON COHEN: Thank you very much Council  
10 Member Reynoso. And now, I will hand it over to  
11 Council Member Salamanca to make a statement  
12 regarding his legislation.

13 COUNCIL MEMBER SALAMANCA: Thank you Chair Cohen  
14 and Chair Rodriguez for allowing me to speak on my  
15 bill today Preconsidered Intro. 6677.

16 When we look at back at 2020, New Yorkers were  
17 called preceded into nature in which our day to  
18 day lives were radically altered by COVID-19 illness.  
19 From the way we work to the way our children get an  
20 education to even the way we carry out our  
21 legislative process, Americans have fully grasped the  
22 remote life style. This shift to a technology driven  
23 society also highlighted the nature of the double  
24 edge sword COVID was.

1 Instantly, mom and pop shops, restaurants, and  
2 industries that relied on in-person interaction  
3 suffered. In return, ending the local economics that  
4 have cropped up cities around the world. As we  
5 manage to get the upper hand on containing the spread  
6 of the virus, I look for ways to revitalize our  
7 economy. We as a city have been prompted to review  
8 the rules and regulations in place that have been  
9 burdensome on our businesses community.  
10

11 One issue that has been raised time and time  
12 again within the restaurant industry is the  
13 requirement that a license architect or engineer draw  
14 up and sign off on seating plans for a sidewalk café  
15 permit. Although there are range of programming that  
16 enables restaurants to produce their own plans, city  
17 regulations require third party oversight that not  
18 only prolong the process of submitting an application  
19 but added significant overhead costs.

20 Even in the best of times, this requirement was  
21 the difference for some smaller restaurants in  
22 deciding whether to move forward with the sidewalk  
23 café permit application. Removing this requirement  
24 will be a welcome change that will benefit restaurant  
25



1 owners from Southern Boulevard in the South Bronx to  
2 Nordstrom Avenue in Brooklyn and beyond.

3  
4 Given the current climate, we have a  
5 responsibility to ensure that our actions of  
6 legislatures spur on our economy, not hamper it.  
7 Measures like these bills we are hearing today are an  
8 important first step in providing a much needed  
9 lifeline to our small businesses and I look forward  
10 to continuing to work with my colleagues and business  
11 improvement districts alike on creating a more  
12 friendlier business environment.

13 Thank you Chair Cohen and Rodriguez for holding  
14 this important hearing.

15 CHAIRPERSON COHEN: Thank you Council Member  
16 Salamanca. I will now turn the Committee over to  
17 Counsel to address some procedural items and  
18 administer the oath to the Administration.

19 COMMITTEE COUNSEL: Thank you. I am Balgees  
20 Mihirig, Counsel to the Consumer Affairs and Business  
21 Licensing Committee with the New York City Council.

22 Before we begin, I want to remind everyone that  
23 you will be on mute until you are called on to  
24 testify when you will unmuted by the host. I will be  
25 calling on panelists to testify. Please listen for

1 your name to be called. I will be periodically who  
2 the panelists will be.

3  
4 The first panelist to give testimony will be  
5 representing the Administration. I will call on you  
6 when it is your turn to speak. During the hearing,  
7 if Council Members would like to ask a question of  
8 the Administration or a specific panelist, please use  
9 the Zoom raise hand function and I will call on you  
10 in that order. We will be limiting Council Member  
11 questions to five minutes, which includes the time it  
12 takes to answer your questions. Please note that for  
13 ease of this virtual hearing, we will not be allowing  
14 a second round of questioning for each panelist  
15 outside of the Committee Chairs.

16 All hearing participants should submit written  
17 testimony to [testimony@council.nyc.gov](mailto:testimony@council.nyc.gov). We will now  
18 call on representatives of the Administration to  
19 testify. First, Commissioner Polly Trottenberg from  
20 the Department of Transportation followed by  
21 Commissioner Lorelei Salas from the Department of  
22 Consumer and Worker Protection and joining us for  
23 questions from DOT are Assistant Commissioner Rebecca  
24 Zack and Deputy Commissioner Eric Beaton. From DCWP  
25 we have Executive Director Steven Ettannani and from

1 COMMITTEE ON CONSUMER AFFAIRS AND BUSINESS LICENSE  
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3 FDNY we have Assistant Chief Joseph Jardin. And  
4 finally, we have Executive Director Steven Picker  
5 from the Department of Small Business.

6 Before we begin, I will administer the oath.

7 Commissioner Trottenberg, Commissioner Salas,  
8 Assistant Commissioner Zack, Deputy Commissioner Eric  
9 Beaton, Director Ettannani, Assistant Chief Jardin  
10 and Director Picker, I will call on each of you  
11 individually for a response. Please raise your right  
12 hands.

13 Do you affirm to tell the truth, the whole truth  
14 and nothing but the truth before these Committee's  
15 and to respond honestly to Council Member questions?  
16 Commissioner Trottenberg?

17 POLLY TROTTEMBERG: Yes.

18 COMMITTEE COUNSEL: Thank you. Commissioner  
19 Salas?

20 LORELEI SALAS: Yes.

21 COMMITTEE COUNSEL: Thank you. Assistant  
22 Commissioner Zack?

23 REBECCA ZACK: Yes.

24 COMMITTEE COUNSEL: Deputy Commissioner Beaton?

25 ERIC BEATON: Yes.

COMMITTEE COUNSEL: Director Ettannani?

1 STEVEN ETTANNANI: Yes.

2 COMMITTEE COUNSEL: Assistant Chief Jardin?

3 JOSEPH JARDIN: Yes.

4 COMMITTEE COUNSEL: Director Picker?

5 STEVEN PICKER: Yes.

6 COMMITTEE COUNSEL: Thank you. Commissioner  
7 Trottenberg, you may begin when you are ready.

8 POLLY TROTTEBERG: Thank you, thank you can you  
9 still hear me? Okay, good afternoon Chair Rodriguez,  
10 Chair Cohen and members of the Committees on  
11 Transportation and Consumer Affairs and Business  
12 Licensing Committee's. I am Polly Trottenberg,  
13 Commissioner of the New York City Department of  
14 Transportation joined by my agency administration  
15 colleagues.  
16

17 Thank you very much for the opportunity to  
18 testify on behalf of Mayor Bill de Blasio on the  
19 city's Open Restaurants program as well as  
20 Preconsidered Intro. by Council Member Reynoso and  
21 our colleagues from DCWP will testify on Intro. 2096  
22 and the other Preconsidered Introduction.

23 Under Mayor de Blasio's leadership, this  
24 Administration, and all of us at DOT, are very proud  
25 of the work we have done during the COVID-19 pandemic

1 here in New York to transform our streets to promote  
2 safe recreation, sustainable transportation, and of  
3 course our beloved restaurant industry.  
4

5 As I testified earlier this month in-depth, this  
6 Administration has implemented over 75 miles of Open  
7 Streets citywide, nearly 50 percent of which are in  
8 zip codes with the highest rates of COVID in the  
9 City, mostly communities of color, and nearly 60  
10 percent are in census tracts that are low to moderate  
11 income. We are also on target to build more bike and  
12 bus lanes this year than ever before, and to continue  
13 expanding Citi Bike into Upper Manhattan and the  
14 South Bronx, even as we have had to grapple with  
15 severe workforce and budgetary challenges due to  
16 COVID-19.

17 But there is no question that our Open  
18 Restaurants program, done in partnership with you  
19 here on the Council and with the industry, has been  
20 one of our most far reaching and successful  
21 initiatives and we think the largest such program in  
22 the world. To date, over 10,400 restaurants have  
23 applied to participate in the program, supporting an  
24 estimated 100,000 jobs for a diverse group of workers  
25 throughout the five boroughs.

1  
2 The program now also boasts 85 Open Streets, Open  
3 Restaurants, sites where local restaurants are able  
4 to close the street off to vehicular traffic. The  
5 results have been inspiring. Restaurants all over  
6 the city have created beautiful, welcoming outdoor  
7 spaces and I know we have all seen New Yorkers in so  
8 many neighborhoods dining out or just enjoying the  
9 festive closed streets to picnic, play music and  
10 watch their kids run around. And the restaurants  
11 have helped the city's economy and tax base while  
12 bringing a sense of hope and vibrancy back to our  
13 streets.

14 So, we are pleased to be here today to also  
15 amplify the Mayor's announcement last week that the  
16 Open Restaurants program will be extended year-round  
17 and expanded even further and the city will take the  
18 steps, working with the Council and our industry  
19 partners, to make the program permanent. For the  
20 first time, the city will allow electric, gas, and  
21 propane heaters to facilitate outdoor dining at  
22 restaurants during the colder months, under FDNY and  
23 Department of Buildings oversight, and will provide  
24 guidance on the use of tent enclosures. And we are  
25 working with the restaurant industry on additional

1 safety features for roadside barriers with the winter  
2 months in mind, to be announced very soon.

3  
4 In another significant expansion, we will also  
5 allow restaurants to create seating in adjacent  
6 roadway space and in the sidewalk frontage, as long  
7 as the owners of adjacent properties are willing to  
8 cooperate. This will open the program to thousands  
9 of additional restaurants. The city will also work  
10 with the State Liquor Authority on any necessary  
11 requirements and in early October, DOT will release a  
12 template agreement for restaurants that wish to use  
13 adjacent space.

14 As we now turn to the legislation before us today  
15 on codifying the Open Restaurants program  
16 permanently, let me share some of the city's lessons  
17 learned to date. There is no question that facing  
18 the devastating economic effects of COVID-19, the  
19 city stepped out of its comfort zone and faced a  
20 steep learning curve in standing up a program of such  
21 scope and magnitude in a matter of weeks. We saw  
22 1,800 applications on the first day, over 5,000 the  
23 first week, over 8,000 within the first month, and  
24 are now over 10,400 as I mentioned earlier.

1  
2 We are proud of DOT's nimble self-certification  
3 process that made it possible for restaurants to  
4 begin serving customers outdoors right away. But we  
5 do want the Council to understand that the program  
6 did require a lot of resources from a number of City  
7 agencies, overseen by City Hall.

8 We collectively stood up a robust real-time data  
9 system to monitor progress and compliance, devised  
10 educational materials, including detailed diagrams  
11 and a how-to video for roadway setups, and  
12 established teams to handle thousands of telephone  
13 and email communications with applicants to help  
14 restaurants create safe curb lane setups and follow  
15 appropriate health regulations. DOT also created a  
16 popular public-facing portal with the most up-to-date  
17 information and a map of participating restaurants.

18 The City rapidly deployed hundreds of staff from  
19 DOT and other city agencies for education, mediation,  
20 inspections, and enforcements, as we helped  
21 restaurants create safe roadway setups. And I can  
22 honestly say that breaking down agency silos and  
23 tackling this interdisciplinary work collaboratively  
24 has been an inspiration for all of us in this  
25



1 Administration, we think exemplifying the best in  
2 city government.

3  
4 Now as we turn to making the popular Open  
5 Restaurants program, which was created under an  
6 emergency Mayoral Executive Order a permanent part of  
7 our city, we look forward to discussing with the  
8 Council the longer-term operational, fiscal, and  
9 legal issues to be resolved. The first issue is the  
10 city's ultimate legal control of the public right of  
11 way. The city has an inalienable right in the  
12 streets, and therefore, we will need to consider the  
13 nature of any consent that we would grant restaurant  
14 operators, which could effectively motivate  
15 storefront owners to consider that the value of their  
16 commercial leasehold interest has been enhanced.

17 This is a critical issue, which has the potential  
18 to affect our use of streets, agency operations, and  
19 budgets for generations to come. I urge careful  
20 consideration, balancing all the other, ever-changing  
21 needs for the curb. DOT's core mission remains  
22 moving people and goods through the city safely,  
23 efficiently, and in an environmentally sustainable  
24 manner. As we make the Open Restaurants program  
25 permanent, we must also prioritize public

1 transportation and safety infrastructure, including  
2 bike lanes and bus lanes, while also leaving room for  
3 future innovations. This is particularly true  
4 because the geographic distribution of Open  
5 Restaurants closely overlaps with some of the City's  
6 highest demand curbs and its busiest streets. Our  
7 streets are used by many entities, public and  
8 private. DOT is regularly resurfacing and restriping  
9 as well as installing and maintaining traffic  
10 infrastructure, DSNY is sweeping and removing snow,  
11 DEP is maintaining water and sewer infrastructure,  
12 New York City Transit is maintaining subway  
13 infrastructure, and private utilities are running  
14 pipes, conduits and wiring.

15  
16 Long term, all these necessary functions must be  
17 integrated into a permanent roadway restaurant  
18 program. In addition to working through these  
19 questions, we also need to determine how this new  
20 outdoor dining program will fit with the existing  
21 sidewalk café program, and we look forward to  
22 discussing that with the Council and our sister  
23 agencies.

24 There is also the issue of what zoning text  
25 amendments might be needed to make this program

1 permanent. We will obviously look for the Council's  
2 partnership in that process.  
3

4 Finally, the Mayor's Executive Order states that  
5 Open Restaurants shall adhere to all local, state,  
6 and federal requirements relating to accessibility  
7 for people with disabilities, including path of  
8 travel, minimum table heights, and clearance  
9 requirements, and it will be important to ensure that  
10 setups under a permanent program meet these standards  
11 as well.

12 In closing, the Administration and DOT remain  
13 immensely proud that Open Restaurants has been  
14 embraced by diverse neighborhoods citywide, from Mott  
15 Haven in the Bronx, Washington Heights in Manhattan,  
16 Jackson Heights in Queens, Sunset Park in Brooklyn,  
17 to Tompkinsville on Staten Island and dozens more.

18 I want to express my profound gratitude to the  
19 entire hardworking team at DOT, from every corner of  
20 our agency, many of whom worked nonstop, seven days a  
21 week, giving up holidays and precious family time, to  
22 make this program such a success.

23 I also wish to thank our sister agencies,  
24 especially SBS, MOME and the Office of Nightlife, as  
25

1 well as the Mayor and Deputy Mayor Laura Anglin for  
2 their support.  
3

4 Finally, I want to thank Council Member Reynoso,  
5 the Committee Chairs who are presiding today and the  
6 whole Council for championing Open Restaurants. The  
7 Administration looks forward to a fruitful discussion  
8 on the legislation before us today and I will be  
9 happy to answer any questions after you hear from  
10 Commissioner Salas.

11 CHAIRPERSON COHEN: Thank you. Before the  
12 Commissioner testifies, I just want to acknowledge  
13 that we've been joined by Council Member Menchaca and  
14 Levin. Thank you.

15 COMMITTEE COUNSEL: Commissioner Salas, you may  
16 begin your testimony.

17 LORELEI SALAS: Good afternoon Chairs Cohen,  
18 Rodriguez and Members of the Committees. I am Lorelei  
19 Salas, Commissioner of the Department of Consumer and  
20 Worker Protection, also known as DCWP. I am joined  
21 today by my colleague Steven Ettannani who is  
22 Executive Director for External Affairs.

23 I would like to thank the Committees for the  
24 opportunity to testify today on Introduction 2096,  
25 relating to temporary operating letters for sidewalk

1 café license applicants, and Preconsidered  
2 Introduction 6677, relating to sidewalk café plan  
3 drawings.  
4

5 Before I discuss the bills before the Committees  
6 today, I would also like to take a moment to thank  
7 the Council for its close partnership with the  
8 Department over the past few months to ensure that we  
9 have been able to continue serving our city's  
10 consumers and workers. In working with Chair Cohen  
11 and other members here today, we've tackled many  
12 important issues confronting the City during  
13 extremely difficult times. I apologize if you can  
14 hear my cat in the background.

15 Sidewalk café licensing, DCWP licenses 106  
16 enclosed and 1,195 unenclosed sidewalk cafés.  
17 Applicants for a sidewalk café license are limited to  
18 only certain locations of the city, pursuant to the  
19 City's Zoning Resolution, and subsequently close to  
20 70 percent of all sidewalk café licensees are in  
21 Manhattan.

22 Approving sidewalk café license applications is a  
23 detailed and lengthy process required by the  
24 Administrative Code, which includes reviews by DCWP  
25 and the Department of City Planning in instances

1 where the application is for an enclosed café, the  
2 local Community Board, the City Council, as well as  
3 approval from the Mayor's Office of Contract Services  
4 and finally registration of the revocable consent  
5 agreements with the Comptroller.  
6

7 This process can take 4 to 5 months, even if an  
8 applicant has submitted their application correctly.  
9 Pursuant to the Mayor's Executive Order 126, the  
10 sidewalk café licensing program was suspended on June  
11 18th as the city began administering Open  
12 Restaurants. Pursuant to the EO, DCWP is not  
13 accepting or processing new or renewal sidewalk café  
14 applications.

15 In early April, the Mayor suspended all sidewalk  
16 café consent fees under EO 105. Subsequently, Local  
17 Law 54 of this year, sponsored by Chair Cohen,  
18 refunded this year's consent fees to licensees.

19 Before I turn to the specifics of the legislation  
20 at hand, I should say that there is an incredible  
21 opportunity right now, to holistically rethink the  
22 concept of outdoor dining in New York City. DCWP  
23 believes that any future for the sidewalk café  
24 licensing program should be informed by the successes  
25 of the Open Restaurants program, operated by my

1  
2 colleagues at the Department of Transportation, under  
3 the incredible leadership of Commissioner  
4 Trottenberg. This plan has served than 10,000  
5 businesses, eight times the size of the sidewalk café  
6 licensing program across the city.

7 While DCWP agrees with the intent of Introduction  
8 2096 and Preconsidered 6677 to make the sidewalk café  
9 licensing processes less burdensome and prescriptive  
10 for businesses, these amendments will fall short of  
11 its goals if pursued in a vacuum. Instead, Council  
12 should consider a comprehensive reevaluation of the  
13 sidewalk café process in totality.

14 Moving on to today's legislation, Introduction  
15 2096 would allow applicants of enclosed and  
16 unenclosed sidewalk cafés to be issued Temporary  
17 Operating Letters, also known as TOLs, pending  
18 approval of the applicant's revocable consent  
19 agreements. We are continuing to review the bill  
20 language and hope to work with the Council to ensure  
21 a final version accomplishes the goals of this bill,  
22 simplifying the requirements restaurants must meet to  
23 successfully operate in New York City, without  
24 causing any undue delays.

1           The Preconsidered Introduction would allow  
2  
3 sidewalk café applicants to submit plan drawings,  
4 without the requirements that the drawings be  
5 prepared by an architect, engineer, or otherwise  
6 third-party professional. In our experience, the  
7 plan review process is burdensome and expensive for  
8 applicants, and difficult for agency staff, who do  
9 not have engineering or architectural backgrounds.  
10 We believe this legislation could be served by moving  
11 away from the current framework and instead  
12 enshrining a less prescriptive process for businesses  
13 that ensures compliance with applicable safety and  
14 accessibility laws.

15           Since the Council's last hearing on this topic in  
16 June, Open Restaurants has become a popular fixture  
17 of our city's streetscape with calls for it to be  
18 made permanent. We believe that the future of the  
19 sidewalk café process needs to take Open Restaurants  
20 into account, and its successful implementation, such  
21 as by contemplating a singular program, with the goal  
22 to continue supporting our city's restaurants as  
23 fairly as possible.

24           Once again, thank you Chairs Cohen, Rodriguez and  
25 Members of the Committees for the opportunity to



1 testify today and I am happy to answer any questions  
2 you may have.

3  
4 COMMITTEE COUNSEL: Thank you Commissioner Salas.  
5 I will now turn it over to questions from Chair Cohen  
6 followed by Chair Rodriguez. Panelists, please stay  
7 unmuted if possible during this question and answer  
8 period.

9 As a reminder, if Council Member or the Chairs  
10 would like to ask a question of the Administration or  
11 a specific panelist, please use the Zoom raise hand  
12 function and I will call on you in order. We will be  
13 limiting Council Member questions to five minutes,  
14 which includes the time it takes to answer your  
15 questions. Thank you. Chair Cohen?

16 CHAIRPERSON COHEN: Thank you very much. Thank  
17 you Commissioners for your testimony and you taking  
18 the time to testify today. I appreciate it.

19 I am going to be brief and then maybe I will come  
20 back. I guess what I am a little concerned about or  
21 I want to make sure that we don't miss the  
22 opportunity. I'm getting feedback, someone is  
23 unmuted. Thank you.

24 To sort of taking a holistic view of what we are  
25 trying to do here in terms of trying to support the

1 restaurant industry in New York and keep outdoor  
2 dining or come up with some way to support the  
3 restaurant industry.  
4

5 Can you talk a little bit about the interagency  
6 process that's going on within the Administration to  
7 try to develop plans that meet the goals of DOT.

8 Obviously, Consumer Affairs, but all the other city  
9 agencies. You know, Department of Health, I don't  
10 know how – you know, are they involved in terms of  
11 what safe outdoor dining looks like in the winter?

12 Could you talk a little bit about the process?

13 POLLY TROTTEBERG: I am happy to start us off  
14 here Mr. Chairman and my colleagues may want to jump  
15 in. I think as I said in my testimony, this was a  
16 tremendous sort of interagency learning curve and we  
17 really broke down a lot of silos. People sort of  
18 talk about that cliché in government of breaking down  
19 the silos. We really did it for this program and a  
20 lot of agencies, we don't even always work together  
21 all that often. You know, DOT wasn't actually in the  
22 restaurant business before a few months ago and I  
23 think it has been a tremendous partnership with the  
24 agencies who are here today, as well as you know,  
25 Department of Health, SBS, Office of Nightlife and a

1 lot of input from City Hall and all the expertise  
2 there. It really was an all hands on deck effort and  
3 we certainly learned as we went along. I know, I  
4 certainly will admit we had some bumps in the  
5 beginning of the program, I think as you would  
6 understand in a program that started so rapidly and  
7 at such a quick pace.

9 We have certainly been discussing amongst  
10 ourselves. I hear you Mr. Chairman, what a sort  
11 unified holistic program is going to look like. I  
12 think we obviously very much want to explore that  
13 with you on the Council because from our earliest  
14 discussions, part of what has made this program  
15 successful, is we have cut a lot of that red tape and  
16 truncated a lot of the sort of community processes  
17 and things that are enshrined and are zoning  
18 overlays, our at code etc. You know, I think we want  
19 to work closely with you to decide how to pruning  
20 that back and make something that worked for the  
21 industry, an industry we all care about and want to  
22 do everything we can to help while preserving  
23 obviously whatever we think we need to keep  
24 enshrined. It keeps the program safe, that make sure  
25 that it is accessible. You know, the city's ability

1  
2 to do its own operations on the street are also  
3 maintained.

4 And again, I think we are looking very much for  
5 partnership with you on that.

6 CHAIRPERSON COHEN: I appreciate that. I guess  
7 I'm just -- the idea that the Mayor is using the word  
8 permanent. I feel like we are a long ways away from  
9 getting to an idea of how we are going to re-envision  
10 our streets in such a dramatic fashion. You know  
11 that we're calling permanent and I just feel we are a  
12 long ways away from that. And you know, you  
13 mentioned in your testimony about you know the goals  
14 and the mission of DOT and you know, as I think about  
15 you know, that we have pedestrians obviously using  
16 our streets, we have cyclists using our streets. We  
17 now, you know, for good or for bad, we have a flood  
18 of you know, personal e-transportation on our  
19 streets. We have trucks on our streets, we have  
20 busses on our streets. There are so many users  
21 competing for such limited space. I just want to  
22 make sure that we are doing it smartly and again in  
23 sort of a unified holistic approaches as Commissioner  
24 Salas said. So, I'm just concerned about that.

1  
2 I am going to turn it – and you can respond if  
3 you want to but otherwise I am going to turn it over  
4 to Chair Rodriguez and I will come back as –

5 POLLY TROTTEBERG: I will just say quickly,  
6 wholeheartedly agree with you Mr. Chairman. You  
7 know, I think the pandemic enabled us obviously to  
8 move nimbly in a way that I definitely, and I hear it  
9 from you all on the Council and I have certainly  
10 heard it from fellow New Yorkers. It did enable us  
11 to take a big leap in re-envisioning our streets.  
12 You know particularly as Council Member Reynoso was  
13 saying. It's a much less auto centric system and I  
14 think we do want to build on that.

15 But you are right to mention all the other things  
16 we are trying to accommodate on our streets; bike  
17 lanes, bus lanes, e-scooters, taxi's, and FHV's,  
18 trucks, etc. You know, we will work closely with  
19 you. That is sort of DNT stock and trade is trying  
20 to constantly negotiate that balance and obviously,  
21 there is not a one size fits all recipe. I am sure  
22 all of you here today would probably agree with me on  
23 that.

1  
2 CHAIRPERSON COHEN: Thank you. I am going to  
3 turn it over to Chair Rodriguez and I will come back.  
4 Thanks.

5 CHAIRPERSON RODRIGUEZ: Thanks Chair. As I said  
6 before, I feel that you know, the City of New York  
7 has a lot to continue learning from this health  
8 crisis that we've been hit back in February and I  
9 think that the fact that we are the City that last  
10 year received 65 million tourists, a city where we  
11 have more than 30 percent of New York living in  
12 poverty. You know, put yourself in a place to be hit  
13 so hard by the pandemic. And I think that the  
14 leadership, the different way we have been ensuring  
15 them and working around as I said, from the Mayor to  
16 the Speaker to Commissioners and everyone should be a  
17 role model for all the municipalities through the  
18 whole nation, even though a guy in the city because  
19 of his own agenda tried to put us all in a different  
20 place.

21 When it comes to you know, things that definitely  
22 we had to learn from and continue doing better is the  
23 one that we are discussing today, the Opening Street  
24 Restaurant. I believe that this is an again, a  
25 program that came us. I know that DOT will continue

1 playing a major role together with the other sister  
2 agency from a small business, consumer affairs and  
3 Fire Department but one of my - my question is on how  
4 is DOT taking the necessary measures to deal with  
5 reckless driver and the safety tools that should be  
6 in place in the restaurant so that you know, we don't  
7 open those restaurants to be criticized in the future  
8 if crashes continue happening in the surrounding  
9 area.  
10

11 POLLY TROTTEBERG: I will take a crack at that  
12 and I think you know, one thing again, on the steep  
13 learning curve of this program and Council Member  
14 Gjonaj alluded to it. It is true when we started  
15 this program, we put in a set of requirements and we  
16 found they were not that easy for restaurants to  
17 follow and we determined sort of looking at the  
18 setups that they needed to be made stronger and we  
19 certainly regret that it proved inconvenient for  
20 restaurants. It was certainly not our intention but  
21 I think you know; you question Mr. Chairman gets it  
22 why we did it.

23 We want to make sure that these setups in the  
24 streets are safe and in addition to coming up with  
25 some tighter requirements, I think a lot of you know

1 we created a whole infrastructure trying to help  
2 restaurants. We have our inspectors on it again.  
3 DOT is not fining. We haven't issued any fines, but  
4 we've had inspectors that we've had now over 21,000  
5 visits where they have gone and worked with  
6 restaurants to help them create safe set up. DOT, we  
7 have created an online video, working with small  
8 business services. We have phone hotlines, email  
9 lines where restaurants can come to get guidance at  
10 DOT, we've also put forward a public education  
11 campaign to encourage motorists to drive safely  
12 around restaurants and we're going to continue to  
13 strengthen that safety element of the program.

14  
15 It is certainly I would say the Administrations  
16 highest priority.

17 COUNCIL MEMBER RODRIGUEZ: Do you think that at  
18 some point the city should explore to also work with  
19 the restaurant owners and with city subsidy in a  
20 different way to bring pedestrian borders close to  
21 those restaurants where we have heavy traffic in the  
22 surrounding area restaurant?

23 POLLY TROTTEBERG: I mean, I certainly think as  
24 the Mayor announced last week, we are ready to  
25 consider as this - you know remember this program



1 when it started in the street, it was only going to  
2 last through Labor Day and then the Mayor extended it  
3 to the end of October and is now extending it  
4 indefinitely. And we think in the winter months as  
5 they set up in the street, they are going to get more  
6 wear and tear. There may be snow, there may be  
7 snowplows. We are going to want to find ways to make  
8 them stronger. Mr. Chairman, we are talking to the  
9 industry about that and certainly, we will be happy  
10 to engage with you all.  
11

12 We want to find that sweet spot of making these  
13 setups as safe as we can on the street but doing it  
14 with the industry in a way that's feasible for the  
15 city and the industry. I don't know whether I can  
16 commit to the city being able to do a big  
17 subsidization but we are certainly open to having  
18 those dialogues.

19 COUNCIL MEMBER RODRIGUEZ: Okay, and my last  
20 question is to the Fire Department and I know that  
21 City Hall still was working to pull together the  
22 whole process on how a restaurant owner will be able  
23 to get the permit. Sorry, there is some sound.

24 So, talking to some local restaurants, one of the  
25 things that took awhile that when they were trying to

1 start getting an answer to the question on how the  
2 whole process to get permits to put the gas in the  
3 sidewalk, and again, I know that City Hall trying to  
4 work it out with you guys but there was no answer. I  
5 don't think that agency was ready yet to talk about  
6 what is the process. How the Fire Department will be  
7 working with the restaurant owner because you know,  
8 if we are looking to be more flexible, we know that  
9 safety is important but also the requirement had to  
10 be completely different. So, what should we expect  
11 for the restaurant owner to - when they start  
12 requesting permits to install gas in the sidewalk?  
13

14 JOSEPH JARDIN: So, it's my understanding Council  
15 Member that later today, City Hall will be publishing  
16 guidance for this change to the outdoor dining to  
17 among other things provide for mechanisms to heat the  
18 outdoor seating areas and it will offer several  
19 options of heating, electric heaters, natural gas  
20 heaters as well as propane heaters.

21 The Fire Department will be primarily concerned  
22 with the permitting of and the oversight of the  
23 propane heating option, electric heaters and the pipe  
24 natural gas. The administrative portion is  
25 Department of Buildings responsibility, although we

1 will be involved in the inspection of the pipe  
2 natural gas alternative.  
3

4 However, we will following the publication of  
5 that guidance by City Hall hopefully later on today,  
6 we will have in short order hopefully a one stop shop  
7 where these business owners can connect to find out  
8 what exactly they need to do to safely manage the use  
9 of propane gas if they qualify based on the  
10 parameters that will be provided in terms of the use  
11 of that alternative.

12 I think we are going to make it somewhat user  
13 friendly, so if after reading the requirements for  
14 the use of gas. The safe use of propane gas, the  
15 restaurant owner thinks that he or she meets those  
16 provisions that they will be able to start at the  
17 same time they submit an attestation reflecting that  
18 they understand what the risks are associated with  
19 the use of that product, which are significant. As  
20 you know that propane is currently not allowed to be  
21 used for comfort heating in New York City because  
22 there are some hazards and risks associated in this  
23 dense urban environment that has a significant  
24 subterranean system. This propane is heavier than  
25 air and if there is a leak, it can collect in

1 subway's, in cellars, and in basements and create a  
2 problem for those folks who work and live in or near  
3 those buildings, right.  
4

5 But what we will do, which we think is user  
6 friendly is give them the ability like I said to  
7 submit that at testation reflecting that they  
8 understand the hazards. That they understand how to  
9 safely operate the devices. That they will situate  
10 those devices in compliance with the parameters that  
11 will put out in that guidance and that affirmation  
12 will also serve as a permit application.

13 So, they can get up and running and then within  
14 three weeks, we are going to request that they follow  
15 up with a requirement to get the appropriate  
16 certificates - it is one certificate of fitness.  
17 Actually, in the past, there was two certificates of  
18 fitness. We have collapsed that to one to again make  
19 it a little more user friendly for the business owner  
20 and whatever paperwork that has to come to us. I  
21 think we are going to ask for a hand drawn plan B  
22 submitted reflecting how they are going to configure  
23 the location of the propane heaters.

24 So, I think you will see that we will have  
25 available to this community guidance that provides a

1 safe and fair approach to managing propane as a  
2 heating option. Of course, there are those other two  
3 electric heating as well as the pipe natural gas for  
4 those restaurants that based on their location  
5 configuration and other limiting factors may not be  
6 able to take advantage of propane as an option.  
7

8 CHAIRPERSON RODRIGUEZ: [SPEAKING IN SPANISH  
9 58:55-59:03]. Thank you everyone.

10 COMMITTEE COUNSEL: Thank you Chair Rodriguez.  
11 Chair Cohen, do you want to acknowledge Council  
12 Member -

13 CHAIRPERSON COHEN: Oh, we have been joined by  
14 Council Member Mark Levine.

15 COMMITTEE COUNSEL: Thank you. I will now call  
16 on - actually, sorry. Do you have any additional  
17 questions Chair Cohen or can we move on to Council  
18 Member -

19 CHAIRPERSON COHEN: I do but let's go through the  
20 members who have their hands raised and then I will  
21 come back.

22 COMMITTEE COUNSEL: Okay. I will now call on  
23 Council Members in the order that they have used the  
24 Zoom raise hand function. You should begin once I  
25

1 have called on you and the Sergeant has announced  
2 that you may begin before asking your question.

3  
4 First, we will hear from Council Member Koo  
5 followed by Council Member Holden. Council Member  
6 Koo?

7 SERGEANT AT ARMS: Starting time.

8 COUNCIL MEMBER KOO: Hello. Commissioner, thank  
9 you for coming to testify. My question is towards  
10 the Transportation Commissioner Trottenberg. As you  
11 know Commissioner Trottenberg, we have a pending bus  
12 way in downtown Flushing. So, this bus way carry  
13 out, it will force all the other cars to the side  
14 streets and if you have these permanent outdoor  
15 dining, you will create a lot of problems because the  
16 side streets, the side walks or the streets are  
17 occupied by many, many restaurants and you force all  
18 these cars to go in and you will create a big traffic  
19 congestion in all the peripheral areas.

20 And also, the permanent outside dining will  
21 create problems for sanitation? I mean, the garbage  
22 when the sanitation trucks are so huge. If they come  
23 and you will block the traffic for like 20 minutes  
24 for the whole block and you will create safety  
25 problems. Many restaurants, they stay on the

1 sidewalks. So, the sidewalks in Flushing are very  
2 narrow and many pedestrians, especially the senior  
3 citizens, they use a walker or they use a wheelchair  
4 or many people love to carry a shopping cart to walk  
5 in the streets and they are very slow.  
6

7 So, a lot of problems will be the pedestrians for  
8 sanitation and then what happens if there are  
9 apartments upstairs. Many side streets, it is not  
10 only business. We have a lot of apartment buildings  
11 on the side streets and all these people will have to  
12 tolerate all this noise, smell, all year around.

13 Now, I have nothing against the restaurants and I  
14 think the Mayor, he has good intentions to put out  
15 this proposal for permanent outside dining but not  
16 every street corner is the same. So, I hope you guys  
17 will consider all the points I just mentioned  
18 especially you said we had to have a bus way in  
19 downtown Flushing. That is a terrible idea. I don't  
20 know how you put two together and put all the  
21 restaurants on the side streets, on the streets, on  
22 the sidewalks and how the pedestrians navigate on  
23 these congested streets? You create a safety hazard  
24 for the pedestrians, for the Fire Department and for  
25

1 the people who live upstairs on these restaurants.

2 Thank you.

3 POLLY TROTTEBERG: Thank you Council Member Koo.

4 I will sort of take a crack at it. I think both of

5 the things you raised, the bus way and I certainly

6 know we received letters from you and Senator

7 Devinsky and the Community Board and the Chamber of

8 Commerce and your attorney's and I think you know my

9 office has reached back out and we will certainly be

10 sitting down to talk to all of you. We are trying to

11 do it this week.

12 So, hopefully that dialogue will continue and I

13 hear what you are saying is you know, I have been out

14 in Flushing a couple times and understand that some

15 of what we have been able to do nimbly and quickly

16 and open restaurants. As we refine the program and

17 make it perfectly, we are going to have to tackle

18 some of the very issues that you raised. How we

19 balanced sort of the local neighborhood concerns.

20 Make sure the sidewalks are accessible particularly

21 for people with disabilities and make sure that all

22 of our street functions can also happen. As you

23 mentioned sanitation or snow plowing or resurfacing,

24 all the things the city needs to do.



1  
2 So, I think as I mentioned in my testimony, we  
3 very much agree, those are the issues we need to make  
4 sure we resolve as we make this program permanent and  
5 as I said, there is not one size fits all. Flushing  
6 and very dense and vibrant neighborhoods, we want to  
7 make sure this program works there as well as it will  
8 work everywhere else in the city.

9 COUNCIL MEMBER KOO: Yeah, because especially now  
10 you mentioned you have propane gas on the streets. I  
11 think this is kind of dangerous you know. And the  
12 devils in the detail you know. When you have too  
13 many agencies involved, that means no agencies  
14 involved. I have the same experience in downtown.  
15 Streets are controlled by DOT, by MTA -

16 SERGEANT AT ARMS: Time expired.

17 COUNCIL MEMBER KOO: And by Sanitation. When we  
18 have a garbage problem, nobody picked to do the job  
19 because everybody is pushing the job to the other  
20 agency. Oh, it's not my job, it's not his job. So,  
21 nobody is doing anything.

22 So, at the end the people suffer and the  
23 businesses suffer too. Thank you.

24 COMMITTEE COUNSEL: Thank you Council Member Koo.  
25 Next, we have Council Member Holden followed by

1  
2 Council Member Reynoso. We missed him in the first  
3 go around, so we will be skipping to him. Council  
4 Member Holden?

5 SERGEANT AT ARMS: Starting time.

6 COUNCIL MEMBER HOLDEN: Thank you Chairs and good  
7 afternoon Commissioner Trottenberg and I want to  
8 thank you for your outstanding work on the outdoor  
9 dining. I know you didn't sign up for that one but  
10 on top of everything else you are doing; you are  
11 doing an amazing job on that and certainly for the  
12 open streets program.

13 I just want to talk about the tent enclosures  
14 which you mentioned. We've seen some very creative  
15 tent enclosures. Are there designs that DOT won't  
16 approve and like the materials for instance or  
17 flammable enclosures?

18 POLLY TROTTEBERG: I am actually going to sort  
19 of turn to FDNY on the flammable issues because  
20 that's area of our expertise. And look, another  
21 thing I know early on, there was a bit of back and  
22 forth about tents and umbrellas and I apologize for  
23 that. I think the city has settled on a pretty  
24 liberal policy which is allowing a lot of these  
25 different kinds of structures in place as long as

1 they are weighted. They can be taken down in the  
2 case of inclement weather and they allow open air.

3  
4 What the Mayor announced last week for outdoor,  
5 for sort of the permanent outdoor dining is a  
6 restaurant can either have two sides of their outdoor  
7 space tented and still there is still a lot of open  
8 air, or they can fully enclose it but then they will  
9 have to abide by what is currently the 25 percent  
10 occupancy rate. I know you will hear from industry  
11 colleagues today. They hope that that will soon be a  
12 higher percentage. And I will let FDNY speak about  
13 the materials and the flammability question.

14 JOSEPH JARDIN: Would you like the Fire  
15 Department to respond?

16 COUNCIL MEMBER HOLDEN: Yeah, yeah, that's who we  
17 are waiting for, I am sorry.

18 JOSEPH JARDIN: Yes sir. Yeah, the Fire  
19 Department does regulate tents and requires that the  
20 fabric be flame resistant or treated with a flame  
21 retardant. That no smoking signs be conspicuously  
22 posted and that has a series of parameters relative  
23 to the location of tents from things like generators  
24 and vehicles and other devices with combustion  
25 engines and such.

1 So, yes, there are provisions in the Fire Code  
2 that contemplate the safety of the tent. I do  
3 believe the tents that are above 400 square feet are  
4 further regulated by the Department of Buildings.

5 COUNCIL MEMBER HOLDEN: So, then a restaurant  
6 owner is facing Commissioner, the restaurant owner is  
7 facing multiple [inaudible 1:08:23] closure or can  
8 they just go through DOT and then you will speak to  
9 the -  
10

11 Commissioner, Commissioner Trottenberg?

12 POLLY TROTTEBERG: It's a very good question  
13 Council Member Holden, I want to make sure we will  
14 have a unified voice for all the restaurants so they  
15 will know exactly what the rules are on tents. It  
16 will probably yes, come through DOT but I will double  
17 check that I make sure that I rope in all the  
18 concerns of my agency colleagues, including as you  
19 heard from the Chief FDNY and Department of  
20 Buildings.

21 COUNCIL MEMBER HOLDEN: Yeah, and I just want to  
22 ask you because we've had a number of cases in my  
23 district where a restaurant has a small foot print in  
24 front but they have let's say a business next door  
25 that's not using their outside or business that's not

1  
2 there anymore. Do you work with those restaurants to  
3 see if they could use that space?

4 POLLY TROTTEBERG: Yeah, I will admit, we didn't  
5 have a formal process to do so and I certainly know  
6 that a lot of restaurants kind of did it anyways.  
7 What the Mayor announced last week, is we are going  
8 to have a formal process.

9 COUNCIL MEMBER HOLDEN: Okay.

10 POLLY TROTTEBERG: Where the two businesses will  
11 need to agree and obviously one thing we want to be  
12 sure of is that the business that's sort of  
13 generously letting their storefront area, sidewalk  
14 area or street area is not charging anything for that  
15 because they don't own it in that sense. But we will  
16 be, hopefully in the next few days, putting out the  
17 guidance on that and we certainly want to encourage  
18 it.

19 We think it will help a lot more restaurants  
20 either get more space or be able to participate in  
21 the program and we will say to all of you, if you  
22 have restaurants that want to do that and need  
23 guidance, send them to our Borough Commissioner's  
24 Office and we will start working with them.

1  
2 COUNCIL MEMBER HOLDEN: Yeah, the weak link in  
3 this is, I want to echo Council Member Reynoso's  
4 concerns about the SLA enforcement because that same  
5 restaurant that took over space next to them, were  
6 set upon by the SLA saying that's not your address,  
7 so you can't serve liquor here, which is kind of like  
8 you know really nitpicking enforcement and it is  
9 really in this climate, that should not be done.

10 So, I just want to hope that the SLA, and we will  
11 speak to them, we will write them letters, to try to  
12 kind of back off a little bit on that. If they are  
13 right next to you, their premises, leave them alone  
14 please and let them try to recoup some of the money.

15 POLLY TROTTEBERG: We have heard that to and  
16 that's Council Member in part why we want to make  
17 sure that this is a more formalized process where we  
18 have sort of a documented agreement -

19 SERGEANT AT ARMS: Time expired.

20 POLLY TROTTEBERG: Talking to SLA. So,  
21 hopefully we will get them to back off in those  
22 enforcement situations.

23 COUNCIL MEMBER HOLDEN: Thank you. Thank you so  
24 much for your testimony, thank you.

1  
2 COMMITTEE COUNSEL: Thank you Council Member  
3 Holden. Now, we would like to call on Council Member  
4 Reynoso and followed by Council Member Levine as I  
5 understand he is in another hearing and may need to  
6 hop off this call. Council Member Reynoso?

7 COUNCIL MEMBER REYNOSO: Sergeant?

8 SERGEANT AT ARMS: Starting time.

9 COUNCIL MEMBER REYNOSO: Thank you. You know,  
10 nothing makes me happier than to see Bob Holden  
11 become an Open Streets advocate. So, I am extremely  
12 happy to hear that but he did mention related to  
13 tents Commissioner. I think part of the success that  
14 we had originally in the lessons learned I guess, a  
15 good lesson learned is that we had like one agency,  
16 just DOT kind of be the do all, end all.

17 Now, we are talking about FDNY taking on tents.  
18 Less than 100 feet, 40 feet here and then DOB comes  
19 in. Why not just give the authority exclusively to  
20 FDNY and keep DOB out of it for the most part. Like,  
21 do everything we can to limit how many agencies  
22 insert themselves into the regulating of outdoor  
23 dining.

24 POLLY TROTTEBERG: Listen, I think this is good  
25 feedback. You know, the Mayor just announced this

1 all last week. So, I hear what you are saying. Let  
2 us bring this back to City Hall. We understand. We  
3 want to try and make this one-stop shop and not make  
4 it complicated and full of red tape for restaurants.  
5 So, I think we can figure out a way to get there.

6 COUNCIL MEMBER REYNOSO: Okay, I appreciate that.  
7 Also, some of these structures that are being built  
8 are extremely elaborate and just make that we get  
9 guidance as to what then becomes like an enclosed  
10 sidewalk and like really having a good - I just,  
11 lessons learned I think you said, we wanted it to be  
12 free flowing. We wanted to kind of let the  
13 businesses figure it out and we were kind of just  
14 giving instruction thereafter. I think that was the  
15 right way to go. Some businesses it didn't help  
16 initially but overall, I think most businesses would  
17 think that this was a success.

18 But I just want to make sure that we have those  
19 things in order and I will give an example, if it is  
20 electrical heating, we are going to have to put what  
21 small businesses call yellow jackets running to the  
22 curb link to connect heaters to power.

23 So, just making sure we have clear guidance as to  
24 what that looks like. Like, paying attention to  
25



1 these little things. The SLA, I am glad that you are  
2 speaking to the SLA, what I am hearing from  
3 Commissioner and if you could just confirm it, is the  
4 SLA will take guidance from you. This adjacent  
5 property situation is a big problem. Are you saying  
6 that once you come up with the guidance that the SLA  
7 is going to abide by them?  
8

9 POLLY TROTTEBERG: I want to be careful in not  
10 speaking for them and those negotiations are  
11 happening at a high level, frankly between City Hall  
12 and SLA and I will say we certainly work with them to  
13 put out the first iteration of the program and we are  
14 going to work on them on this adjacent space  
15 question. But I don't want to speak for them and I  
16 think we have resolved every question. I will be  
17 honest with you; I don't know that we are quite there  
18 yet.

19 COUNCIL MEMBER REYNOSO: Okay. Yeah, us too. I  
20 got into a heated debate with a restaurant owner that  
21 thought that we were setting them up for failure.  
22 They said, you give us all this great outdoor dining  
23 with very loose regulations and then the SLA comes in  
24 and just destroys us for the same regulations that  
25 you just approved, that you just told us we can do.

1  
2 And I felt terrible that he was having that type of  
3 experience considering that our goal here is to do  
4 everything we can to help them and make this easy.

5 So, I just want you to know that your  
6 communication with SLA I think is going to be a rare  
7 and an important thing.

8 POLLY TROTTEBERG: And I will just add Council  
9 Member, I think SLA hearing from all of you is  
10 helpful as well.

11 COUNCIL MEMBER REYNOSO: Okay. Alright, I always  
12 tell folks I'm not the Assembly Member. I am not the  
13 Senator, I am not a State Rep and they were like,  
14 that's punting it is what they told me. I was like,  
15 no problem, I will write my letter and I will do my  
16 part and hopefully with the support of the Chairs  
17 here, maybe we can write a joint letter from the City  
18 Council to the SLA, saying we really hope that they  
19 can abide by common goals and rules here with the  
20 DOT.

21 In order of priority, and this is my order of  
22 priority. It is people first which is public  
23 transportation, city bike, trains are first priority  
24 on our streets always and then I say business second  
25 and then vehicles last right, like I want to make sur

1 that you know from me that I think the order of  
2 things should always have the private individual  
3 vehicle user be the last line of street usage when it  
4 comes to these types of things. You know, business  
5 wanted, if there is a bike rack, if there is a bus  
6 stop, that we give that priority over an individual  
7 car and I hope you heave that from me and that you  
8 understand that I am advocating for you to prioritize  
9 that way.  
10

11 The last thing, I have one more thing that I  
12 wanted to tell you, but my time is running out. So,  
13 I would just say Commissioner, you have done an  
14 amazing job. I think the city is good for - yes,  
15 this is what I wanted to say. If not for the  
16 coronavirus, our Mayor would have never, never  
17 allowed for outdoor dining to happen. His world view  
18 is very, very narrow when it comes to street space.

19 SERGEANT AT ARMS: Time expired.

20 COUNCIL MEMBER REYNOSO: So, I just want to  
21 continue to have a conversation with my colleagues  
22 that are not necessarily been open streets or  
23 rethinking streets advocates or thinking about it  
24 that way. Just think about how great this program  
25 has been. How great Safe Streets has been Open

1 Streets have been and breaking away from this car  
2 centric individual parking usage mentality will make  
3 this city a much more higher quality, a quality of  
4 life living space. And I hope that we continue to do  
5 these type of things.

6  
7 Thank you so much to all the Chairs, to the  
8 Commissioners and to the Committee Council. Thank  
9 you.

10 COMMITTEE COUNSEL: Thank you Council Member  
11 Reynoso. We would now like to call on Council Member  
12 Levine followed by Council Member Powers. Council  
13 Member Levine?

14 SERGEANT AT ARMS: Starting time.

15 COUNCIL MEMBER LEVINE: Thank you so much and  
16 thank you to our Chairs. I would like to ask about  
17 awning rules and giving the extension of dining year  
18 around. Whether year around awning installation is  
19 permitted and what are the rules about material  
20 requirements, the approval process etc.

21 I am not sure if that's a question for you  
22 Commissioner Trottenberg but perhaps you can clarify  
23 which agency would have jurisdiction there.

1  
2 POLLY TROTTENBERG: It is not a DOT issue, is it  
3 Commissioner Salas? I am sorry guys; I am not sure  
4 who does awnings.

5 LORELEI SALAS: No, I believe it is Department of  
6 Buildings that actually you know, regulates the  
7 awnings situation.

8 COUNCIL MEMBER LEVINE: Got it. So, a related  
9 question about the sidings that are sometimes used  
10 for awnings during colder months, would that also be  
11 under the DOB jurisdiction?

12 LORELEI SALAS: I believe so but you know I will  
13 be happy to have my team get back to you to confirm  
14 that but I believe that's also part of Department of  
15 Buildings code.

16 COUNCIL MEMBER LEVINE: This really will be  
17 important to extend usability into the colder months  
18 and so, I would love to get some clarification on  
19 that and then, just one more brief procedural  
20 question on the hours of operation that are allowed.

21 Will the mandated closing time be the same for  
22 indoor dining and outdoor dining? You can see why  
23 otherwise that would be an operational problem.

24 POLLY TROTTENBERG: Yeah, that question has  
25 arisen when we originally announced the outdoor

1 dining, it was till 11 at night because we were I  
2 think trying to find a good time that worked for  
3 restaurants but also was not keeping folks up at  
4 night. The indoor dining has now been announced  
5 allowed to midnight, so there is an inconsistency  
6 there.  
7

8 I think we are discussing about potentially  
9 harmonizing it. I would welcome anyone's views on  
10 that topic. I don't know that we've resolved it and  
11 I'm sure the industry will have their own views on  
12 it.

13 COUNCIL MEMBER LEVINE: Well, certainly  
14 restaurant owners that I've heard from have made the  
15 point that it would just be very difficult  
16 operationally if you don't have harmonized closing  
17 hours and just thinking about the indoor space being  
18 open for another hour. It's pretty hard to run a  
19 restaurant solely on 25 percent of your table space,  
20 which is what you would be left with.

21 So, I certainly applaud you for working to get a  
22 common closing time for all sides of the business.

23 POLLY TROTTEMBERG: Your constituents would be  
24 okay with outdoor dining going till midnight?  
25

1  
2 COUNCIL MEMBER LEVINE: I think they would but we  
3 will campus folks in the neighborhood on that. I  
4 have heard mostly from businesses who certainly would  
5 welcome that but I guess this is a chance to get it  
6 right but having the common closing time for both  
7 sides seems like the right policy and I do also want  
8 to echo what my colleagues have said to express  
9 gratitude to you Commissioner Trottenberg and to you  
10 Commissioner Salas for making outdoor dining happen.  
11 It has just been a game change for the city. We  
12 understand how difficult that has been to put into  
13 practice. We are grateful that it has happened  
14 quickly and that now it is going to extend through  
15 the winter.

16 It is just making New York City more livable and  
17 it has been a lifeline to our businesses and so, I  
18 want to thank you for that. That's it for me, back  
19 to the Chair's.

20 COMMITTEE COUNSEL: Thank you Council Member  
21 Levine. We would now like to call on Council Member  
22 Powers followed by Council Member Lander who had a  
23 question earlier but had to leave and is now back.  
24 Council Member Powers?

25 SERGEANT AT ARMS: Starting time.

1  
2 COUNCIL MEMBER POWERS: Thank you and thanks  
3 everybody for the questions and the opportunity to  
4 speak. I just want to start by saying that I think  
5 this has been an outstanding success and the SLA has  
6 been the worst part of it in their changing  
7 enforcement and the guidelines to restaurants and  
8 bars about how to comply and it has been kindly  
9 unfair to the folks in the industry. But for this  
10 part of the program that the city is running, it not  
11 only is a success but it was done essentially  
12 overnight to get this standing up and I want to give  
13 the agencies the shoutout they deserve to make it  
14 work. And I think I have actually run into not many  
15 issues in my district when it comes to noise or  
16 incidents, although I do know they are out there and  
17 they exist and I think it has been a major lifeline  
18 for businesses. And I think the rapid nature by  
19 which you got it up does deserve recognition and  
20 applause. So, thank you to all those agencies.

21 One of the issues that I did run into though was  
22 that there were folks who were really depending on  
23 this to be able to make a living and found out that  
24 they could not take advantage of it because of where  
25 they are situated on the street or you know, what



1 their location is. It could be a fire hydrant, it  
2 could be a bus lane, it could be other measures and I  
3 understand that. I recognize the challenge of that  
4 but moving forward, essentially you are putting some  
5 at a competitive disadvantage here because they are  
6 paying - you know they could be paying similar rent  
7 but getting half the space for the availability to  
8 use dining.  
9

10 Is there any thoughts or plan about how you might  
11 accommodate or help out those who are there but can't  
12 take advantage of outdoor dining. Obviously, this  
13 was the most critical moment to do that but even  
14 still moving forward, they would like to have the  
15 same advantage that others have which is to be able  
16 to expand their footprint.

17 POLLY TROTTEBERG: Thank you for your kind words  
18 and it is an excellent question and one we have  
19 wrestled with. We got the program up and running  
20 quickly as you said and we, you know, we tried to  
21 help as many restaurants as we could. The Mayor did  
22 announce last week and we have had some discussion of  
23 it here today. That particularly I think to help  
24 those restaurants that had a fire hydrant or a bus  
25 stop or whatever in front of them, that they can now

1  
2 make use of adjacent space if they can get the you  
3 know, the agreement of whoever is the building owners  
4 next door on either side and that includes sidewalk  
5 or roadway and I will say there that the Mayor has  
6 directed us to try and problem solve. And so, you  
7 know, hopefully this will open this program up to a  
8 lot more restaurants but if there are particular  
9 circumstances for a restaurant, please get in touch  
10 with us. Obviously, you can talk to Ed and Jennifer  
11 in our Bureau Commissioner's Office and we will - you  
12 know, we want to try and help as many restaurants as  
13 we can. That's the Mayor's guidance to us and you  
14 know, I think he announced a big expansion last week  
15 and we want to continue to make sure we get as many  
16 restaurants enrolled as we can.

17 COUNCIL MEMBER POWERS: Okay, and is the SLA on  
18 board with that? Because that's ultimately an SLA  
19 issue being able to use the space next to yours.

20 POLLY TROTTEBERG: Right, as I was saying  
21 earlier, City Hall, that's sort of being handled  
22 above my pay grade but City Hall is in negotiations  
23 with SLA. I cannot promise you that every detail has  
24 their sign off but -

1  
2 COUNCIL MEMBER POWERS: Okay, because the only  
3 warning I would give to restaurants that they are  
4 using their adjacent space is that the SLA license I  
5 believe only covers storefront and their space  
6 outside. So, if they do do that, they would be, I  
7 think, technically in violation of their liquor  
8 license, although I think many are doing it as some  
9 arrangement today.

10 How do we - utilities and street cleaning and  
11 other access to the street, they, I think would  
12 rightfully at either Department of Sanitation or  
13 utilities would rightfully be concerned about their  
14 ability to access to do work, emergency or planned.  
15 How does that work moving forward to do necessary  
16 work on streets where there is outdoor dining?

17 POLLY TROTTEBERG: Right, it is a profound  
18 issue. One I highlighted in my testimony and one  
19 that I think as we make this program permanent, we  
20 all need to collectively grapple with. People think  
21 of our streets as just a place for cars but there is  
22 as I think the Chief put it eloquently, a  
23 subterranean ecosystem. Sewer systems, wiring,  
24 subway infrastructure plus as you mentioned, the  
25 surface functions, repaving, striping, sanitation,

1 snow removal. We need to be sure that any kind of a  
2 program we do in the street can allow for all those  
3 city functions to happen and that does mean that  
4 we're going to have to have an ability at the city  
5 level to work with restaurants if we need to do our  
6 functions on the street. It is certainly something  
7 that is going to require some push and pull and some  
8 balancing. The city does have to maintain those  
9 streets and all the infrastructure on the streets and  
10 underneath the streets.  
11

12 COUNCIL MEMBER POWERS: Got it. And just to put  
13 this in some summary format, what do you see as the  
14 largest challenges ahead to do this in the coming  
15 months and to do it permanently?

16 POLLY TROTTEBERG: I mean, I think precisely the  
17 issue that you've raised and Council Member Reynoso  
18 raised, which is on our busiest corridors, you have  
19 competing curb uses. Not only restaurants but bus  
20 lanes, bike lanes, bike parking -

21 SERGEANT AT ARMS: Time expired.

22 POLLY TROTTEBERG: So, balancing all of that,  
23 particularly on the busiest corridors and then, how  
24 do we continue the street operations? How do we also  
25 enable restaurants to have some certainty about the

1 space they are able to have and what the requirements  
2 are to make it safe and to be sure that the city and  
3 the state can you know, certify.  
4

5 I think those are all things that when we  
6 announced this program, it was only going to be for a  
7 couple months. We didn't necessarily have to fully  
8 resolve all those questions. Now that we are going  
9 to make the program permanent, we are going to have  
10 to resolve those questions collectively and  
11 obviously, we have our industry partners here. They  
12 are going to certainly have a big seat at the table  
13 in how we do that.

14 COUNCIL MEMBER POWERS: Alright, thank you and  
15 Commissioner, one final question. What is your  
16 favorite restaurant in New York City?

17 POLLY TROTTEBERG: Oh, goodness, that is a tough  
18 question. I won't give a restaurant but I will  
19 mention just because it is close to where I live and  
20 I cite it as an example of I think one of the nice  
21 successes that was brought on Vanderbilt Avenue over  
22 in Prospect Park.

23 COUNCIL MEMBER POWERS: Yeah, it's great.

24 POLLY TROTTEBERG: But there are a lot of great  
25 restaurants and fun bars and they have really taken

1  
2 great advantage of this program. I patronize a  
3 number of them, I wont pick a favorite.

4 COUNCIL MEMBER POWERS: Okay, very diplomatic  
5 answer. Thank you, thanks everybody.

6 COMMITTEE COUNSEL: Thank you Council Member  
7 Powers. I would now like to call on Council Member  
8 Lander followed by Council Member Chin. Council  
9 Member Lander?

10 SERGEANT AT ARMS: Starting time.

11 COUNCIL MEMBER LANDER: Thank you very much.  
12 Thanks to the Chairs for this hearing and to all the  
13 agencies for their work and I will just start by  
14 underlining what all the Council Members have said,  
15 but what Council Member Powers just said about our  
16 gratitude here. I mean, this has been one of the  
17 very best things about this very dark time. You  
18 know, obviously from an economic point of view,  
19 saving these critical small businesses from watching  
20 our government be able to work together and have  
21 these agencies stand something up so quickly at such  
22 big scale.

23 I mean, I know we are all very critical of a lot  
24 that is going on. This is really like government get  
25 shit done success. As Antonio, Council Member

1  
2 Reynoso said, like the streets transformation, it is  
3 just fantastic. Fifth Avenue has been wonderful but  
4 I do have to agree that Vanderbilt, in some ways  
5 because it is sounded, it is just amazing. I have  
6 spent a lot of time there myself. I have been on  
7 Dikeman, I went to 34<sup>th</sup> to the Astoria open street.  
8 It has been transformative and not just in making  
9 people see our city as its kind of most you know,  
10 inspiring self as opposed to what is being said about  
11 it in some other courters. But the kind of  
12 solidarity that people are showing between  
13 neighborhoods and businesses and the people who are  
14 out there.

15       Anyway, it is remarkable and I am really grateful  
16 for it. And I also actually, we won't do it here but  
17 Commissioner Trottenberg, I want thank you also for  
18 even with that going on, being willing to work with  
19 DOE and stand up the Open Streets for Schools  
20 program, which I think has gotten a lot less  
21 attention but if the numbers of the schools around  
22 the city match within my district, it is also an  
23 enormous program that is really opening up street  
24 space for our kids in ways that I think could be also

1 really exciting and transformative. So, I just want  
2 to add that appreciation.  
3

4 I am going to ask the same questions that I asked  
5 Commissioner Salas when we had this initial hearing  
6 because as much as I am thrilled about this program,  
7 the one distress I have is that I don't think we are  
8 doing enough to share its benefits with the workers  
9 who work in these restaurants and we can be doing  
10 more in ways that do not impinge on their ability to  
11 succeed even in these challenging times.

12 So, I just want to start by asking the question;  
13 I think I know the answer here but the restaurants  
14 that are permitted for open streets, they can  
15 continue to do delivery, yes? You know, while they  
16 are also having outdoor dining?

17 I think you are on mute but you can just nod for  
18 this part. I know the answer is yes, they obviously  
19 are allowed to do delivery and of course, if they  
20 hire their own employees to do delivery, then their  
21 employees are covered by New York City's Paid, Safe  
22 and Sick Leave law, correct?

23 LORELEI SALAS: Absolutely, yes.

24 COUNCIL MEMBER LANDER: But if they use a  
25 services like Doordash or Instacart or one of the



1  
2 others or Uber Eats and their delivery workers are  
3 considered independent contractors by those third  
4 party app companies, then those workers do not  
5 receive paid sick leave currently, right.

6 LORELEI SALAS: That is correct. It wouldn't be  
7 covered and either the city or the state or the  
8 federal Paid Sick Leave Law.

9 COUNCIL MEMBER LANDER: Okay, but it would be  
10 covered by the legislation that you testified on in a  
11 hearing that we had and that we could then make sure  
12 the food delivery workers had Paid, Safe and Sick  
13 leave, even right now during the pandemic?

14 LORELEI SALAS: Yes, the proposed legislation  
15 testified on certainly would open the doors for these  
16 workers to have the same protections as other workers  
17 that have a W2 from the restaurant to get sick leave.

18 COUNCIL MEMBER LANDER: Yeah, and so, I will just  
19 note Seattle followed our lead today, we, for Uber  
20 and Lyft drivers gave Uber and Lyft drivers the  
21 minimum wage or a minimum rate of pay. Seattle  
22 followed our lead in doing that which is great but  
23 they are ahead of us on this, they did extend Paid,  
24 Safe and Sick Leave for app drivers and we should do  
25 the same. We should do it as part of this package.

1  
2 If we are going to extend this program, we should  
3 make sure those food delivery workers have Paid Sick  
4 Leave.

5 So, I hope and I know a lot of members on here  
6 are signatory for that legislation but I hope we will  
7 get it done. It has been stuck since April and we  
8 should pass it. And then I guess my other question  
9 is - and I don't begrudge them but fast food  
10 restaurants if they wish, are able to avail  
11 themselves under this program and set up a dining  
12 outside in front of their restaurants?

13 POLLY TROTTEBERG: Every restaurant that meets  
14 the criteria is able to do so.

15 COUNCIL MEMBER LANDER: Great and my point is not  
16 that they should not be allowed to. I, you know, I  
17 think it is good for them to be able to but I will  
18 just point out and my time is expiring, that there is  
19 legislation that would require that the fast food  
20 restaurants who have been notable employers who have  
21 fired people without cause or reason could be  
22 required by legislation to only fire people for a  
23 just cause.

24 SERGEANT AT ARMS: Time expired.  
25

1  
2 COUNCIL MEMBER LANDER: And we should also move  
3 this opportunity to move forward, so that we are not  
4 only helping our restaurants and our neighborhoods  
5 and all of us like me, who love this program but  
6 their workers as well. So, thank you very much for  
7 this hearing and for all the work, both for the  
8 Chairs of the Committee on the hearing and to the  
9 Commissioners for their agency work.

10 COMMITTEE COUNSEL: Thank you Council Member  
11 Lander. I would now like to call on Council Member  
12 Chin followed by Council Member Gjonaj. Council  
13 Member Chin please.

14 SERGEANT AT ARMS: Starting time.

15 COUNCIL MEMBER CHIN: Thank you. Thank you to all  
16 the Chairs, thank you Commissioner. First, I wanted  
17 to start really thank you Commissioner Trottenberg  
18 and your amazing staff and especially, the Manhattan  
19 Borough Commissioner and Jennifer and everyone that  
20 does the Open Street and the Outdoor Café.

21 I know that in lower Manhattan, you know, it has  
22 been wonderful but it was also very hectic with  
23 restaurants that have so much problems but they were  
24 so beloved. The one on Ann Street, we finally got a  
25 solution and everybody just loves you guys for

1 helping us solve that problem. But there are  
2 unequalness going on. I mean, I have seen  
3 restaurants in lower Manhattan that happen to face  
4 like on Broad Street. I mean, I see the tables and  
5 chairs out there with table cloths. It is almost as  
6 they moved the whole restaurant outside.  
7

8 And then I have restaurants on Narrow Street,  
9 where they cannot take advantage of anything. So, I  
10 think allowing the usage of the space next door, that  
11 definitely will help some of the smaller restaurants.  
12 So, I think that offering the flexibility and working  
13 with the restaurants to see how they could utilize  
14 this program, is really so, so important.

15 So, I really hope that we can continue to work  
16 with your agency to make that happen. Because even  
17 like on Pearl Street, we have complaints that you  
18 know, people took over because the streets are wide  
19 on that stretch near Water Street. The restaurants  
20 just take over more than half the streets and that is  
21 a closed street.

22 And so, I think we really need to look at those.  
23 Shared streets are happening in China Town. I think  
24 which is great and one of the things that maybe DOT  
25 could look at, is some kind of signage like you do

1 with a shared street for the car to go slowly. Like  
2 Shared street is like 5 miles per hour. So,  
3 motorists, if you happen to drive down a street where  
4 there are outdoor dining, that you need to slow down.  
5 So, maybe there is a way of doing some creative  
6 signage.  
7

8 The other thing is that I know it is not DOT but  
9 it is Department of Consumer Affairs, the SLA issue,  
10 I think it is the same for the restaurants in my  
11 district. You know the enforcement, like the places  
12 that we want them to enforce, they don't do it and  
13 sometimes they pick on other people rather than the  
14 worst offenders.

15 And not be able to use their liquor license for  
16 next door space is problematic and we all have to  
17 really advocate for SLA to change that. And so, I  
18 think going forward, there has got to be some kind of  
19 comprehensive enforcement or supervision you know,  
20 along with like sidewalk café and open street, open  
21 dining because the noise issue is real. In my  
22 district along Orchard Street, I am sure a lot of you  
23 heard complaints about those. There should be no  
24 live music on the street and even any kind of loud  
25 music playing because you have residents on top. And

1 I think that there has got to be some kind regulation  
2 for the outdoor dining going forward, similar to  
3 sidewalk café and closing at 11, I think it should  
4 stay that way because people do need to get a good  
5 nights sleep.  
6

7 So, that's something I do want the city to really  
8 be mindful of. Like, we all support a lot of  
9 residents, they support the outdoor dining but there  
10 has also got to be a limit in terms of the noise  
11 factor, you know in this proposal.

12 So, I think going forward, we got to have better  
13 coordination and really a comprehensive look at how  
14 we can make this a permanent situation for New York  
15 City. Which I think is pretty amazing, if you go  
16 around many different neighborhoods. You know, in  
17 China Town or Lower East Side of West Village, I mean  
18 a lot of people have been utilizing the outdoor  
19 dining and I see you know, customers out there really  
20 enjoying it. But there is also, we got to make sure  
21 that residents are also being taking care of because  
22 there are some you know, bad actors out there and  
23 they know who they are. And we just got to make sure  
24 that you know, they don't just kind of destroy the  
25 situation for everybody else.

SERGEANT AT ARMS: Time expired.

COUNCIL MEMBER CHIN: So, I just wanted to you  
know, thank the Commissioner and your staff again for  
really helping to make this happen. Thank you.

POLLY TROTTEBERG: Let me just respond. Thank  
you Council Member Chin for all those very useful  
observations and I have certainly enjoyed the  
beautiful setups down in China Town. They have been  
terrific and I have actually seen the Steakhouse in  
question on Broad Street, right around the corner  
from my offices.

So, again, I think with the Mayor's announcement,  
we are going to try very hard. Restaurants that you  
feel need you know, a better opportunity to take  
advantage, bring them to us. You can bring them to  
Ed and Jennifer and we will do everything we can to  
try and help and good input on balancing peoples need  
to get a good night sleep with obviously making this  
program successful.

COMMITTEE COUNSEL: Thank you Council Member  
Chin. I would not like to call on Council Member  
Gjonaj followed by Council Member Levin. Council  
Member Gjonaj?

SERGEANT AT ARMS: Starting time.

1  
2 COUNCIL MEMBER GJONAJ: Commissioner, I just want  
3 to echo some of the credit that has been given to  
4 you. You have been incredible. As an individual, I  
5 am so fond of you. Although we haven't always agree  
6 on issues, you have always been there. You have  
7 answered the phone and you have addressed the issue  
8 the best way you can and I know that in many cases  
9 your hands are tied.

10 But we have to learn from past mistakes and when  
11 Open Restaurants became a reality, many of our  
12 restaurants took advantage. They are entrepreneurs,  
13 they serve that as life saver for them. They went  
14 out, they started building their barricades, making  
15 sure that they could use as much space as possible.  
16 After investing thousands of dollars into these  
17 barricades that were approved to find out that they  
18 were not approved.

19 And I go back to some of the questions that were  
20 mentioned earlier by some of the colleagues. DOB,  
21 DOT, FDNY, SLA, that's just on a city level. Then  
22 you have got the state. I think to date, over 2,000  
23 liquor licenses have been taken away from restaurants  
24 with no fault of their own in many cases.  
25 Jeopardizing their livelihood and their investment.



1  
2 What can we do to avoid that from reoccurring and  
3 part of the problem is the roll out. The Mayor  
4 announced right away, restaurants started buying  
5 tents, electric heaters, propane heaters in an  
6 attempt to get ahead of this.

7 After they invest these thousands of dollars,  
8 someone will come back in and say, oh, I am so sorry,  
9 your tent doesn't comply. It is not fire retardant  
10 or I am sorry, you brought in an electric heater, you  
11 now have an electric extension cord from your place  
12 onto this, that's illegal. Fire Department says that  
13 propane tank is not the right one. You can't return  
14 this stuff. You own it. They are operating at a net  
15 loss.

16 So, what guidance can you give and then I will  
17 ask my second question to avoid that from happening?

18 You are muted Commissioner.

19 POLLY TROTTENBERG: Well, the Committee muted me  
20 Council Member. Thanks for your kind words and  
21 listen, you know, I will definitely apologize, I  
22 think as I have said publicly, we got this program up  
23 and running very quickly. We were really building  
24 the airplane as we were flying it and there is no  
25 question that you know, the initial guidance we put

1 out on how strong the structure should be on the  
2 street, we realized early on and I wish we could have  
3 better anticipated it but again, this program was so  
4 brand new for us that we needed tighter guidance to  
5 make sure that these setups were safe. And you know,  
6 as I said in my testimony, early on a whole slew of  
7 city agencies kind of jumped in the act to try and  
8 help make the street setup safe. That was our  
9 primary goal and some of you have talked about that  
10 today. Obviously, we want to make sure patrons are  
11 safe when they are sitting in the street.  
12

13 I apologize for the confusion. You know, I know  
14 there were some challenges early on. I can say now,  
15 I think it probably took us about a month or so but  
16 we kind of regularized on our inspections. The city  
17 didn't find anybody. We tried to work with  
18 restaurants the best we could and you know, the vast  
19 majority of restaurants, like I think over 97 percent  
20 have been in compliance with our rules for a number  
21 of months now and hopefully are operating  
22 effectively.

23 So, I do apologize. We recognize that the  
24 program definitely had bumps early on and it was not  
25 our intention to try and make things confusing for

1 restaurants. We just wanted to make sure it was  
2 safe.

3  
4 COUNCIL MEMBER GJONAJ: Commissioner, I have less  
5 than a minute and I want to ask a couple more  
6 questions but I want you to finish that out and I got  
7 some other very important questions I want to ask  
8 you.

9 POLLY TROTTENBERG: Well, I will just quickly  
10 say, so certainly we are hearing today, a continued  
11 desire to make sure that the city family speaks with  
12 one voice. That we sort of minimize confusion and  
13 different messages to restaurants. I hear that loud  
14 and clear. We will continue to strive to do better  
15 on that.

16 COUNCIL MEMBER GJONAJ: Thank you. So, let's  
17 elaborate a little bit further. DOB is obviously  
18 going to be responsible for the size of the tent and  
19 the weights that hold the tent down. Let's make that  
20 public, so before they start buying these tents and  
21 the type of structures to make them safe or address  
22 early on. Including extension cords, including what  
23 type of propane tanks will be permissible in advance.  
24 They are out there now ordering. They are actually  
25 ordering and I am getting phone calls every day.

1  
2 But let's talk about requirements. When you use  
3 propane tanks, I believe there is a requirement for  
4 proper ventilation. I have no idea what that is.  
5 They certainly don't know what that is and under  
6 these circumstances, the possibilities of partial  
7 enclosures versus full in closures, they are going to  
8 spend a tremendous amount of money that will not  
9 allow them to adopt those -

10 SERGEANT AT ARMS: Time expired.

11 COUNCIL MEMBER GJONAJ: My follow up question and  
12 I thank the Chair's for allowing me to go into this  
13 in more detail. Please talk to me about neighbors.  
14 Is it one neighbor or several neighbors? Can you  
15 make agreements with two or three neighbors going  
16 down the street to expand your restaurant? And in  
17 addition to that, please answer the Open Streets  
18 program. If a neighborhood is fortunate enough to be  
19 allowed into the Open Streets program and currently  
20 in the Borough of the Bronx, they are off the revenue  
21 now. Will it conflict with other DOT regulations?  
22 East Tremont is a fine candidate for this and now you  
23 have a potential discussions, which we will talk  
24 offline about for road dieting. This is a big  
25 concern for this community, so please answer the Open

1 Streets conflict, how many neighbors, who is going to  
2 be responsible for the type of weight structures that  
3 will be used for these structures, the tie downs that  
4 is, extension cords, as well as what type of propane  
5 tanks will be permitted. Thank you.

7 POLLY TROTTEBERG: Am I unmuted now? Can you  
8 hear me?

9 COUNCIL MEMBER GJONAJ: Yes.

10 POLLY TROTTEBERG: Okay, sorry, I was muted  
11 again. Alright, let me try and answer your question  
12 in succession and I certainly think on the question  
13 of propane, I will turn that over to the Chief. I  
14 would say one thing, in the next couple days, the  
15 city is going to be putting out a lot of detailed  
16 guidance on this and I would ask you in talking to  
17 restaurants that you talk to in your district and  
18 around the city, hang on because we are going to give  
19 very explicit guidance and I think that will help  
20 make it clear for folks.

21 In terms of adjacent, what the Mayor has put  
22 forward is you can try and use the adjacent space on  
23 either side of your restaurant. You can use both  
24 sides, if you can reach an agreement with the  
25 building next door and if there is some very special

1  
2 extenuating circumstances, come talk to us. We will  
3 see if we can figure out a solution.

4 COUNCIL MEMBER GJONAJ: Commissioner, the devil  
5 is in the details. When you say property next door,  
6 is it the landlord or the one commercial space?

7 POLLY TROTTEBERG: It is the building owner.

8 COUNCIL MEMBER GJONAJ: The building owner. So,  
9 the building owner can be 100 feet wide, that whole  
10 100 feet can be utilized?

11 POLLY TROTTEBERG: If the building owner agrees,  
12 yes. And again, Council Member, we will be putting  
13 out specific written guidance on this and a template  
14 of what the agreement will look like. We hope to  
15 have that out in the next couple days.

16 COUNCIL MEMBER GJONAJ: Okay, and the other  
17 questions please, if you don't mind.

18 POLLY TROTTEBERG: And then, I don't know if the  
19 Chief wants to talk about the propane requirements.

20 JOSEPH JARDIN: Yeah, I will jump in and just  
21 address the propane question. There will be guidance  
22 coming out later that will detail the regulations  
23 surrounding the use of propane heaters. But I think  
24 it contemplates the most typical propane heater which  
25 uses a 20 pound propane cylinder.

1  
2 So, you know, that's all I can advise you right  
3 now Council Member is to await the ability to take a  
4 look at that guidance and then encourage your  
5 constituents to take a look at that closely.

6 COUNCIL MEMBER GJONAJ: What about extension  
7 cords for the electric heaters?

8 JOSEPH JARDIN: Yeah, so that's purview of the  
9 Department of Buildings. Unfortunately, I can't  
10 comment on those specifics, I apologize.

11 COUNCIL MEMBER GJONAJ: I think the Commissioner  
12 wants to respond.

13 POLLY TROTTEBERG: I will just say Council  
14 Member, we will have guidance on all of that and it  
15 will be harmonized amongst the city agencies on the  
16 electrical cord issue as well.

17 CHAIRPERSON COHEN: Thank you Council Member  
18 Gjonaj.

19 COMMITTEE COUNSEL: Thank you. Just a reminder  
20 to members of the Administration, if you can please  
21 stay unmuted. It takes a minute, there is a bit of a  
22 lag for us to unmute you when you mute yourself. So,  
23 we would ask that you please stay unmuted for the  
24 question and answer period. Thank you.

1  
2 I think for FDNY, there is a bit of feedback, so  
3 we will be muting and unmuting you. For everybody  
4 else, if they can please remain unmuted. Thank you  
5 and apologies for the technical confusion.

6 Council Member Levin, you are up for questions  
7 followed by Council Member Rose.

8 SERGEANT AT ARMS: Starting time.

9 COUNCIL MEMBER LEVIN: Thank you very much.

10 Thank you Commissioner, thank you Chair. My question  
11 is and I think you alluded to this in your testimony  
12 Commissioner Trottenberg.

13 You know, as per approaching this question of  
14 making the street restaurant use permanent, how are  
15 we considering how this essentially is giving a  
16 benefit or conferring a benefit to the owners of the  
17 property and not necessarily the businesses at all  
18 time. Obviously, it helps the businesses, it is  
19 helping the businesses right now. If those  
20 businesses were to go under, how do we access the  
21 increase in value to the owners property as a result  
22 of this?

23 You know, and then do we collect more property  
24 taxes as a result? I mean, are we thinking through  
25 these issues? Again, I am all for taking parking



1 spaces. I also, you know, there is also a balance to  
2 be struck in terms of how much of that space should  
3 really be converted into public use and whether this  
4 is you know, in some sense privatizing public space.  
5

6 So, I don't know if you want to - I know you  
7 spoke about that before but if you want to speak a  
8 little bit more specifically.

9 POLLY TROTTENBERG: Yeah, Council Member, thank  
10 you. I think that is actually one of the most  
11 profound and challenging questions here. I think in  
12 the course of sort of an emergency in the pandemic  
13 when in a lot of ways our streets were pretty empty  
14 and we all wanted to help not only do what we could  
15 to help our restaurant industry but obviously they  
16 employ hundreds of thousands of New Yorkers. And it  
17 felt, I think, very public spirited to say we are  
18 giving restaurants as of right, streets and sidewalks  
19 to use for commercial purchases.

20 I think going forward as a permanent program,  
21 that is a very complicated question and exactly for  
22 the reason you raised, which is in a sort of  
23 emergency order several month period, the  
24 beneficiaries are the restaurants who happen to be  
25 there at the moment.

1  
2 If this becomes you know, a permanent feature  
3 attached to a particular private property, then the  
4 balance sort of tips and it becomes somewhat a value  
5 more captured potentially by the building owner, who  
6 after all when one restaurant goes, they can create a  
7 lease with a new restaurant and factor in the value  
8 of this public space into that lease.

9 So, it's a very, I think a very challenging  
10 question and I don't have great answers for it today.  
11 I think certainly the legal experts from the city and  
12 the Council really need to sit down and wrestle with  
13 how we create a permanent program that helps an  
14 industry but retains the value of what is public  
15 right of way for the public.

16 COUNCIL MEMBER LEVIN: Right, I mean, just to you  
17 know, contrast that with how we do sidewalk cafés,  
18 which is you know, pretty – you know, we end up, it's  
19 pretty labor intensive I think on everybody's part.  
20 You know, certainly here at the Council, we have our  
21 Land Use division takes sidewalk café's very  
22 seriously and I am sure I'm not the only Council  
23 Member that's negotiated specific numbers of tables  
24 and chairs on specific restaurants.

1  
2 So, yeah, I mean again, I support our restaurants  
3 as a part of small businesses. I have introduced  
4 legislation that would create a commercial rent  
5 stabilization framework, which you know, could  
6 potentially address some of those rental increase  
7 issues but yeah, it's something to kind of you know,  
8 maybe think through you know, over the next few  
9 months as we kind of try to thread the needle.

10 POLLY TROTTEBERG: Agreed.

11 COUNCIL MEMBER LEVIN: Okay, so, that's it for  
12 me. Thanks.

13 COMMITTEE COUNSEL: Thank you Council Member  
14 Levin. I would like to call on Council Member Rose.

15 SERGEANT AT ARMS: Starting time.

16 COUNCIL MEMBER ROSE: Hi Commissioners, I want to  
17 thank you for your time and I just want to  
18 congratulate you on the success of the Open  
19 Restaurants program. You know, and I really want to  
20 applaud all the efforts to have the various agencies  
21 move away from working in silos. Can you hear me?

22 CHAIRPERSON COHEN: Yes.

23 COUNCIL MEMBER ROSE: Okay, working in silos.  
24 You know, I just wanted to ask for the sake of  
25 efficacy and financial and economic concerns of our

1 businesses that, that the messages, the guidance, the  
2 new rules are consistent and appropriate and are  
3 completely communicated to our businesses.  
4

5 You know, before they make the investments to try  
6 to comply with all the new rules and that the  
7 enforcement is consistent across all of the agencies,  
8 you know, I am really concerned about how the  
9 message, the guidance and the communications are  
10 gotten to our businesses. It was a common concern  
11 and a problem that I heard repeatedly where that  
12 often times they thought that they were working  
13 within the constraints that were given and they made  
14 investments only to have to change them.

15 And so, I'd really like to know how are we  
16 communicating with the businesses about the new, the  
17 guidance or the new rules that you know, are going to  
18 go into force?

19 POLLY TROTTEBERG: Yeah, thank you for the  
20 question and as I, I think I responded to Council  
21 Member Gjonaj. Look, we acknowledge, we were getting  
22 this program up and running very quickly. A lot of  
23 city agencies jumped into help and you know, we were  
24 not perfectly aligned on everything and we certainly  
25 apologize for that and I think we have tried. I am

1 hoping you are hearing fewer complaints. We have  
2 tried over the weeks and months to have a more  
3 unified approach to standardize our rules. We have  
4 put a lot of information online, including videos on  
5 how to do a set up. My agency, we stood up basically  
6 a phone, an email operation that has taken thousands  
7 and thousands of calls and small business services  
8 has done the same.  
9

10 You know, we have tried through social media,  
11 working, you know, we have Andrew Rigie here from the  
12 Hospitality Association and other such groups. We  
13 have tried to put out the word in every way and  
14 obviously, we have worked with a lot of you here on  
15 the Council. We will continue to try and to that.  
16 You know it something we know we can always do  
17 better. The restaurant industry is big and diverse  
18 and I think a lot of us have also tried to make sure  
19 we are getting our materials into many, many  
20 different languages because obviously we have  
21 restaurant tourists who hail from every corner of the  
22 globe. You know, if there are ideas about how we can  
23 continue to do better, we would certainly like to do  
24 so but I think we have certainly over the weeks taken  
25 the criticism to heart that the program started off

1  
2 you know, with a lot of different agencies jumping in  
3 and we've tried to make it a more unified set of  
4 messages, requirements, education enforcement.

5 COUNCIL MEMBER ROSE: Oh, and we're not going to  
6 penalize them for any mixed messaging that you know,  
7 that's been distributed, that's out there. We are  
8 giving them like notification or wanting's or time's  
9 to mitigate whatever the problem was before.

10 POLLY TROTTEBERG: For DOT, again, we have not  
11 fined any restaurant. I know SLA has been fining  
12 restaurants and that's a state agency. I can't speak  
13 to what they have been up to. DOT has not fined any  
14 restaurant and I know you will probably say some of  
15 your restaurants heard from us many times early on  
16 but that was because we were trying to work with  
17 restaurants and I want to thank my team. My  
18 inspectors who many of you know because you see them  
19 out in your neighborhoods.

20 Those men and women spent hours in the hot sun  
21 this summer talking to restaurants, walking them  
22 through with diagrams. We put together a video and  
23 you know, I think in almost all cases, we were  
24 working with those restaurant tourists to get to a  
25 place again, with a goal particularly for DOT of

1  
2 having a safe set up in the street. Which I think we  
3 all share that goal. We don't want to have a tragedy  
4 happen with a structure that's flimsy.

5 COUNCIL MEMBER ROSE: Okay, thank you, thank you.

6 COMMITTEE COUNSEL: Thank you Council Member  
7 Rose. I will now turn it back to the Chairs. Chair  
8 Cohen.

9 CHAIRPERSON COHEN: You know, just in the spirit,  
10 I am trying to run the hearing efficiently, which is  
11 why maybe I didn't take a second also, I should have  
12 acknowledged, I do think that open dining has been a  
13 spectacular success and you know, I was skeptical at  
14 the last hearing when we talked about what the  
15 implications would be and how it would you know, fit  
16 in with the community that I represent and I have a  
17 lot of the outdoor dining establishments in the  
18 Bronx. And there were some hiccups, I think it is  
19 fair to describe in the initial setup but I think you  
20 testimony. I think robbery you testimony in that  
21 those hiccups seem to have gone away and you know,  
22 when I go to my local restaurants and talk to the  
23 owners, everybody is satisfied with the way things  
24 are running. So, I just wanted to acknowledge that.

25 POLLY TROTTEBERG: Thank you.

1  
2 CHAIRPERSON COHEN: I do have a few more  
3 questions. Maybe this is FDNY but are we concerned  
4 about self-certifying and using the heaters because  
5 we want to eliminate the requirements of having an  
6 architect or a professional do the layout and now we  
7 are adding an additional complicating element of the  
8 heater. Are we concerned about that or do we think  
9 that that can work?

10 JOSEPH JARDIN: Well, it's not complete self-  
11 certification Mr. Chair. It's a to start, they are  
12 going to in a sense self-certify by submitting it at  
13 that station to us but in that attestation it will  
14 clearly reflect that they have some follow up you  
15 know, administrative activity to complete before it  
16 is all finalized. Including taking a test for a  
17 certificate of fitness and then being subject to our  
18 oversight right, if we happen upon that location and  
19 conduct an inspection, of course we would expect that  
20 it would comply with the parameters it will be in the  
21 guidance.

22 CHAIRPERSON COHEN: So, FDNY is not just going to  
23 say, oh, they provided the plan we will check the box  
24 but you are going to do a more substantive review of  
25 what the applicants missed?



1  
2 JOSEPH JARDIN: Yes, indeed, we will review the  
3 submittals and then follow up like I said, with the  
4 business owner to ensure that it is meeting our  
5 expectations of achieving a safe environment given  
6 the use of that you know, potentially hazardous  
7 propane. Right, we're trying to manage so we are all  
8 protected, right.

9 CHAIRPERSON COHEN: Thank you. Commissioner  
10 Trottenberg, you know again, in my first round of  
11 questioning, I sort of was a little concerned that  
12 we're calling this a permanent program. Do you think  
13 that an outdoor program might look different in a -  
14 you know, if there is ever such a thing as a post  
15 COVID world, it might look different than the one we  
16 are trying to develop to try to get us through the  
17 circumstances we currently face. And might it be  
18 kind of smarter to take an approach of like, we have  
19 an immediate crisis and we want to try to support the  
20 restaurant industry through the crisis and then try  
21 to also look for maybe a longer term plan that you  
22 know, for the reasons that you know, Council Member  
23 Levin and Reynoso and Lander talked about that you  
24 know, re-envisioning our streets doesn't have to be  
25 done at the tip of a COVID gun. Like, we could do it

1 in a way that's more thoughtful and less reactive,  
2 frankly.

3  
4 POLLY TROTTENBERG: I think that's right Chairman  
5 Cohen and I certainly think as I've said, we got this  
6 program up and running quickly in response to you  
7 know, a real sense that our restaurants were in  
8 desperate need of assistance. A lot of the sort of  
9 normal city functions that we would do on our  
10 streets, we sort of – we let those go for a few  
11 months. A longer term permanent program has to  
12 tackle those issues.

13 And I will just say in spirit of that, I hope  
14 that I know the Council and you have been great  
15 partners on this and we're so appreciative and you  
16 have been so nimble in your legislative approach but  
17 I think for the decisions about making a permanent in  
18 perpetuity post-COVID program, we should take a  
19 little time and get it right. Because obviously,  
20 even just listening to all of you today, you all  
21 bring diverse opinions on some of these very weighty  
22 topics. You know, DOT and all our city agencies, we  
23 have our own expertise to bear. I'd like to be  
24 careful we didn't codify anything as you sort of put  
25 it in the COVID heat of the moment that two years

1 later when hopefully COVID is in the rearview mirror,  
2 we realize perhaps doesn't fit the times anymore.

3  
4 CHAIRPERSON COHEN: Yeah, in that spirit and I'm  
5 trying not to be you know flippant but like, I've  
6 been concerned as this hearing was approaching as we,  
7 you know, if we take the outside and we you know we  
8 put it in a tent and we wrap it in plastic and we try  
9 to heat it, at what point does the outside become the  
10 inside? And ultimately, we are doing this as, the  
11 reason that we don't have indoor dining in the first  
12 place is there is a public safety concern and I'm  
13 concerned about how you know, that you are going to  
14 be able to serve customers in an environment that is  
15 you know, reasonably warm and comfortable and yet,  
16 safe in terms or reduces or minimizes the risk of  
17 COVID transmission.

18 And I realize you are the DOT Commissioner, not  
19 the Health Commissioner but I don't know if there is  
20 you know, that's I guess again, in my original  
21 questioning that I think the Department of Health has  
22 to play a role here in making sure that we have a  
23 safe plan.

24 POLLY TROTTEBERG: Right, well, and certainly I  
25 think it was the Department of Health guidance that

1  
2 as obviously the governor has determined at least for  
3 New York City and I know there is a lot of  
4 unhappiness about that of my pay grade. That we're  
5 only going to be at 25 percent capacity starting  
6 today. That you know, enclosed outdoor space should  
7 mirror that.

8 I think your right Mr. Chairman. The genesis of  
9 this program was that restaurants could not serve  
10 inside and so, we were giving them outside space. I  
11 think those at the program has opened our eyes up to  
12 some bigger possibilities. Which is the restaurant  
13 industry was struggling before coronavirus and this  
14 opportunity for them to have extra space I think is  
15 something they will potentially want even when  
16 coronavirus is gone. And I think certainly, I am  
17 hearing it from some of you today and from many other  
18 New Yorkers, people really like having more outdoor  
19 dining. Coronavirus aside and I think balancing  
20 those other sort of good outcomes of this program,  
21 you know, part of what I think the Administration  
22 wants to make sure working with the Council and the  
23 industry that we get that balance right.

24 CHAIRPERSON COHEN: But you would agree, I mean  
25 there are other models than the one that we're

1  
2 implementing. I know that you mentioned that your  
3 offices are downtown but I think it is Stone Street  
4 down there, where you could have dedicated sort of  
5 areas where this is done and make the entire street  
6 available, which would you know, could deal with some  
7 safety issues but there are other models than the one  
8 we've just implemented and I think that we should  
9 have our eyes open and kind of again, do it in a  
10 thoughtful way.

11 POLLY TROTTENBERG: No, and I think the Open  
12 Streets calling open restaurants is sort of attempt  
13 to copy the Stone Street model, which is completely  
14 closing off the street where now we have I think 84  
15 locations around the city. You know, where we are  
16 letting - it started only to be weekends, we are now  
17 letting it in some places be seven days a week.

18 The challenge we face when we first started this  
19 program was you know, yes, the Stone Street model is  
20 ideal. It is the safest, it is the most delightful.  
21 But Stone Street is a very unique little spot where  
22 actually all the restaurants have streets that they  
23 face out on to and that interior space that people  
24 sit in is really more of a courtyard than an actual  
25

1 street and we just realized, we couldn't implement  
2 that citywide in a flash.

3  
4 Certainly, going forward, we agree, that's a very  
5 nice model.

6 CHAIRPERSON COHEN: Well, you say in a flash but  
7 again, if we're looking at you know, sort of again in  
8 a post COVID world and we don't have the Department  
9 of Health here and we don't have the Department of  
10 City Planning here but you know, there could be ways  
11 that we could I think encourage Stone Street type  
12 model set ups through zoning or through other you  
13 know, rule making that we might want to take  
14 advantage of.

15 You know, one last concern. I've seen it in my  
16 own district, deliveries I think are challenging in  
17 the setup that we have now. What has DOT encountered  
18 in terms of dealing with that and particularly, you  
19 know, maybe you know, as the economic vitality comes  
20 back and you know, what challenges are related to  
21 that?

22 POLLY TROTTEBERG: And again, just to sort of go  
23 back to that Stone Street model, that's part of why  
24 Stone Street works. The restaurants all get their  
25 deliveries on the streets on the other side of their

1 building. So, you know, a lot of the street  
2 function, they still get to have that and have that  
3 beautiful outdoor space, right. In a lot of  
4 commercial districts, we don't have that. The street  
5 has to be everything. It has to be now the places  
6 for you know, the restaurants, the buses, as well as  
7 commerce and so forth.  
8

9 I don't know that I have an easy answer there.  
10 We obviously, for the restaurants themselves and for  
11 the rest of the city, need to make sure we can still  
12 have a flow of commerce. And that's a challenge, as  
13 you look at a Stone Street model, that is a challenge  
14 you have to work through.

15 I know in some European countries where they have  
16 a lot more Stone Street type models, deliveries  
17 happen in the early morning hours and then the street  
18 is closed off for the rest of the day. I think we  
19 can potentially look to do a lot more of that as  
20 well.

21 CHAIRPERSON COHEN: Okay, I think Chair Rodriguez  
22 has a second round and I'm going to turn it over to  
23 Chair Rodriguez.

24 CHAIRPERSON RODRIGUEZ: Thank you. Thank you  
25 Chair. Look, first of all, I feel that as you have

1 said that from Riverdale to other areas that you  
2 represent, the whole world. In boroughs of  
3 Manhattan, to the five boroughs, we have seen how  
4 important being the open street restaurants. And I  
5 think being fair to everyone, no one, from Mayor,  
6 Commissioner, Council Members, Speaker, Governor,  
7 thinking that we will an open street in this city as  
8 a one that we have today if we wouldn't have been hit  
9 from the coronavirus.  
10

11 I think that our challenges are, and it's like  
12 one generation things that happen, is how do we come  
13 out from this crisis stronger. That is the type of  
14 leadership that we need at this moment. And I feel  
15 that all those questions and suggestions that we have  
16 brought today and the great participation also from  
17 all the Commissioners, this is what we should be  
18 bringing and putting together in order to come out  
19 from this process stronger than ever. And thinking  
20 that coronavirus will be over, the Open Street  
21 restaurant will be in place.

22 What is the structure that we will have in place  
23 to oversee this program? And in that direction,  
24 Commissioner, so far, like how many members from your  
25 team are dedicated to Opening Streets Initiative?



1 And of course, as you have said before, you know this  
2 is something nice, new. I don't know how much of  
3 your budget from other needs has been taken away in  
4 order to dedicate the team of people to focus on the  
5 Opening Streets Initiative but since we got to be  
6 thinking about money and how does the team that  
7 oversees the Opening Street Initiative look like  
8 inside DOT? Do you see as a possibility that as we  
9 move on, we have a more solid inside team of people  
10 dedicated to all receive the Opening Streets  
11 Initiative, Open Restaurants, I'm sorry.

13 POLLY TROTTEBERG: Yeah, it is a great question  
14 Mr. Chairman. Thank you for asking it and I want to  
15 again, just take a second to thank my team. Because  
16 I will admit, when we jumped into this, a lot of  
17 things we didn't know. We had to learn on the fly  
18 and it has sort of pulled folks from many different  
19 parts of my agency. I would say that hundreds and  
20 hundreds of DOT team members became part of the  
21 effort, starting with you know, our Traffic and  
22 Planning Management Group that had originally run  
23 street seats on our plazas and were sort of the brain  
24 trust in starting to think about who we put this  
25 program together.

1  
2 They also became very involved. They were part  
3 of Open Streets and then Open Streets restaurants.  
4 Eric Beaton, Sean Quinn, a whole big team there.  
5 Borough Commissioner's Offices who have taken a lot  
6 of income and worked with a lot of you, a lot of  
7 restaurants, a lot of community boards. My  
8 inspectors and extraordinary team of men and women  
9 who typically are out looking at construction sites  
10 and roadway defects who suddenly became the  
11 restaurant roadway setup inspectors for New York City  
12 virtually overnight. And I got to spend some time  
13 with them out in the field and it was hard work being  
14 out there in the hot sun visiting every restaurant  
15 that was participating in this program. And sometime  
16 multiple times, helping them work through this.

17 Our IT division led by Cordell Schachter who  
18 again put together so quickly the platform for all  
19 the restaurants to do that quick and nimble  
20 application. The public facing portal that ever one  
21 has seen that lists all the restaurants.

22 So, it's been an extraordinary team effort led by  
23 our Chief Operations Officer Margaret Forgione and  
24 really at all hands on deck, you are right going  
25 forward as we sort of think through the deeper

1 structure, we will need to regularize that to some  
2 degree. A lot of folks here put aside other duties  
3 you know, temporarily to focus on that but we will  
4 have to kind of rebalance as the city continues to  
5 get back to normal.  
6

7 CHAIRPERSON RODRIGUEZ: And I end with this, last  
8 night we saw how New York City is under attack by  
9 Washington. And no, we are not a ghost, no we are  
10 not invisible. No, we are a city that is strong and  
11 I think that what was taught last night is to all  
12 leaders in government, regardless if we are in the  
13 legislative or in the Administration. And I think  
14 that New York City serves as a role model and I think  
15 that as we have seen before in that – first of all,  
16 thank you to also for coming together with your  
17 husband to do the bike tour in lower Manhattan. But  
18 when we ended that tour, I went back to Highbridge  
19 Park and when you walk around 162<sup>nd</sup>, you will see a  
20 sign with the historic information on the water tower  
21 that was used up to the beginning of the 19<sup>th</sup> Century  
22 to bring water from Winchester to Manhattan. And one  
23 of the reasons based on the information there that  
24 the city decided to start reinventing how to bring  
25 water, because they link it to the city that was

1 created. [INAUDIBLE 2:14:18] used to bring the water  
2 from Winchester and the health epidemic that we dealt  
3 with at the beginning of the 19<sup>th</sup> Century.

4 So, no doubt that this is a moment where we are  
5 on call. Where we have been creative. I think that  
6 as we are spending this time to talk about the Open  
7 Restaurants Initiative, the city has a big  
8 responsibility to bring together leaders and see how  
9 in [INAUDIBLE 2:14:44] and education, we will come  
10 out with new ideas with innovation.

11 So, I am happy with what we have seen. As  
12 someone as I have said before, I have served in  
13 previous Administration, in this Administration, I  
14 also know what it is to be working in an  
15 Administration that will only have a couple of months  
16 and it is more easier to focus on criticizing  
17 everything that is not working to be rushed and  
18 understand, yes, we are not being able to accomplish  
19 everything.

20 But I am proud of the work that we have done in  
21 both sides and even though we don't agree on every  
22 aspect on any program including the Open Restaurant  
23 Initiative, I think that we are moving the right  
24 direction. And I know that when the coronavirus with  
25

1  
2 be over, hopefully months from now, we will continue  
3 having an Open Restaurant Initiative that everyone  
4 will be proud of. So, with that, thank you everyone.

5 POLLY TROTTEBERG: Thank you Mr. Chairman.

6 CHAIRPERSON COHEN: Thank you Chair. I just have  
7 - if you don't mind, I just have one more. In terms  
8 of complaints about the program from the public, is  
9 DOT receiving 311 data? Do you know about - does SLA  
10 notify anybody if there is a fine or are they, like  
11 in terms of collecting sort of a single data point  
12 about you know complaints where it is not working or  
13 where there may be issues?

14 POLLY TROTTEBERG: We sort of get complaints  
15 from different venues 311. Sometimes we hear it from  
16 your offices or people go to our Borough  
17 Commissioners offices.

18 I have to confess, I am sorry, I don't know the  
19 answer to whether we are sort of notified when SLA  
20 does their enforcement actions. I don't think we are  
21 but I will have to get back to you on that and I  
22 would say overall, of course, I appreciate what the  
23 Chairman just said, someone who spent many years in  
24 Washington and knows how New York City is often a  
25 symbolic punching bag. He is right we are not

1 anarchy and we are not a ghost town. We are I think  
2 an incredibly resilient place.  
3

4 But I think relatively speaking for a program of  
5 this magnitude and scope, where we have not gotten as  
6 many complaints as might be expected and I thank New  
7 Yorkers. They have certainly I think been sort of  
8 tolerant in going with the flow as obviously, we have  
9 stood this program up and had to iterate it so  
10 quickly. And I think there has been a great spirit  
11 amongst New Yorkers and not too many complaints but I  
12 will get you those statistics Mr. Chairman if you  
13 need them.

14 CHAIRPERSON COHEN: I would appreciate that. I  
15 think it would just be helpful, I think.  
16 Commissioner Salas, I don't know if your agency - I  
17 know the sidewalk, the traditional sidewalk café has  
18 sort of run through the DCWP but I don't know, are  
19 you getting any complaints about restaurant industry  
20 that people are making to your agency?

21 LORELEI SALAS: Not with respect to street  
22 dining. So, I'm not aware of any complaints. We do  
23 have touch point with the street dining from the  
24 perspective of doing business, outreach and education  
25 alongside with our partners from SBS. We think going

1 door to door with the materials put together by DOT  
2 and other sister agencies, making sure that, you know  
3 a lot of our neighborhoods that were the most  
4 impacted with COVID-19. Small business owners who  
5 oftentimes happen to be immigrants, have the  
6 information in their hands. Have their questions  
7 answered in real time and today, we have done over 30  
8 of those business education days and spoke one on one  
9 with 1,500 business.  
10

11 So, you know, in that way we are collaborating  
12 with other sister agencies to get the word out there  
13 of this amazing program and to make sure people can  
14 access it without difficulties.

15 CHAIRPERSON COHEN: I really want to thank the  
16 Administration for their time. Balgees, we don't  
17 have any more right, any more questions.

18 COMMITTEE COUNSEL: No.

19 CHAIRPERSON COHEN: I really want to thank the  
20 Administration for their time and Commissioners for  
21 their time and thoughtfully answering our questions.

22 POLLY TROTTEBERG: Thank you Chairman Cohen,  
23 Chairman Rodriguez and Council Members.

24 LORELEI SALAS: Thank you Chairs.  
25

1  
2 COMMITTEE COUNSEL: Thank you. We will now turn  
3 to public testimony. I would like to remind everyone  
4 that unlike our typical Council hearings, we will be  
5 calling individuals one by one to testify. Each  
6 panelist will be give two minutes to speak. Please  
7 begin once the Sergeant has started the timer.

8 Council Members who have questions for a  
9 particular panelist should use the raise hand  
10 function in Zoom and I will call on you after the  
11 panelist has completed their testimony.

12 For panelists, once your name is called, a member  
13 of our staff will unmute you and the Sergeant at Arms  
14 will give you the go ahead to begin upon setting the  
15 timer. Please wait for the Sergeant to announce that  
16 you may begin before delivering your testimony.

17 I would now like to welcome Andrew Rigie followed  
18 by Rob Bookman to testify. Andrew, you may begin  
19 your testimony after the time.

20 SERGEANT AT ARMS: Time begins now.

21 ANDREW RIGIE: Good afternoon, I am Andrew Rigie,  
22 the Executive Director of the New York City  
23 Hospitality Alliance. There are so many people to  
24 thank, so without wasting my time I will say thank  
25 you to the City Council, the Speaker, the de Blasio



1 Administration, DOT, Commissioner Trottenberg and  
2 everyone who really have been so committed to making  
3 the outdoor dining program work for the City of New  
4 York. There is a quote often attributed to Churchill  
5 which is, "Don't let a crisis go to waste" and for  
6 all the doom and gloom and all the challenges that  
7 this pandemic has brought upon our city and our  
8 restaurant industry, outdoor dining truly has been a  
9 bright light. And it is has helped us reimagine how  
10 we can use public space to help not only support our  
11 local restaurants but create a more vibrant,  
12 energetic and resilient New York City and I speak at  
13 restaurant tours but I will speak with New Yorkers,  
14 Community Boards and others throughout the five  
15 boroughs. And they just tell me over and over again  
16 about how much stronger and better New York City is  
17 with our outdoor dining program.

18  
19 So, I want to thank everyone for making that  
20 happen and I also want to make sure that we address  
21 some of the bills today, which the New York City  
22 Hospitality Alliance supports 2096, 6655 and 6677. I  
23 will address a couples of points and I know there is  
24 a lot of information provided today that may not be  
25

1 included in today's legislation that may end up being  
2 incorporated.

3  
4 One, self-certification is very important. It  
5 allows restaurant tourists to quickly set up this  
6 program and get on a role without a lot of the  
7 expenses and time. In addition to allowing the  
8 different types of heaters and providing the clear  
9 guidance, one comment that has been brought to my  
10 attention is the ability to use forced air heating  
11 systems to heat up tents that are fully or partially  
12 enclosed.

13 There was comments earlier about adjacent space.  
14 We would like to see and I don't believe the current  
15 legislation -

16 SERGEANT AT ARMS: Time is expired.

17 ANDREW RIGIE: I hope I can go for a moment more  
18 Mr. Chair.

19 CHAIRPERSON COHEN: Please yes, yeah.

20 ANDREW RIGIE: Thank you very much. That would  
21 allow us to use the adjacent curb space. We think  
22 that should also be included in the legislation.

23 We also want to advise that we understand what we  
24 are going from now is a program that was stood up  
25 quickly to address the pandemic to a long term

1 permanent program and we think that it should be  
2 looked at in two phases. If there are going to be  
3 additional requirements of the street seating, we  
4 perhaps some of the safety requirements could be  
5 implemented initially for the winter months of 2020  
6 and 2021. That could be some sort of barrier that's  
7 put up in the traffic facing area of the outdoor  
8 dining installation.  
9

10 And then perhaps wait until 2021 to add any  
11 additional requirements to those spaces. I have  
12 heard multiple Council Members here today talk about  
13 the challenges that restaurant tourists had in their  
14 districts where they set up, built up these  
15 installations under the initial guidelines which a  
16 few days later ended up being changed.

17 We know these small business owners are in a  
18 crisis, they don't have the financial wear with all  
19 to spend a lot more money than they have already  
20 spent on building out these installations.

21 So, I would say that this is made permanent now  
22 to allow some additional modifications through affect  
23 the following year.

24 As to 2096, this is very important to allow  
25 restaurants to operate with basically temporary

1 permits. We know that there are going to be  
2 countless vacant storefronts that used to house  
3 restaurants. Many of which may have sidewalk cafés  
4 and were operating under specific approved  
5 conditions.  
6

7 Currently, it could take a very long time for a  
8 new restaurant to go into one of these spaces, go  
9 through the whole permitting process and get that  
10 application.

11 So, we would say if a person is bold enough in  
12 this environment to opening, let them go in, operate  
13 under the prior conditions that have been approved at  
14 that restaurant until they are able to get their own  
15 permit. We think that's business friendly; it will  
16 help support these small businesses, it will help  
17 support jobs and again, help bring that vibrancy back  
18 to the city streets.

19 The third bill is 6677 and this goes back to my  
20 earlier point about self-certification. What we have  
21 seen through this crisis as well, is that we are able  
22 to cut through red tape, get through this bureaucracy  
23 and create a more seamless and small business  
24 friendly operating environment and I think we should  
25 use this knowledge that we have now and apply it

1  
2 moving forward. There is no need for a restaurant to  
3 spend a lot of money on architectural renderings and  
4 certification by professionals in this case if they  
5 are able to create the diagram themselves and proved  
6 that through the city.

7       So, in all, we are very supportive of all these  
8 bills. We look forward to continuing to work with  
9 the Administration as well as the Council on many of  
10 the details that were discussed today and make sure  
11 that what we do roll out is the best outdoor dining  
12 program for restaurants, for workers, for  
13 communities, for the city of a whole, and understand  
14 that like everything else, this is an evolving  
15 process where we will continue to learn. But we must  
16 use this opportunity to make outdoor dining  
17 permanent, cut through the red tape, and create a  
18 more resilient city. Not just for our small  
19 businesses but for all New Yorkers and create a place  
20 where we have these beautiful streets.

21       We go to these neighborhoods; it has just  
22 transformed New York City in so many wonderful ways  
23 and it has really provided a lifeline during this  
24 crisis.

1  
2 So, I want to thank you all again for your work.  
3 We have submitted comments that address some of these  
4 issues and others in more detail and as I mentioned,  
5 we will be working closely with both the Council and  
6 the Administration making sure that all the other  
7 details and others that may not have been addressed  
8 today, do get addressed and we stand committed to the  
9 city and New York City's Hospitality industry.

10 So, I am happy to take any questions but I know  
11 my colleague and Council Rob Bookman is going to  
12 testify as well. So, thank you.

13 CHAIRPERSON COHEN: Thank you for your testimony.  
14 I really would encourage out panelists to try to be  
15 as brief as possible. There are many, many people  
16 who have asked to testify today. So, it is going to  
17 be a long haul here, so if people could try to  
18 respect the clock, I would appreciate it. Thank you.

19 COMMITTEE COUNSEL: Thank you Chair. Also, as a  
20 reminder, if you don't finish your testimony, you can  
21 submit your written testimony at  
22 [testimony@council.nyc.gov](mailto:testimony@council.nyc.gov). Thank you. I will be  
23 calling now on Robert Bookman followed by Ellen  
24 Goldstein and then Elizabeth Lusskin. Rob?

1  
2 ROBERT BOOKMAN: Thank you. I will do my best to  
3 be brief, not my strong suit. Rather than just do a  
4 row thank you. I just want to say to Chair Cohen and  
5 the other Chairs if they are still on and to  
6 Commissioner Trottenberg, you are rock stars in the  
7 few months and we really appreciate it. It is  
8 actually believe it or not six months today that  
9 restaurants in New York City have been closed. It is  
10 a mind boggling, half a year, it's really mind  
11 boggling and you guys have really been rock stars in  
12 trying to do what you can to keep them hanging on, so  
13 that we see the other end of this COVID crisis.

14 These bills, all three of these bills are  
15 important and we don't need to wait for some perfect  
16 future you know, plan in order to get started on what  
17 we know we need to do. We know we need to make it  
18 clear to the industry now that there will be some  
19 sort of permanent roadside dining and we know that at  
20 some point Chair Cohen, we will go back into some  
21 sort of licensing for sidewalk cafés. And the other  
22 two bills, the Kallos bill and Salamanca bill are  
23 perfect examples of what we need to do to make that  
24 process simpler, fairer and less expensive.

1           Because it is none of those three things now.  
2  
3       These bills make sense and there is no reason not to  
4       adopt them now. So, a good idea is a good idea now  
5       no matter what other changes we make in the future  
6       and both of these are good ideas.

7           You unfortunately want to open a business right  
8       now in April or May or June and it had a sidewalk  
9       café license previously, you can not have that same  
10       sidewalk café license for the first season because of  
11       the lengthy process. This bill would end that  
12       nonsense and you would be able to get started right  
13       away, as long as the previously approved you know,  
14       café you know, space.

15           So, we need all of these bills, they are  
16       important. The adjacent space is critical. We  
17       should not need landlord approval for adjacent space  
18       in roadways. That's not their space. They have  
19       never had anything to do with it.

20           Adjacent space on sidewalks however, we  
21       understand that we need to work out a system which  
22       would allow the adjacent building owner -

23           SERGEANT AT ARMS: Time expired.

24           ROBERT BOOKMAN: To have some sort of approval  
25       and we have no problem with that. That should be the



1 sidewalk space where there is some connection between  
2 a building owner and a few feet of sidewalk in front  
3 of their building. That's not true for roadways.  
4 There is no reason to get a building owner involved  
5 with that.  
6

7 I see Council Member Chin is still here, so I  
8 just wanted to say to her that as far as closing  
9 times, the current café law says sidewalk cafés  
10 should close at 1 a.m. on weekends and midnight  
11 during the week. So, it's not excessive to have  
12 sidewalk cafés close at midnight during this crisis,  
13 which we need -

14 SERGEANT AT ARMS: Time has expired.

15 ROBERT BOOKMAN: For businesses to try to stay  
16 open and there should be no music at any time. Live  
17 or recorded out on the sidewalks. We 100 percent  
18 agree with you. My time is up, I would be happy to  
19 answer any questions if you have concerning the café  
20 laws, the rules, or the SLA because obviously I can  
21 answer anything concerning them as well. Thank you.

22 COMMITTEE COUNSEL: Thank you Rob. As I see no  
23 questions, we will move on to the next panelist. We  
24 have Ellen Goldstein followed by Elizabeth Lusskin,  
25

1 followed by Jessica De La Rosa. Ellen you may begin  
2 with the Sergeant calls time.  
3

4 SERGEANT AT ARMS: Time begins now.

5 ELLEN GOLDSTEIN: Thank you. My name is Ellen  
6 Goldstein, Vice President of Policy, Planning and  
7 Research at the Times Square Alliance.

8 I am testifying on behalf of our President and  
9 Tim Tompkins, thank you for allowing me the  
10 opportunity to speak.

11 The Time Square Alliance would like to thank  
12 Speaker Johnson and Council Member Rivera for their  
13 leadership on open streets and Council Member Reynoso  
14 for championing outdoor dining. The COVID-19  
15 pandemic has hit Time Square particularly hard. Our  
16 pedestrian counts plummeted by 90 percent and over 50  
17 percent of our businesses remain closed resulting in  
18 an estimated 35,000 lost jobs.

19 Tourism is at a standstill with visitors spending  
20 down 94 percent compared to 2019. Outdoor dining has  
21 been a lifesaver for Time Square. Prior to this  
22 program, 85 percent of our restaurants were closed.  
23 Today, just under 50 percent of our restaurants  
24 remain closed.  
25

1  
2 While there is still much work to be done, the  
3 Open Streets program has encouraged the city to  
4 rethink public space as part of a path toward  
5 recovery. We hope to sustain this momentum and want  
6 to thank the Department of Transportation and other  
7 city agencies for working flexibly with BIDs to make  
8 this happen quickly.

9 The Alliance applauds the Council for leading the  
10 efforts to rethink our streets, sidewalks, plaza's  
11 and other public spaces and the service of saving our  
12 independent businesses. We strongly believe that  
13 using public space innovatively through programs like  
14 Open Streets and Open Restaurants is an essential  
15 part of recovery.

16 With that said, we hope that this will lead to a  
17 comprehensive approach to the use and management of  
18 public space, so that issues such curb access,  
19 permitting maintenance and programming are considered  
20 holistically.

21 Demand for public space has never been greater.  
22 In order to continue to meet this demand, we believe  
23 the city needs a comprehensive Office of Public Space  
24 Management that can work across agencies. Further,  
25 bringing community based organizations like BIDs and

1  
2 other nonprofits into the process from the beginning  
3 will ensure that projects meet neighborhood needs and  
4 are smoothly implemented.

5 We hope to be active participants in decision  
6 making moving forward and look forward to being full  
7 partners with the city, as we all work together  
8 towards economic recovery. We are thrilled about the  
9 city's decision to make outdoor dining permanent and  
10 we look forward to working with the Council and the  
11 Administration as they continue to think creatively,  
12 implement with flexibility and be open to  
13 experimentation, so that our public spaces thrive  
14 through COVID and beyond. Thank you.

15 COMMITTEE COUNSEL: Thank you Ellen. Next, we  
16 would like to call on Elizabeth Lusskin followed by  
17 Jessica De La Rosa followed by Christine Berthet.  
18 Elizabeth, you may begin after the Sergeant calls  
19 time.

20 SERGEANT AT ARMS: Time begins now.

21 ELIZABETH LUSSKIN: Good afternoon. My name is  
22 Elizabeth Lusskin, I am testifying today on behalf of  
23 the New York City Business Association where I serve  
24 as a support member. I am also Executive Director of  
25 the Long Island City BID.

1  
2 The Association represents a 76 individual BIDs  
3 throughout the city that serve as stewards of our  
4 diverse commercial corridors with over 100,000 local  
5 businesses and also of our neighborhood public  
6 spaces. Our mission has always been to support local  
7 business, keep our neighborhoods clean and safe and  
8 bring prosperity to our communities. Never has our  
9 work been more essential than during this pandemic.  
10 We are pleased to present this testimony today, a  
11 longer version of which has been submitted.

12 The city's Open Restaurants program has been a  
13 great success providing a much needed economic  
14 lifeline for commercial corridors reeling since the  
15 beginning of COVID-19. We are grateful that the  
16 Mayor and City Council have pushed to make the  
17 program permanent and we will continue to do our part  
18 to ensure the programs success. We also commend the  
19 Open Streets program. Many of our members have  
20 partnered with the city to make it a success,  
21 accepting responsibility for the operations of the  
22 street closures at no cost to the city. But the  
23 program has strained the already tight budgets of  
24 some BIDs.

1  
2       Between purchasing and barricades and other  
3 expenses, some BIDs are projecting Open Streets to  
4 account for 10 percent of their annual budgets. This  
5 is unsustainable and the BID Association calls for  
6 the city's support to ensure this program can remain  
7 successful.

8       But the association would like to expand both  
9 programs to ensure the benefits are felt by all small  
10 businesses in commercial corridors. Last week, we  
11 released a proposal for the city to enact an Open  
12 Stores plan to provide the same common sense relief  
13 to storefront retail businesses as it is being  
14 extended to restaurants. Allowing storefront retail  
15 to display merchandise and conduct commercial  
16 activity within several feet of their property line  
17 and to participate in Open Streets under the same  
18 guidelines and siting criteria as restaurants to  
19 participate.

20       All of our storefront small businesses are  
21 suffering right now. If we don't do something to  
22 help them, especially in advance of the holiday  
23 shopping season, we are sure to see countless more  
24 permanent closures and job losses.

1  
2 I encourage you to read my full written  
3 testimony, which goes into more detail as well as on  
4 sidewalk cafés and adjacent storefronts. We are  
5 extremely grateful for the Council's attention to the  
6 plight of small businesses. We all understand that  
7 their survival underpins the survival of our  
8 neighborhoods and our city.

9 SERGEANT AT ARMS: Time expired.

10 ELIZABETH LUSSKIN: The BIDs are on the frontline  
11 and thank you and we look forward to continued  
12 dialogue and partnership.

13 COMMITTEE COUNSEL: Thank you Elizabeth. Next,  
14 we would like to call on Jessica followed by  
15 Christine Berthet followed by William Johnson.  
16 Jessica, you may begin after the Sergeant calls time.

17 SERGEANT AT ARMS: Time begins now.

18 JESSICA DE LA ROSE: Hi there everybody. My name  
19 is Jessica De La Rose, I am the Systems Advocate for  
20 the Brooklyn Center for Independence of the Disabled.

21 Our mission is to promote the independence of  
22 people with disabilities. I am here to testify on  
23 behalf of BCID and the disability community  
24 concerning the amendment Local Law 77 Intro. 2096.  
25 Which would make street outdoor dining permanent.

1  
2 Local Law 77 did not refer to accessibility and  
3 these proposals do not either. It is inexcusable. I  
4 preface my comments by making it clear that we  
5 support outdoor dining. I can attest from my own  
6 experience that when outdoor dining started a few  
7 months ago, this made a huge difference to me in the  
8 wake of the COVID-19 lockdown.

9 I have enjoyed some nice meals because of outdoor  
10 dining. One was at a restaurant that is not  
11 otherwise accessible to a person who cannot walk like  
12 myself. I had always wanted to eat there but  
13 couldn't because of inaccessible staircase. However,  
14 a few weeks ago, I was able to because of the outdoor  
15 dining. Nevertheless, we have serious concerns about  
16 the implementation of the program and urge the  
17 Council to amend these proposals to ensure that  
18 people with disabilities are able to travel freely on  
19 sidewalks and use the street dining areas without  
20 obstruction.

21 I described some of these problems in greater  
22 details below but first, I want to offer several  
23 suggestions about how the Council should alter this  
24 legislation and amendment Local Law 77 and Intro.  
25 2096 should.



1  
2       Include specific language that guarantees that he  
3 path of travel on sidewalks be maintained with at  
4 least 64 inches free from obstruction. Currently,  
5 city guidelines require only 32 inches. The width of  
6 a doorway for passing, which disappears to nothing  
7 when people are standing waiting for tables or  
8 waiters get in the way.

9       Include enforcement provisions, so that the  
10 burden isn't on the public to file complaints through  
11 cumbersome 311 process. Instead, require Department  
12 of Transportation, the Mayor's -

13       SERGEANT AT ARMS: Time expired.

14       JESSICA DE LA ROSE: Okay. Thank you.

15       CHAIRPERSON COHEN: Go ahead.

16       JESSICA DE LA ROSE: Okay, thank you. So, that  
17 the burden is not on the public to file complaints  
18 through a cumbersome 311 process. Instead, require  
19 the Department of Transportation, the Mayor's Office  
20 for people with disability and other city agencies to  
21 hire and train personal restaurants that violate  
22 accessibility rules.

23       Inspectors should look at access questions for  
24 diners, not just whether sidewalks are kept clear.  
25 Require restaurants to put up clearly visible city

1 issued signs about how to make a complaint about  
2 accessibility violation.  
3

4 They should be posted at each of the space during  
5 using and self-certification for any new restaurant  
6 who wants to join the outdoor dining program from now  
7 on, so that new problems don't necessarily arise.

8 Let me describe why we make these -

9 COMMITTEE COUNSEL: Jessica, I am sorry to  
10 interrupt. But just to respect the time, because  
11 your time is expired and we have others waiting. If  
12 you can please make sure that you submit your written  
13 testimony to [testimony@council.nyc.gov](mailto:testimony@council.nyc.gov) we will be  
14 sure to review it all and take your comments into  
15 consideration.

16 CHAIRPERSON COHEN: I have a question I would  
17 like to ask her, so.

18 COMMITTEE COUNSEL: Sure.

19 CHAIRPERSON COHEN: Is your group receiving  
20 complaints, specific complaints of where  
21 accessibility has been an issue, where the sidewalk  
22 was passable before and is not now?

23 JESSICA DE LA ROSE: Yes, and also, it wasn't  
24 just about the access as well to go down the sidewalk  
25 but it is also, there has been places where the stuff

1 is too big. So, if the outdoor dining, outside  
2 dining is outside below the street, then we have to  
3 go into the street to come around down the curb to  
4 sit at the dining area.

5 CHAIRPERSON COHEN: Even to access the outdoor  
6 dining. Again, if you have written testimony, you  
7 should definitely submit it. I appreciate you taking  
8 the time. Thank you.

9 JESSICA DE LA ROSE: Thank you.

10 COMMITTEE COUNSEL: Thank you Jessica. As I see  
11 no other questions, we will now call on Christine  
12 Berthet followed by William Johnson followed by  
13 Kathleen Riley. Christine, you may begin your  
14 testimony after the Sergeant has called time.

15 SERGEANT AT ARMS: Time begins now.

16 COMMITTEE COUNSEL: Christine? We will move onto  
17 William Johnson.

18 SERGEANT AT ARMS: You may begin, time begins.

19 CHRISTINE BERTHET: Okay, yeah, I'm sorry.

20 COMMITTEE COUNSEL: Sorry. You may begin  
21 Christine.

22 CHRISTINE BERTHET: Thank you. CHEKPEDS is a New  
23 York City pedestrian rights organization, we support  
24 the extension of the outdoor dining program year-

1 round. This program has helped restaurants, has  
2 proved extremely popular, and has contributed to a  
3 new sense of street and community in our district.  
4 And while we all want to help during COVID recovery  
5 period the long-term program require a different  
6 legal framework.  
7

8 Any all year-round outdoor dining program should  
9 recognize that the overriding purpose of our streets  
10 and sidewalks is to provide transportation and  
11 pedestrian routes through the city. DOT's ability to  
12 do so should not be compromised by street or sidewalk  
13 outdoor dining. So, it is critical that the permits  
14 for outdoor dining be time limited with periodic  
15 renewals. And they also must be revocable upon  
16 notice.

17 To put people first, and facilitate safe walking,  
18 permanent outdoor dining should be on the sidewalk or  
19 in the roadway, but not in both. Storm enclosures  
20 tents and awnings should not be permitted on the  
21 sidewalks as they are not today. And consideration  
22 should be given to widening the unobstructed area of  
23 the sidewalk from 8 to 12 feet. Ideally a separate  
24 walking lane would be created in each corridor or  
25 street where outdoor dining is authorized.

CHEKPEDS urges the city to generate appropriate revenue from the use of its public spaces. Each midtown delivery space generates up to \$34,000 annually. Landlords are already thinking of raising the rents because of those spaces. To avoid sidewalk over-crowding and excessive noise, CHEKPEDS urges the city's DOT to adopt the current SLA regulations which are all service to seated patrons only. No standing and drinking and no music.

And we applaud the idea of restructuring sidewalk cafes and Open dining in concert to streamline the process.

SERGEANT AT ARMS: Time is expired.

CHRISTINE BERTHET: One second, and yet, not yet through our first winter, we do not yet have all the facts necessary to legislate.

At this time, CHEKPEDS supports a bill making the program permanent and leaving a wide berth to DOT to regulate as needed. And please do not forget the pedestrians.

COMMITTEE COUNSEL: Thank you Christine. Next, we have William Johnson followed by Kathleen Reilly followed by Ric Stoneback. William, you may begin after the Sergeant has called time.

SERGEANT AT ARMS: Time begins.

WILLIAM JOHNSON: Good afternoon everyone. Thank you for this opportunity to testify. My name is William Johnson and I reside in Murray Hill, the 4<sup>th</sup> Council District. I am Licensed Tour Guide and of all the questions that one often gets asked as a Tour Guide from visitors to New York City, where is a good place to eat? It is a reminder that the revival of dining, particularly outdoor dining as we have been talking about is so central to the success of the tourism industry. An industry which welcomed around 66 million people last year. It generated about \$6.7 billion in local tax revenue.

And so, just as the outdoor dining experience is one that is guided. Its success is largely guided by adhering to safety guidelines. We expect restaurant tourists to publicize those safety guidelines and to enforce them. We think that the double decker tour bus industry, which has many a traveler and many a diner, should be doing much the same as we look to revive our city.

Now of course, guides are very uniquely situated to enforce the extra conditions of social distancing and mask wearing. Priority one is safety when you

1  
2 are a tour guide and so, that's something that is  
3 part of every tour under any condition and in  
4 adhering to those new demands. We partner with our  
5 drivers to ensure that we avoid accidents especially  
6 with outdoor seating in adjacent to traffic lanes and  
7 working together as a team, the driver and the guide  
8 ensure that these accidents are avoided and that we  
9 help ensure do our part with the success of the  
10 restaurant program and also go about helping the  
11 revival of our city.

12 We ask on behalf of diners, visitors, and  
13 employees alike, that you will consider moving  
14 interim amendment 289-A. Thank you.

15 COMMITTEE COUNSEL: Thank you William. Next, we  
16 have Kathleen. You may begin when the Sergeant calls  
17 time.

18 SERGEANT AT ARMS: Time begins.

19 KATHLEEN REILLY: Good afternoon everyone. My  
20 name is Kathleen Reilly with the New York State  
21 Restaurant Association and we are here to testify in  
22 favor of creating a flexible and permanent outdoor  
23 dining program for the restaurants of New York City.

24 We are aware that since the hearing has been  
25 scheduled, Mayor de Blasio also announced that after

1 a dining program will become a permanent year around  
2 fixture and provided some preliminary guidance. So,  
3 we would like to touch upon some of those points but  
4 also to thank the Council, especially Council Member  
5 Reynoso and the other Co-Sponsors for elevating this  
6 issue to the point that we have something to go off  
7 of already.

9 First and foremost, we are entirely in favor of a  
10 seating next to adjacent properties with permission.  
11 We think that will greatly benefit people who have  
12 been otherwise precluded from participating because  
13 of a narrow or obstructed storefront.

14 In terms of the outdoor heaters, which we are so  
15 glad to see that there will be forthcoming guidance,  
16 we have some questions about how the change in Fire  
17 Code will impact other outdoor spaces, not  
18 specifically mentioned. For example, back yards or  
19 rooftops, in regards to the propane heaters.

20 So, we hope that question will be answered in the  
21 forthcoming guidance from FDNY. We are also  
22 supportive of differentiating between enclosed and  
23 not enclosed tents. We do wonder why the city is  
24 sort of creating a new 50 percent of the side being  
25 open requirement, that's not part of the state rules.



1  
2 The state just requires two open sides, requiring a  
3 full 50 percent of tent sides to be open is new. So,  
4 we wanted to get a better understanding of why that  
5 had been put in place.

6 We also wanted to sort of raise the issue of  
7 calculating 25 percent of the capacity of an enclosed  
8 tent. Based on feedback we have gotten from  
9 operators; the tents don't typically list an  
10 occupancy. They don't necessarily have an equivalent  
11 to a COI, so we wanted to raise that issue for the  
12 rule makers here.

13 In terms of the other two pieces from Council  
14 Member's Kallos and Salamanca, we are fully  
15 supportive of the intent. It seems possible that a  
16 permanent open restaurants program may potentially  
17 make these points or points to be raised in the  
18 future depending outside cafés -

19 SERGEANT AT ARMS: Time expired.

20 KATHLEEN REILLY: Thank you. How that system is  
21 integrated but we are supportive of an effort to  
22 eliminate red tape and things as easy and efficient  
23 as possible.

24 I wanted to quickly touch upon a couple items on  
25 the current Open Restaurants program. The barrier

1 change that has been discussed earlier in this  
2 hearing today did come at a great cost to many  
3 operators. Participating in the program at all,  
4 thankfully the city doesn't charge a fee but actually  
5 constructing those outdoor setups does cost  
6 restaurants outdoors quite a bit of money and as  
7 Council Member Gjonaj mentioned earlier, many of them  
8 are operating at a loss otherwise.  
9

10 The adjacent storefronts issue that currently  
11 exists will be addressed in the new program and we  
12 also wanted to raise issues with the curfew which we  
13 have gotten a lot of questions about because people  
14 had had sidewalk cafés that formally were allowed to  
15 be open later. We agree with either trying to  
16 harmonize the curfew or raising it in places that are  
17 zoned appropriately. Thank you so much.

18 COMMITTEE COUNSEL: Thank you Kathleen and a  
19 reminder that you can still submit written testimony  
20 and we will review all of the written testimony that  
21 witnesses submit today at – and you can send that at  
22 [testimony@council.nyc.gov](mailto:testimony@council.nyc.gov).

23 Next, we have Ric Stoneback followed by Jay Mazur  
24 followed by Andy Sydor. Ric, you may begin your  
25 testimony as soon as the Sergeant calls time.

SERGEANT AT ARMS: Time begins.

RIC STONEBACK: Good afternoon. My name is Ric Stoneback and I reside in District 10. I am DCA Licensed New York City Tour Guide who has worked as a Guide in this city since 1981. I hardly support outdoor dining, operating in a safe and controlled environment. With safety being more important than ever due to the pandemic, I wish to mention something I have experience with that has bearing on this subject. Safe operation of double decker tour buses.

Dining areas expanding into the streets, makes traffic flow more difficult and more dangerous. Due to the pandemic, most double decker buses are now operating without tour guides. Which negates an important layer of safety.

Without live guides on the top level, double decker drivers have to keep an eye on the camera covering the upper deck as well as punch buttons that activate sections of taped commentary. Both of these actions distract from the driver's attention on what's happening on the street.

Also, guides police social distancing and wearing of masks on top of the bus essential during the

1 pandemic and impossible for the driver downstairs to  
2 control.

3  
4 In an effort to preserve safety for outside  
5 diners, pedestrians and tourists alike, I urge you to  
6 support Bill 289-A, sponsored by my Councilman Ydanis  
7 Rodriguez. Which would make it mandatory for all  
8 double decker tour buses to have a licensed tour  
9 guide on the top deck during tours.

10 And we all know how important tourism is to the  
11 financial health of restaurants and to the city at  
12 large.

13 Tour Guides do a lot to help keep the city safe  
14 and we are, as William said, usually the first  
15 resource people use to recommend restaurants. I  
16 thank you for your time.

17 COMMITTEE COUNSEL: Thank you Ric. I see we have  
18 a question from the Chair.

19 CHAIRPERSON RODRIGUEZ: It's not a question, I  
20 just wanted to say thank you to the great  
21 constituency that I had an honor to represent and  
22 yes, this is a legislation that I hope that we can  
23 work with our colleagues in central office and plus I  
24 know that this bill is also important not only for  
25 the residents of New York City but also for the TWU,

1 so hopefully we can work and see how we can pass the  
2 bill. Thank you.

3  
4 RIC STONEBACK: Thank you.

5 COMMITTEE COUNSEL: Thank you Chair. As I see no  
6 further questions, we will move onto Jay Mazur  
7 followed by Andy Sydor followed by Lionelle Hamanaka.  
8 Jay, you may begin your testimony after the Sergeant  
9 calls time.

10 SERGEANT AT ARMS: Time begins.

11 JAY MAZUR: Thank you. My name is Jay Mazur M-A-  
12 Z-U-R. I am a retired Trade Unionist and a Community  
13 Board Member in Washington Heights in Inwood. I  
14 wanted to point out that when I briefly walk through  
15 about a 15 block area in June, late June, I noticed  
16 that none of the restaurants were following the city  
17 guidelines but I did notice many people using walkers  
18 or canes walking around to try and avoid the side of  
19 the streets where the restaurants were on.

20 Now, given the fact that this was not a  
21 restaurant row, as exists in the downtown and mid-  
22 town areas, I am particularly concerned that buses,  
23 double decker buses might be a great danger to  
24 passengers if there are no tour guides and further  
25 more that this might affect the safety of restaurant

1 patrons. Many of whom are visitors to our city and I  
2 don't think that getting injured while dining in a  
3 fine restaurant will recommend them to come back to  
4 New York and provide for our economy.  
5

6 I want to thank the Committee Members for their  
7 time and recommend that they include 289-A in further  
8 legislation.

9 SERGEANT AT ARMS: Time is expired.

10 COMMITTEE COUNSEL: Thank you Jay and we  
11 apologize for the misspelling and that  
12 mispronunciation. Next, we have Andy Sydor. Andy,  
13 you may give testimony after the Sergeant calls time.

14 ANDY SYDOR: So, my name is Andy Sydor and I have  
15 been a New York Licensed City Tour Guide for over 22  
16 years now. As the Council considers strategies to  
17 reopen, attention must be paid to the tourism  
18 industry particularly in the area of double decker  
19 tourism, there is a bill drafted by Transit Chair  
20 Rodriguez, Intro. 289-A, which could have led to a  
21 safe reopening of this particular branch and to a  
22 better and safer normal than before, but the Council  
23 has not yet enacted it.

24 Meanwhile, some companies have reopened but not  
25 to give the kind of tours they gave in the past but

1 to run their buses with a few unguided riders  
2 wondering aimlessly on the top simply to justify  
3 running the bus around our streets for the sake of  
4 the advertising.  
5

6 This is a dangerous situation, not just for the  
7 COVID-19 risks currently weighing so heavily on all  
8 our minds but for the risk of accidents to the  
9 passengers themselves with every kind of risk that  
10 prompted the writing of Intro. 289-A in the first  
11 place.

12 The city has long maintained and upheld the right  
13 to regulate the commercial tourism industry. The  
14 pandemic shows the need to maintain and expand that  
15 regulation, not relax it. The CDC guidelines on  
16 safety and social distancing cannot be maintained by  
17 a recording, just as an unwatched video monitor  
18 cannot keep passengers in their seats as the bus  
19 moves through potential hazard. When these  
20 inevitable affections and actions occur, they will  
21 hobble any hope of this business recovery.

22 We, the city, and the industry both need this  
23 safety to be maintained by the same kind of licensed  
24 professionals that the city has enabled and overseen  
25 since 1937. We need Intro. 289 to be enacted, that

1 way the tourism industry cannot only return to  
2 reopening but to a safer and better standard than  
3 before. Thank you.

4  
5 COMMITTEE COUNSEL: Thank you Andy and I  
6 apologize for mispronouncing your last name as well.

7 ANDY SYDOR: Everybody does it.

8 COMMITTEE COUNSEL: Next, we have Lionelle  
9 Hamanaka and I hope I pronounce that correctly  
10 followed by Barri Falk and Liza Martinez. Lionelle,  
11 you may testify after the Sergeant calls time.

12 SERGEANT AT ARMS: Starting time.

13 LIONELLE HAMANAKA: Thank you Chairs Cohen and  
14 Rodriguez, Council Members Kallos, Reynoso, Salamanca  
15 and Council Members. I am Lionelle Hamanaka, District  
16 6, a Tour Guide and I support wholeheartedly your  
17 outdoor dining legislation that's been so successful.  
18 Why? Because New York is the centerpiece of dining  
19 in the United States based on our great diversity.  
20 Everybody in the world comes here.

21 In regard to Commissioners point of street  
22 safety, I read that since June 2020, four accidents  
23 with cars and one van crashed into eight outdoor  
24 diners in all parts of the city. Cars weigh 1.3  
25 tons, double decker buses weigh 13 tons and passed



1 accidents have resulted in up to 12 or 13 people  
2 getting killed or injured.

3  
4 Even one plaintiff, Devon Siffer[SP?] struck by a  
5 bus, a double decker with no licensed person on top  
6 won an \$85 million lawsuit in 2018. No legislation  
7 in New York requires bus owners to report accidents  
8 to oversight agencies. Hence, statistical studies  
9 are impossible.

10 Bus drivers on double decker's are forced to be  
11 distracted drivers because of multitasking, selling  
12 tickets, which requires them to take their hands off  
13 the wheel, punching reported tours and answering  
14 questions and trying to see upstairs, which is  
15 impossible because of blind spots.

16 So, in light of this and sequential to your great  
17 legislation on outdoor dining, please look at 289-A.  
18 Thank you so much.

19 COMMITTEE COUNSEL: Thank you. I would like to  
20 now call on Barri.

21 SERGEANT AT ARMS: Starting time.

22 COMMITTEE COUNSEL: She needs to be unmuted.

23 BARRI FALK: Good? Hi, my name is Barri Falk and  
24 I live in District 25 Jackson Heights. I am a Tour  
25

1 Guide. Also working on open top buses licensed New  
2 York City Site Seeing Guide.  
3

4 So, as our city is opening up and tourists begin  
5 to return, we need to make certain everyone remains  
6 safe tourists and locals alike. Tour Guides have an  
7 important role to play in that and I am very excited  
8 about the open streets and the outdoor dining and  
9 really is bringing New York City back to life at this  
10 difficult time. And you know, I feel that it will  
11 help safe the restaurant industry and also promote  
12 tourism and it makes it exciting to be here, right.

13 At the same time, open top buses have already  
14 started operating and at this point, they are not  
15 using tour guides up on top, which of course presents  
16 quite a risk. Guides are now more necessary actually  
17 than ever before. I worked as a guide for three  
18 years. I have an in-depth understanding of the role  
19 or our role when it comes to maintaining safety.  
20 Guides make repeated safety announcements, so that  
21 guests remain seated. Take care of their children  
22 because if we are not there, sometimes they will have  
23 their children running up and down the aisles, I'm  
24 not kidding and just make sure that they don't move  
25 around the bus.

1  
2 So, nevertheless, you know, even though we make  
3 those announcements, you know, sometimes we have to  
4 move really quickly to save somebody from you know a  
5 head injury for instance, or a slip and fall. We  
6 must also make certain that they don't distract the  
7 driver. You know, sometimes they miss their stop and  
8 they go running down the stairs in a panic. You  
9 know, and you don't want to distract a driver,  
10 especially now with the outdoor dining. It just  
11 makes everything a lot more dangerous.

12 So, they need to be focused on their driving,  
13 navigating through New York City.

14 SERGEANT AT ARMS: Time expired.

15 BARRI FALK: Okay, it's also important that we are  
16 there to make certain that guests adhere to social  
17 distancing and mask wearing mandates and so that they  
18 help keep the -

19 CHAIRPERSON COHEN: Thank you for your testimony.

20 BARRI FALK: Alright, can you please support Bill  
21 289-A, so that everybody is safe. Thank you so much.

22 COMMITTEE COUNSEL: Thank you. Next we have Liza  
23 Martinez followed by Tom Proctor Rosamond, and I  
24 apologize if I mispronounce this, Gianutsos, sorry

1 about that. Liza, you may begin your testimony after  
2 the Sergeant calls time.

3  
4 SERGEANT AT ARMS: Starting time.

5 LIZA MARTINEZ: Hi, my name is Liza Martinez, I  
6 am a member of Families for Safe Streets. In  
7 January, I sat before some of you in person, with  
8 Chairperson Rodriguez and shared the story of my  
9 beloved mother Eda Martinez. Three days ago, our  
10 family marked the one year since my dear, beautiful  
11 mother, healthy mother was killed. She was the 177<sup>th</sup>  
12 New Yorker to be killed in a traffic crash in 2019.  
13 She was the 27<sup>th</sup> cyclist killed last year.

14 I talked about her at the last hearing, but I  
15 want everyone to know about my mom and the prize for  
16 not acting and taking action. Eda was an amazing  
17 devoted mother to three of us, a proud grandmother to  
18 our seven kids, seven grandchildren, a loving wife,  
19 and a dear friend to many. She was [inaudible  
20 3:02:31] to our family and was secure with her at her  
21 home. She was connector and brought everyone  
22 together and she loved spending time on the boardwalk  
23 near my parents homes in Rockaway where she was  
24 killed.

1  
2 My mother was a 66 year old woman and had the  
3 vibrancy of someone of 26. She brought life and  
4 positivity to everyone around her and she was a  
5 community leader and a force. She moved to New York  
6 from Puerto Rico and together with my dad started a  
7 family business, a hardware store in Bed Stuy and  
8 then became landlords and had tenants for a café that  
9 was then since closed since the coronavirus back in  
10 January and with these businesses put me through  
11 business school, so I am all about the numbers and I  
12 understand that perspective of everything here.

13 My beautiful mother Eda Martinez inspires me and  
14 gives me the courage to be here today but I am here  
15 today for you and your family. And that you will  
16 never have to stand here to speak about your own  
17 mother or spouse or child or friend because this is a  
18 nightmare that we live every single day.

19 Ten months ago, I begged for action, but for ten  
20 months of redesigning streets to save life was an  
21 uphill battle if it meant a few parking spots were  
22 taken away. I am a New Yorker and like my mom, I  
23 like to tell it as it is. It is crazy that the city  
24 can act fast when business is at stake. Trust me, I  
25

1 know the importance of business because my mom and  
2 dad ran a family business -

3  
4 SERGEANT AT ARMS: Time expired.

5 LIZA MARTINEZ: Of 40 years. Okay, it is a  
6 little hypocritical that these life changes are easy  
7 to make for commercial reasons but not to protect New  
8 Yorkers like my mom. She deserved better and I ask  
9 now that you really think hard about the legacy of  
10 your own position here and the legacy of New Yorkers  
11 because although New Yorkers are a gem, just like my  
12 mother would not be perfect and we need to make sure  
13 that we see our floors before celebrating all this  
14 dining and all this money that we want to generate,  
15 which I am all for.

16 But I urge you as you contemplate your own  
17 legacy, that you remember my mother and your families  
18 and keep that in mind for the safety of New Yorkers.  
19 Thank you so much for all your time and all your hard  
20 work. I appreciate every one of you. Thank you very  
21 much.

22 CHAIRPERSON COHEN: Thank you for your testimony.

23 COMMITTEE COUNSEL: Thank you Liza, I am sorry  
24 for your loss.

Next, we have Tom Proctor followed by Rosamond Gianutsos and then Allison Raygor. Tom, you may begin your testimony after the Sergeant calls time.

SERGEANT AT ARMS: Starting time.

TOM PROCTOR: My name is Thomas Proctor; I am a Bronx resident in Council Member Salamanca's District and I am a member of Families for Safe Streets. I want to thank Chair's Rodriguez and Cohen and Members of the Committee for allowing me to testify today.

When the lockdown started, I was worried about the rampant speeding that I saw throughout our city. But I never expected tragedies to strike me. However, in May, my brother Charlie was killed by a reckless driver near his home in Boston when he was out riding his bike with his girlfriend. He was just two weeks before his 28<sup>th</sup> birthday. They had just signed a lease to move in together. Instead, he died in her arms.

In his 28 years, Charlie did more than most do in a lifetime. He spent his final birthday in Rock Denali, climbing the Cassin Ridge with always pushing us to push our own limits and exit our comfort zone.

I speak to you now on the way to a memorial in the mountains he loved to grieve with those he

1 inspired and contemplate how we can live a life  
2 deserving of his memory without him.

3  
4 The intersection where he was killed had been  
5 identified by the Boston Region Metropolitan  
6 Organizations. Particularly dangerous intersection,  
7 in dire need of repair. Locals have the opportunity  
8 to present my brothers death. They ignored the  
9 problem and they did nothing. The problem with  
10 traffic crashes is particularly severe in the United  
11 States and New York has no exceptions.

12 As we reopen, New Yorkers are avoiding subway and  
13 will be walking and biking on our streets more than  
14 ever. If we do nothing, these deaths will only  
15 increase further.

16 You have shown that New York City can act quickly  
17 to transform our streets when there is a commercial  
18 need. I urge you to build a true network of open  
19 streets while we recover from the pandemic to protect  
20 our brothers, our sisters, our parents, children and  
21 family before it is too late.

22 You have the opportunity to fix New York streets  
23 and to prevent death like my brothers. Please, do  
24 not ignore this problem. Please do not do nothing.

25 SERGEANT AT ARMS: Time expired.



1 COMMITTEE ON CONSUMER AFFAIRS AND BUSINESS LICENSE  
JOINTLY WITH THE COMMITTEE ON TRANSPORTATION 161

2 TOM PROCTOR: Thank you.

3 COMMITTEE COUNSEL: Thank you Tom and I am very  
4 sorry for the loss of your brother.

5 CHAIRPERSON COHEN: Thank you.

6 COMMITTEE COUNSEL: Next, we have Rosamond,  
7 followed by Allison followed by Marco.

8 CHAIRPERSON COHEN: Balgees, does Council Member  
9 Rodriguez have a question?

10 COMMITTEE COUNSEL: Oh, I apologize, sorry  
11 Council Member Chair Rodriguez, you may begin.

12 CHAIRPERSON RODRIGUEZ: Yeah, it is more than a  
13 question. As you have expressed, solidary to those  
14 laws and as I know Council Member Chair Cohen and all  
15 of us will continue doing our work to make our  
16 streets safer for pedestrians and cyclists.

17 COMMITTEE COUNSEL: Thank you Chair. Rosamond,  
18 you may begin your testimony after the Sergeant calls  
19 time.

20 SERGEANT AT ARMS: Starting time.

21 ROSAMOND GIANUTSOS: Thank you Council Member  
22 Rodriguez particularly for your efforts to make the  
23 streets safe for all of us. My name is Dr. Rosamond  
24 Gianutsos. I am Specialist in Neuropsychological  
25 Rehabilitation and have treated numerous individuals

1 whose lives have been devastated by traffic violence.

2 I strongly support the mission, Families for Safe  
3 Streets. But today, I come before you also as a long  
4 time resident of Sunnyside Queens in Council Member  
5 Van Bramer's District, and I am an active supporter  
6 of the 39<sup>th</sup> Avenue Open Streets Coalition.  
7

8 My neighbors and I have been working with the DOT  
9 as local partners to promote and maintain our 39<sup>th</sup>  
10 Avenue open street, which runs for ten blocks. It is  
11 a narrow two way corridor with bicycles and parked  
12 cars all on both sides of the travel lanes. It is  
13 evolved into a cut threw for cars heading into and  
14 out of the city.

15 I have to hold my grandchildren's hands tight as  
16 I negotiate crossing on 52<sup>nd</sup> Street and 39<sup>th</sup> Ave.  
17 where I live. At least that was particularly so  
18 prior to the Open Streets, now there are some  
19 barriers, so I've got a place where I can pause as I  
20 cross. Prior to that, the open street on 39<sup>th</sup> Ave. I  
21 was knocked from my bicycle to the pavement of 39<sup>th</sup>  
22 Avenue twice by cars.

23 In one instance, I was hit by a - t-boned by an  
24 NYPD patrol vehicle making an illegal U-turn in front  
25

1 of a double parked car. And I can still see the  
2 wheel of that police car inches above my knee.

3 With proper traffic -

4 SERGEANT AT ARMS: Time expired.

5 ROSAMOND GIANUTSOS: These kinds of incidents  
6 wouldn't happen. We need to make changes and make  
7 these changes where we are acting quickly to make  
8 changes for businesses, for restaurants, I am  
9 supportive of that but we need to be equally  
10 expeditious when it comes to making the roadways safe  
11 for everybody, especially pedestrians and bicyclists.  
12 Thank you for your attention.

13 CHAIRPERSON COHEN: Thank you for your testimony.

14 COMMITTEE COUNSEL: Thank you. Next we have  
15 Allison Raygor followed by Mark O'Conner followed by  
16 David Boguski[SP?]. Allison, you may begin after the  
17 Sergeant calls time.

18 SERGEANT AT ARMS: Starting time.

19 ALLISON RAYGOR: Hello, my name is Allison Raygor  
20 and I am a Member of Family for Safe Streets. The  
21 first thing that comes to mind when I think about  
22 that day is the weather. It was a quant essentially  
23 perfect fall day. Bright skis, crisp air, warm  
24 breeze, much like today.  
25

1  
2 My boyfriend and I had spent time that morning on  
3 a bench in Williamsburg overlooking the East River.  
4 Grateful for the time together and such an ideal  
5 setting. He went to work and I went upstairs to his  
6 apartment to make my birthday guest list, emailing it  
7 to him before packing up my bike basket and throwing  
8 on a tote bag, one strap on each shoulder. And off I  
9 rode to my own apartment in Bed Stuy, a route I had  
10 taken hundreds of times before.

11 It was a few blocks after I had left the  
12 protected bike lane on Kent Avenue heading south that  
13 I stopped at a light near a large feet of coal, about  
14 the size of a garbage truck. The truck turned right,  
15 the force of it pushing me to the ground and before I  
16 knew it, I was underneath it.

17 I only really registered that I was in trouble  
18 when I tried to roll out from under the truck and  
19 realized the tote bag was pinned under the trucks  
20 wheel and with the straps over my shoulders, I too  
21 was pinned. And what felt like much longer but was  
22 of course only a split second, I realized that if the  
23 tote bag was under the tire, then my own head would  
24 be next.

1  
2 But thankfully, because it was such a beautiful  
3 day, the driver's windows were down and he could hear  
4 me screaming. So, he stopped. Since that day, I  
5 have often asked myself a series of what if  
6 questions. What if I had left the apartment a few  
7 minutes later? What if the driver had taken a  
8 different route? What if it had been cold that day  
9 or raining and the driver hadn't heard my screams?  
10 And what if that bike lane protecting me from traffic  
11 by a concrete barrier had extended just a few blocks  
12 more getting me even closer to home?

13 Thank you for making open streets a priority  
14 during the pandemic. It has been amazing to watch  
15 how the city can prioritize people so hard.

16 SERGEANT AT ARMS: Time expired.

17 ALLISON RAYGOR: With open dining program, the  
18 DOT has repurposed car parking lanes for open dining,  
19 which is great. But why were they not able to  
20 reconsider parking spots to make it possible for me  
21 to make a protected bike lane my entire trip? It is  
22 truly infuriating to witness how quickly the DOT can  
23 act to help restaurants survive but never change  
24 Families for Safe Streets fights for it takes so  
25 long. The hypocrisy of doing it only for commercial

1 reasons and not for the purpose of safe streets an  
2 aspect of public health is infuriating and  
3 unacceptable.  
4

5 I am not here to ask the City Council to predict  
6 the weather but I am here to illustrate what can  
7 happen when cyclist safety is not prioritized on New  
8 York City streets. Thank you.

9 COMMITTEE COUNSEL: Thank you Allison. Next, we  
10 have Marco followed by Towaki Komatzu. Marco, you  
11 may begin your testimony after the Sergeant calls  
12 time.

13 SERGEANT AT ARMS: Starting time.

14 MARCO CONNER: Good afternoon. I want to thank  
15 you Chair Cohen and Chair Rodriguez and Council  
16 Members for your work. My name is Marco Conner, I am  
17 Deputy Director with Transportation Alternatives here  
18 in New York City. Just as we can decide for open  
19 dining, we can also decide for safe streets.

20 First, Transportation Alternatives strongly  
21 supports open dining. This overdue repurposing of  
22 space helps create dynamic streets worthy of a city  
23 like ours and have been lifesavers for our  
24 restaurants.  
25

1  
2 At the same time, it has become clear that we  
3 need a paragon shift for a successful recovery from  
4 COVID-19. Today, we are facing that again, once we  
5 reopen fully, we can expect traffic congestion even  
6 worse than before the pandemic. Transit use is down  
7 even though many still prefer buses, while biking  
8 volumes and sales are exploding.

9 We urge the Council and the Mayor to truly and  
10 equitably reimagine our streets and to keep public  
11 space public. Some tremendously successful open  
12 streets have been implemented during this crisis and  
13 show just how wonderful and calm yet dynamic our  
14 street space can become literally overnight. When we  
15 repurpose a car travel lane for a protected bike  
16 lane, a bus lane or expanded pedestrian space, like  
17 open streets and open dining, it not only benefits  
18 businesses but increase retail sales connecting New  
19 Yorkers to jobs, shopping and educational  
20 opportunities. It also saves lives by making that  
21 street safer for all street users including drivers  
22 themselves.

23 So, with this in mind, we need to acknowledge  
24 that some open dining right now, is blocking bike  
25 lanes, bus lanes and narrow sidewalks. These are not

1 reasons to abandon open dining. They are red flags  
2 that we need to address immediately in order to  
3 improve open dining to the benefit of all New  
4 Yorkers.  
5

6 We urge the city to view open restaurant dining  
7 in conjunction with open streets. Turning a street  
8 into an open street immediately removes many of the  
9 challenges we currently experience with open dining  
10 competing –

11 SERGEANT AT ARMS: Time expired.

12 MARCO CONNER: Uses of the streets. And I will  
13 finish up very quickly. We need to fully fund and  
14 implement the Streets Master Plan, the Green Wave  
15 Plan and the dangerous Vehicle Abatement program.

16 Finally, I want to highlight the speed by which  
17 this reclamation of space has happened in the open  
18 dining program. I want to contrast that to the  
19 reluctance and out right opposition by a small but  
20 vocal minority of New Yorkers including legislatures  
21 to do the same to simply saves lives. We need to  
22 decide whether the saving a life is at least as  
23 important as saving jobs and restaurants. If the  
24 answer is that peoples lives are at least as  
25 important, than the Mayor and Council must act



1 accordingly. We can have both but only if jobs,  
2 restaurants, and people's lives are truly valued by  
3 this Council and by Mayor de Blasio. Thank you.  
4

5 COMMITTEE COUNSEL: Thank you Marco. Next, we  
6 would like to call on Towaki Komatsu and this is our  
7 final witness. At this time, if your name hasn't  
8 been called, please use the Zoom raise hand function  
9 and we will call on you after Mr. Komatsu. Towaki  
10 Komatsu, you may begin your testimony after the  
11 Sergeants call time.

12 SERGEANT AT ARMS: Starting time.

13 TOWAKI KOMATSU: Hi, I am Towaki Komatsu. In the  
14 case of Gonzales versus City of New York, it is  
15 assigned to a federal judge that's assigned to a  
16 federal lawsuit that I have. Judge Jofield. She  
17 stated in that decision consistent with the  
18 traditionally open character of public streets and  
19 sidewalks, be upheld that the governments ability to  
20 restrict speech in such locations is very limited.

21 This hearing is about using a fraudulent pretext  
22 to violate both New York City Administrative Code  
23 16122-B and the First Amendment rights of New Yorkers  
24 on public sidewalks that are traditional public  
25 forums on which to exercise those rights. Without an

1 objectively valid justification to bail out  
2 restaurants by letting people pig out and get drunk  
3 on sidewalks while keeping them as an illegal and  
4 unsafe obstacle course for the blind parents with  
5 baby strollers, and people in wheelchairs and using  
6 crutches while having to dodge NYPD Natzi's and  
7 terrorists on that. That appear on them as a plague  
8 that puts the coronavirus to shame without an RSVP in  
9 Greenwich Village and elsewhere in New York City  
10 where that trash doesn't belong, just like Bill de  
11 Blasio and whistle blower news sensors and  
12 journalism. And many more that facilitates such  
13 terrorism by their silence, nearly four years and  
14 eight months after the Council approved a 32 percent  
15 pay raise for its gang, that I was told then, it  
16 didn't deserve. And it is now being reminded that it  
17 still doesn't deserve while the public may be  
18 wondering when it will grow tired of sitting on its  
19 hands in response to requests for necessary and  
20 urgently needed reforms.

21  
22 I will promptly make certain that no further  
23 restrictions are imposed on the rights of the New  
24 Yorkers to exercise their first amendment rights on  
25

1 all areas of public sidewalks whenever they so  
2 choose.

3  
4 While doing so, I will similarly arrange for all  
5 obstructions that exist on sidewalks that impede the  
6 abilities of New Yorkers to exercise those rights to  
7 be removed. The way that I will do that is by filing  
8 a legal brief in my federal lawsuit within the next  
9 two days. In the meantime, have a good day.

10 SERGEANT AT ARMS: Time expired.

11 COMMITTEE COUNSEL: Thank you. As I see there  
12 are no hands raised, I would like to turn it over to  
13 the Chairs for final remarks.

14 CHAIRPERSON COHEN: Council Member Rodriguez,  
15 Chair Rodriguez, do you have anything you would like  
16 to say before we close?

17 CHAIRPERSON RODRIGUEZ: Something brave related  
18 to transportation that I know is important for you  
19 and for me, and as we are addressing how to make the  
20 city safer for everyone, for those who use the  
21 restaurant but also for the cyclist and pedestrians,  
22 and again, this is not directly connected with the  
23 advice about the safety of cyclists.

24 As you know, many of the cyclists that you have  
25 in Riverdale, and those who also live and go from

1 northern Manhattan to Riverdale, they cross through  
2 the 23 bridge and I think that it is important and I  
3 highlight it to both, the Manhattan, the DOT  
4 Commissioner and Park Commissioner. The importance  
5 to improve the cycling, the bicycle path that we have  
6 in the bridge in the park, so that we can make it  
7 easier for cyclists that they come from Riverdale -  
8 or that they go from Manhattan to Riverdale that when  
9 they go through the Inwood Park to improve the  
10 bicycle path that we have there.

12 So, this is important to you know, both and  
13 hopefully we can have work around there and see how  
14 we can join forces to improve the safety in that area  
15 for cyclists.

16 CHAIRPERSON COHEN: It is my understanding that  
17 is part of a reconstruction of that bridge, there is  
18 going to be a protective bike lane on that bridge.

19 CHAIRPERSON RODRIGUEZ: Yes, this is inside the  
20 Inwood Park.

21 CHAIRPERSON COHEN: Oh, Okay. I want to thank  
22 Chair Rodriguez for his partnership. I really want  
23 to thank all of the Council Staff. It is an enormous  
24 amount of work to put together these Zoom hearings,  
25 organization, technical work, and the preparations.

1  
2 Again, I know I thanked the Committee Counsel and our  
3 analyst in my opening but again, I want to say thank  
4 you. Also, again to the Sergeant at Arms for all  
5 your work in making sure that these hearings proceed  
6 orderly.

7 And with that, this concludes this joint  
8 committee meeting of the Committee on Consumer  
9 Affairs and Committee on Transportation. [GAVEL]

10

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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 October 15, 2020