

Testimony of Buildings Commissioner Robert LiMandri before the
Housing and Buildings Committee of the New York City Council on
Intro 878 (Safety Registration Number)

Good morning Chairman Dilan and members of the Housing and
Building Committee. I want to thank you for this opportunity to
discuss Intro 878, establishing Safety Registration Numbers for
contractors on new buildings, concrete and demolition projects in New
York City. I am here today with Stephen Kramer, my senior counsel.

Last June, in the face of a series of serious construction accidents,
Mayor Bloomberg, Speaker Quinn and I, in partnership with key
members of the City's construction industry (who will also testify
before you today) announced an ambitious legislative agenda designed
to substantially increase the safety of construction sites throughout the
City. The City then was in the midst of the most sustained
construction boom in recent memory, a building boom that had been
marred by a large number of workers' deaths and terrible construction
accidents. All of us recognized that aggressive action was needed to
restore New Yorker's confidence in the construction industry's ability
to build safely—and the City's ability to regulate the thousands of

construction jobs underway everyday throughout the five boroughs.

We announced a comprehensive program to more thoroughly regulate contractors and construction sites, in an effort to minimize the risk of major accidents in the future.

The legislative proposals we announced covered a broad array of problems in this large, many faceted industry. The major initiatives were:

- 1) To require concrete safety managers on major concrete jobs, to add a specialized level of oversight to this labor intensive but high risk element of the construction industry, Local Law 40/2008
- 2) To enhance the requirements of mandatory site-specific safety plans for any project that requires a site-safety manager by requiring additional worker training on these sites, Local Law 41/2008
- 3) To mandate a safety meeting of all the parties involved prior to the erecting, jumping or dismantling a crane, Local Law 46/2008.
- 4) To mandate more training for workers performing rigging operations, Local Law 44/2008.
- 5) To restrict the use of nylon slings in crane rigging operations unless specifically recommended by the crane manufacturer, Local Law 45/2008.
- 6) To require owners of vacant and structurally compromised buildings to report unsafe conditions, Local Law 33/2008.

- 7) To require property owners to perform periodic inspections of retaining walls and to repair deficient walls as needed, Local Law 37/2008.
- 8) To require notification to the State of disciplinary actions that we have taken against licensed architects and engineers so that the State can determine whether those disciplined need either remedial education or further disciplinary action, Local Law 27/2008.
- 9) To prepare an annual compilation on injuries and fatalities arising out of regulated construction activities in the City, Local Law 29/2008.
- 10) To require the registration of companies engaged in major construction, concrete and demolition jobs in the City, Intro 878.
- 11) And finally, to authorize the Department to assign a safety compliance officer to accident prone construction sites, Intro 760.

The first nine bills listed above have all been passed, signed into law and are now being implemented. I want to thank you and your staff for all of the hard work involved in their drafting and passage.

The bills that have been enacted are important—but in many ways, the bill before us today, along with Intro 760-A, a bill that authorizes the Department to assign a safety compliance officer to problematic jobs which has already been heard by this Committee, are the cornerstone of the legislative agenda we announced last June. The Council's

enactment of these bills will not only mark the completion of the agenda we announced last June, it is the culmination of months of negotiation and collaboration with the construction industry that has resulted in unprecedented agreement on, and acceptance by the industry of a new regulation—safety control numbers—and new oversight of unsafe sites by the newly-created position of safety compliance officer—because these measures are needed to make construction safer in New York City. These two bills will significantly upgrade the scrutiny unsafe contractors will face, as well as the tools that the Department has at its disposal to monitor sites with a poor safety record and increase accountability in the industry that builds and re-builds our ever-changing skyline. While the City must constantly grow and renew itself in order to be respond to the changing economy and changing land use patterns and population centers, there is no reason why we cannot build safely.

The Department's regulation of construction safety can be described as falling into four different areas: first, regulation of **individuals** (by focusing on training, licensing, and discipline of the architects, engineers, and critical trades who oversee the most important

construction operations); second, regulation of **high risk operations** (such as crane operations, foundation excavations, concrete pouring and building demolitions) by encouraging safe practices to be followed in the field; third, identification and regulation of **potentially hazardous structures** (vacant buildings, retaining walls, high rise construction and high rise façade maintenance) and developing procedures to minimize the risk that these structures pose; and finally regulation of **the companies** in the construction industry, by focusing on the records of companies across job sites to identify unusual spikes or patterns of accidents and non-compliance.

The first nine items of the legislative agenda listed above, which were developed and passed with the support of the Speaker, members of this Committee and with labor and industry addressed the first three of these regulatory areas: increasing the training and accountability of individuals, identifying and improving the conduct of high risk operations and identifying and inspecting high risk structures. The contractor registration bill that is before the Housing and Buildings Committee today addresses the fourth regulatory approach: focusing on the *companies* that oversee and conduct construction operations to

increase their accountability for their safety records. The bill authorizes the registration of general contractors, concrete contractors and demolition contractors and would enable the Department to track the safety and compliance records of individual companies across different job sites. Passage of this bill will constitute a significant addition to the Department's oversight of the City's construction industry.

Intro 878, the Safety Registration bill, will empower the Department to track and monitor individual builders in a way it has never done before. This bill enables the Department, for the first time, to proactively track contractors across job sites. Registration will enable the Department to identify companies that are having an undue number of accidents or violations in comparison to their peers, and to require those companies to take steps to improve their records before additional problems arise. By comparing the safety records of individual companies -- whether general contractors, concrete contractors or demolition contractors -- across job sites in the City, the Department will be able to identify problem actors and to assign its resources more effectively. The bill will also enable the Department

to develop standards to measure company performance and to inform builders of their comparative performance. Comparative accident records may also create incentives to improve safety rankings and encourage builders to build more safely than their competitors.

The safety registration number bill is a significant departure from the Department's historical way of regulating construction safety.

Traditionally, the Department has tracked individual construction jobs by focusing on the safety record at individual job sites. For example, you can look at our website and look at any particular address and you can get a complete history of the permits and violations that have been issued at that site. The Department, however, has not had the ability or the background information on individual companies that would enable tracking of individual contractor performance across jobs so as to hold companies accountable for their overall performance from site to site. This information gap has prevented us from developing information on contractors to see if particular contractors had safety problems that needed special attention. The gap also prevented the Department from comparing contractors to one another to see if

certain contractors fall outside the norm in their construction accident records.

The concept behind Intro 878 is to make it mandatory for general contractors working on new buildings and substantial enlargements to register and obtain a safety tracking number from the Buildings Department before obtaining a construction permit. The proposal is also extended to all concrete and demolition contractors – two major subcontractor groups that have responsibility for construction job operations that pose the most dangers.

Contractors with unacceptable safety records as indicated by their rate of violations in comparison to the size of jobs they are working on can be monitored, and contractors who fail to respond to warnings can have higher penalties imposed for violations. And because the bill also covers major concrete contractors and demolition contractors – contractors involved in particularly high risk operations that have been a source of several serious accidents – the Department will be able to focus on these problematic areas. We could not have gotten these bills done, without the support and partnership of the construction industry,

and I want to thank everyone who worked with us to develop these new tools. And our partnership does not end with the passage of these bills. An important piece of unfinished business is determining the circumstances under which a safety control number can be withheld, suspended or revoked. The bill currently does not grant this power to the Department, and, after discussions with industry, we have determined that this matter requires further experience and study in order to create objective criteria to take such drastic action.

The bill requires the Department—with the participation of the construction industry—to prepare and submit to the Council and the Mayor recommendations for the establishment of objective criteria to withhold, suspend or revoke safety control numbers from truly bad actors. With the industry's help and the data we will be able to collect through the safety control numbers the Department can begin to assign once this bill is effective, I'm confident we'll develop a balanced and fair proposal for the Mayor's and the Council's consideration.

I want to thank industry for the frank and constructive way that it has conducted the negotiations leading up to this bill. Registration of contractors is a relatively new concept in New York City – it was only last year that the Council first gave the Department the power to register any contractors – namely, general contractors who build one, two and three family homes. The bill before us today expands that concept to cover all major contractors in New York. It is a significant step indeed.

Safe construction sites require more than craftsmen wearing hard hats and using safety harnesses when high above the City streets. Safety must be part of the construction industry's culture. It requires the owner, the architects and engineers, the construction managers and the workers to each identify and eliminate job site hazards and unsafe work practices. Safety must be a factor throughout the cycle of the project, from its conceptualization to its design, from its excavation and foundation to the installation of the floors and its façade. Safety must be integrated into the daily activities of every participant in the industry:

Efficient and fast construction does not require short cuts. As we have been sadly reminded this past year, even some of the most experienced members of the industry can become complacent and not follow basic safety procedures. Workers, foreman, managers and owners are all responsible for safe sites and safe practices. And anyone failing to provide a safe job site for construction workers and the public must be held accountable. The safety registration bill before you will help the Department to do just that.

The statistics that show that construction is an inherently dangerous activity provide no comfort to the family of the construction worker or member of the public who is injured or killed. Those statistics provide no comfort to the City's residents whose homes are damaged by unsafe construction next door. The bills that the Mayor has signed following Council approval, and the contractor registration and safety compliance officer bills that will complete the legislative safety agenda we announced last June, will help reassert safety as construction industry's first priority in New York City. Working in partnership with the owners, the contractors, unions and workers, we

can do better and help ensure that every construction worker who leaves home in the morning comes home in the evening.

New Yorkers are not just depending on me to make construction sites safer; they are depending on all of us. And there's too much at stake to do any less.

I want to again thank the Council and industry for their enormous effort in bringing these bills to the brink of passage. I look forward to continuing to work in partnership with you and with industry to keep building and re-building New York City safely and efficiently. Thank you for the opportunity to testify and I'll be happy to take any questions you may have.

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