Department of Finance

New York City Council

Committee on Finance Hearing

New York City Department of Finance

Testimony of Michael Hyman

First Deputy Commissioner

February 13, 2017

Good afternoon, Chairwoman Ferreras-Copeland and members of the Committee on Finance. I am Michael Hyman, First Deputy Commissioner at the NYC Department of Finance (DOF) and I am joined today by my colleagues, Karen Schlain, Associate Commissioner for Tax Policy; Zal Kumar, Senior Legal Advisor; and Samara Karasyk, Assistant Commissioner for External Affairs. Thank you for the opportunity to testify on the New York City Commercial Rent Tax (CRT) and specifically on Intro 799-A--legislation that would raise the CRT taxable threshold; Intro 1107-A—legislation to establish a 52-week CRT exemption for certain rent related to advertising theatrical productions on billboards; Intro 1376—legislation requiring the NYC Department of Finance to issue a report on the CRT; and Intro 7925—legislation to exempt certain grocery stores from the CRT.

Background:

The NYC Commercial Rent Tax is imposed on tenants of properties used for commercial purposes in Manhattan south of 96th street. The statutory rate is 6.0 percent of base rent (gross rent less certain statutory deductions), but the effective tax rate is 3.9 percent because only 65 percent of base rent is subject to tax.

For example, a tenant pays a landlord $1 million in base rent. The law provides a 35 percent reduction in the base rent, thereby reducing the taxable base rent to $650,000. The $650,000 taxable base rent will be subject to the 6 percent tax rate. The tenant pays $39,000 in CRT, which is 3.9 percent of the tenant's $1 million base rent.

All commercial tenants with annual or annualized rents less than $250,000 are exempt from the CRT. The CRT is phased-in for tenants with base rents between $250,000 and $300,000. The $250,000 taxable base rent threshold became effective June 1, 2001.

In addition, tenants that are governmental or non-profit organizations, tenants located in the World Trade Center Area, tenants occupying retail space in Lower Manhattan, and tenants eligible for the Commercial Revitalization Program are exempt from the CRT.

For Tax Year 2016 (June 2015-May 2016), commercial tenants subject to the CRT owed $754 million in total tax liability. Approximately 7,700 taxpayers were subject to the tax on 11,000 taxable premises. The City projects that the CRT will generate $816 million in the current fiscal year (Fiscal Year 2016/17) and $848 million in Fiscal Year 2017/18.

Intro 799-A

The proposed legislation would increase the CRT taxable threshold to $500,000 annual rent (per premises) and phase-in the tax for tenants paying between $500,000 and $550,000 in annual rent. DOF has estimated that the proposal would benefit more than 40 percent of current CRT taxpayers -- approximately, 3,300 businesses and will reduce projected revenue by about 6 percent. From a policy perspective, the proposed treatment would provide relief to smaller-sized businesses, such as restaurants and smaller retail stores, some of which are struggling economically and for which an excise tax on rent can be a burden. And there is an argument that the CRT taxable threshold is due for an increase. The threshold has not kept up with rent inflation, since it is not indexed and has been at its current level for more than 15 years. But the proposed legislation would cost approximately $52 million annually, and thus must be discussed in the broader context of City budget needs and priorities.

Intro 1107-A

DOF understands the concerns and needs of business owners who use billboards to advertise their products and services. Billboards are taxable under the CRT. The CRT regulations have long provided that the definition of taxable premises includes "advertising signs on the tops of buildings or structures or located on otherwise unoccupied land." (Rules of the City of New York, Title 19, Chapters 7-01 (subparagraph (3) of the definition of "taxable premises"). Intro 1107-A would provide a 52-week exemption for taxable premises used for "the advertisement of a production or performance of a theatrical work." DOF estimates the cost of the proposal at approximately $1 million annually. The proposal is seeking an extension of the current CRT exemption provided to tenants that use taxable premises for the production and performance of a theatrical performance for the first 52 weeks from the date production commences. The current exemption does not cover rent paid for advertising on billboards not attached to the theatre. That is, rent paid for advertising on billboards attached to a different building or space is subject to the CRT. While the legislation is intended to benefit the City's theatre sector, an important part of the City's economy, there is a tax equity argument that billboards used to advertise theatrical performances should not be treated differently than other billboard advertising. And it is important to note that the CRT on rents for billboard advertising is generally paid by Fortune 500-type companies, including the CRT on billboards used to advertise certain theatrical productions.

Intro 1376

DOF is committed to transparency and releases many tax policy reports. DOF currently provides an annual report, "Statistical Profile of the New York City Commercial Rent Tax," which provides detailed statistical information on CRT taxpayers – by base rent ranges and economic sectors, for example. DOF is open to making changes to how we report CRT data. It is problematic, though, to provide systematic reporting for some data, because of problems with the reported information. For example, Intro 1376 mandates certain reporting by the zip code of the taxable premises, but some taxpayers omit zip code information when filing and some taxpayers file incomplete address information for premises or provide information in a non-standard format. DOF reporting must also be in compliance with statutory tax confidentiality requirements, which restrict reporting when the number of observations per category is too low. We recommend that DOF staff meet with City Council Finance staff to discuss the types of enhanced reporting that we may be able to provide.

Intro 7925

Intro 7925 provides a CRT exemption for certain grocery stores meeting the criteria specified in the bill. The legislation as currently drafted raises significant tax administration and compliance issues. The detailed eligibility criteria regarding uses of space on a square footage basis, the development of affordability requirements and annual inspections, would be a challenge for DOF to administer and could place compliance burdens on the very businesses the legislation seeks to assist. In addition, implementing this type of subsidy through the tax code would inhibit transparency, as DOF would not be able to provide information on the specific businesses benefiting from the legislation. It is important to note that the financial assistance provided through the Food Retail Expansion to Support Health or FRESH program is discretionary, rather than as-of-right, and evaluated by New York City Industrial Development Agency (IDA) staff case-by-case to determine specific eligibility. As regards cost, we do not have specific information for the firms that would qualify for relief under Intro 7925, but we do know that the economic subsector retail grocery stores and supermarkets had Tax Year 2016 CRT liability of $5.4 million. The subsector included 95 taxpayers and 142 premises.

In closing, the Department of Finance believes the bills that are the subject of this hearing highlight important policy issues. From a tax policy perspective, we believe broad-based relief, such as increasing the CRT taxable threshold is desirable. But any proposed CRT reduction proposal is a budget issue and needs to be discussed as part of the broader budget discussion.

Thank you for the opportunity to testify today. I'm happy to take any questions you may have.

The Shubert Organization, Inc.

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ROBERT E. WANKEL
President & Co-Chief Executive Officer

FOR THE RECORD

STATEMENT OF ROBERT WANKEL IN SUPPORT OF INTRODUCTORY BILLS 0799 AND 1107-A

February 7, 2017

Good morning/afternoon, I am Robert Wankel. I am a member of the Board of Governors and the Executive Committee of the Broadway League. The Broadway League is the national trade association for the Broadway industry. Our members include theatre owners and operators in New York State and throughout the United States, as well as producers and presenters of touring Broadway productions. In addition, I am the President and Co-Chief Executive Officer of The Shubert Organization, Inc., which is the largest theatre operator on Broadway with seventeen (17) Broadway theatres and six (6) off-Broadway stages. I submit this statement in support of introductory bills 0799 and 1107-A.

Introductory Bill 1107-A would make explicit that the current one-year exemption for theatrical productions from the payment of commercial rent tax ("CRT") applies to advertising of the production. This seems to us a clarification of the existing law and is certainly something that we support and makes perfect sense. Only recently has the taxing authority taken the position that productions must pay CRT on the "rental" of billboards used to advertise productions, even though they do *not* have to pay CRT on the "rental" of space used to present the same production. There is no logic to the taxing authority's position. The same incentives that caused the City to exempt theatrical productions from paying CRT on the use of premises to produce and present the theatrical production apply with equal force to the use of billboards to advertise those productions. Broadway is a major driver of the City's economy. Broadway as an industry contributes close to $12.6 billion to the economy of New York City.[i] Broadway plays a vital role in attracting visitors to New York, and these visitors in turn play an essential role in supporting our restaurant, hotel and retail sectors, as well as our theatres. Over 80% of tickets sold last season were bought by persons living outside of New York City and nearly 60% of tourists reported that attending a Broadway show was a principal reason for visiting New York.[ii] Yet despite the importance of Broadway as an economic engine for the City, investing in Broadway is risky business. Commercial lenders will not finance new productions because the risks are too great. Instead, private individuals finance productions. Most shows do not recoup their initial capitalization and those that do typical take over a year to do so. Additional taxes will make recoupment even less likely and create an even worse environment for investors. If investors stop investing, then the engine will come to a grinding halt. The existing 52 week exemption on the payment of CRT should apply to both the use of premises to present productions as well as the use of space to advertise those productions. We support Introductory Bill 1107-A.

Introductory Bill 799 would increase the threshold amount at which a tenant must pay CRT – a much needed update of the law. Currently, a tenant must pay CRT if its base rent is $250,000. This threshold amount was first enacted *in 1964 and has not been updated since.* Adjusted for inflation, $250,000 in 1964 is equivalent to $1.95 million today. The Bill would increase the threshold at which a tenant must pay CRT to a base rent of $500,000. This increase is long overdue. We support Introductory Bill 799.

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[i] "Broadway's Economic Contribution to New York City, 2014-2015", published by The Broadway League.
[ii] *Id.*

PARTNERSHIP for New York City

Testimony of the Partnership for New York City
Michael Simas, Executive Vice President

New York City Council
Committee on Finance

Proposed Int. No. 799-A

February 13, 2017

Thank you Chair Ferreras and members of the committee for the opportunity to testify in support of legislation sponsored by Council Member Garodnick to reform the Commercial Rent Tax. The Partnership represents the city's business leaders and largest private sector employers. We work with government, labor and the nonprofit sector to promote economic growth and maintain the city's prominence as a global center of commerce and innovation.

New York City has the distinction of being the only locality in the United States that imposes a Commercial Rent Tax (CRT). The tax, effectively 3.9 percent, is levied on any business paying more than $250,000 in rent in Manhattan south of 96th street, with some exceptions. As rents have risen in Manhattan, more businesses have been forced to pay the CRT – 30 percent more since 2003.

Last summer, the Partnership worked with Doblin, Deloitte's innovation consultancy, to examine New York's innovation ecosystem and identify public and private sector opportunities to create an environment for innovative companies to expand and thrive. Interviews were conducted with founders, venture capitalists, corporate leaders, government officials and academics to better understand the challenges and opportunities for New York City to enhance its status as a global hub for innovation. It came as a surprise that tech startups in the city are not inhibited by the same issues that concern established companies, such as complex regulation and higher costs. Instead, they have unique issues, one of which is the availability of commercial space as they grow.

Short-term and shared workspaces provide more options to early-stage companies and startups in the city, but mid- to late-stage startups have far fewer choices. A co-founder and chief operating officer of an e-commerce startup said, "[w]e can get a desk for two people for $500 but it's harder as we grow."

Although the tech sector is growing quickly, with 56 percent job growth since 2003, but it still represents only four percent of the city's economy. Since 2008, the number of businesses with between one and four employees has grown nine percent, while the number with more than fifty employees has increased by only one percent. Costs like the commercial rent tax directly affect the ability of these companies to expand in New York.

Further, the commercial rent tax is levied on businesses in an area of the city that already has some of the most expensive and heavily taxed properties in the country and should be eliminated. The impact of the tax goes far beyond startups and small businesses. The area subject to the commercial rent tax houses more than half of the city's businesses with 500 or more employers. These businesses account for 51 percent of the city's private sector jobs and 63 percent of the city's private sector payroll.

By raising the threshold amount for a business to pay the commercial rent tax to $500,000, Proposed Int. No. 799-A is a positive first step toward eliminating New York City's unique tax on growth. We encourage the City Council to the work with the mayor to develop a plan to phase out the commercial rent tax over time and remove this barrier to business growth.

Thank you.

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Gale A. Brewer, Borough President

Testimony of Manhattan Borough President Gale A. Brewer Given to the New York City Council Committee on Finance On Commercial Rent Tax Legislation February 13, 2017

My name is Gale Brewer and I am the Manhattan Borough President. Thank you Chair Ferraras for holding this hearing on a slate of Commercial Rent Tax reform legislation.

New York City is one of the few cities in the United States with a commercial rent tax. Our version of the tax piles an additional cost on top of a commercial tenant's own rent liabilities and makes it more difficult to weather the ups and downs of the business cycle. Everyone recognizes that the Commercial Rent Tax (CRT) is unfairly burdensome, which is why opponents of the tax successfully eliminated it from The Bronx, Queens, Staten Island, and even Brooklyn. Here in the Borough of Manhattan, it only applies south of 96th Street and north of Murray Street.

Everyone seems to accept that the tax is too much for business to bear in all of those excluded areas that I mentioned and Manhattan's small businesses should not be treated differently, their financial burdens are made unbearable by the "insane" commercial property market. It's no secret that building owners negotiate their commercial leases to pass along every cost they possibly can to their commercial tenants. This includes property tax increases too! Perhaps only in New York City would we venerate our storefronters and then ask them to pay a tax that is assessed on someone else's taxes! I support Intro 799, introduced by Councilmember Dan Garodnick, and I think that it is long overdue.

I've often said that if my colleagues in the other boroughs want to see what kind of challenges the future has in store for them, they should take a look at Manhattan. We are losing our affordable grocery stores in communities across the island, uptown and downtown. The majority of successful grocery stores have razor thin margins, and it isn't easy to rent out huge spaces in a hot market. In the past, grocery store owners had leverage because no other type of business could utilize such a large floor area and if one grocery store closed, another would come in and take its place. Now it seems that for every grocery store we have in our residential neighborhoods, there is a Walgreens or CVS waiting to take its lease. Full service grocery stores are essential to providing local access to a range of affordable fresh foods and staples for home preparation and consumption, especially for older adults and families. In its 2008 *Going to*

Market report[1], the City's Departments of City Planning, Health and Economic Development found a data driven connection between neighborhoods that were underserved by grocery stores and a higher rate of diet related diseases like obesity and diabetes. Underserved neighborhoods also missed out on the economic development benefits of supermarkets including job creation and neighborhood revitalization. These findings led to the launch of the FRESH program, which encouraged the establishment and retention of full service grocery stores through financial and zoning incentives. And yet, Manhattans' FRESH zones are located well outside the CRT zone and the last two years have seen the closures of too many supermarkets between 96 Street and Murray Street. We have to allow grocery stores to be more competitive, and we can start by removing their Commercial Rent Tax burden. Councilmember Johnson and I are sponsoring a bill to exempt affordable grocery stores from doing just that.

My office took a close look at what is going on with our supermarkets in Manhattan. Even with lower costs per square foot than their neighbors, the amount of floor area that grocery stores require will qualify them for the high end of the Commercial Rent Tax. In exchange for this tax, the City of New York can get far more value by partnering with supermarkets and their workers to invest in healthy communities and local economies. Councilmember Johnson and I crafted this bill to resemble the FRESH program's insistence on produce, fresh meats and dairy. Stores that seek the CRT exemption must accept SNAP and WIC, while earning the majority of their revenue from the sale of grocery items. The stores must also be affordable so we can maintain the vital tapestry of people from different socio-economic backgrounds who make Manhattan their home. I recognize that affordability is relative and look forward to working with the Departments of Finance and Health to develop a straightforward formula and process around measuring affordability.

Thank you again for the opportunity to testify today in support of the proposed rule changes. I also want to thank the supermarket owners and representatives of Local 338 and 1500 for their input and time today to testify on the proposed legislation. I also appreciate the consideration and counsel of the Hunter College NYC Food Policy Center and CUNY Urban Food Policy Center, and thank their staffs for the support and insight they are sharing today. I look forward to working with the Council and Administration to support access to affordable, healthy food as well as small businesses throughout the Borough of Manhattan.

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[1] http://www1.nyc.gov/assets/planning/download/pdf/plans/supermarket/presentation_2008_10_29.pdf

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Testimony of George Sweeting
Deputy Director, New York City Independent Budget Office
To the New York City Council Committee on Finance
On the Commercial Rent Tax

February 13, 2017

Good afternoon Chair Ferreras-Copeland and members of the committee. Thank you for the opportunity to testify regarding this package of Intros that would make changes in the city's commercial rent tax (CRT). Before speaking about the particulars of the legislation I would like to offer some broader observations regarding the CRT.

The city's CRT is subject to a number of criticisms. First, it is virtually unique. Other than the state of Florida, which charges a sales tax of 6 percent on commercial rents, I know of no other large jurisdiction that taxes rents. Imposing such an unusual tax reinforces the notion that New York is a high tax location and may weaken efforts to attract and retain businesses. The CRT also pyramids one tax upon another. Some part of the rent charged by landlords to tenants reflects the owner's expenses—expenses that include property tax. Moreover, commercial leases in the city commonly include a tax escalation clause that explicitly passes on some or all of annual increases in property taxes to the tenants. With a portion of the landlord's property tax included in the rent, the CRT is in part a tax on the property tax. Such pyramiding is considered undesirable from a best practice perspective. Another critique is that the CRT treats otherwise similar businesses differently depending on whether they own their building or where they are located in the city.

While it is easy to find flaws with the CRT, there are things to bear in mind if contemplating its full repeal. First, the city expects to generate $816 million in CRT revenue this year and $848 million next year, or about 1.5 percent of all tax revenue. Those amounts are roughly equal to city-funded expenditures at the Department of Homeless Services and larger than the city-funded spending at agencies such as the Departments of Health and Mental Hygiene, Transportation, and Parks and Recreation. If the tax revenue were not replaced by raising other taxes, significant cuts in city-funded services would be needed to keep the budget in balance. Nor is it likely—given the relatively inelastic supply of commercial space and relatively low commercial vacancy rates for Manhattan—that eliminating the CRT would generate substantial new economic activity and associated tax revenue. With personal and business income tax rates in the range of 4 percent to 6 percent, the tax cut would need to add about 1.5 percent to total output in the city to be revenue neutral. None of this is to say the city should not consider major reductions in the CRT, but rather that it should be done with realistic understanding of the changes on the revenue and/or spending sides of the budget that would likely be necessary.

Moreover, it is unlikely that the tenant businesses would enjoy the full benefit of any tax cut. Although the legal liability of the tax falls on the tenants, some of the economic effect of the tax falls on landlords who are forced to accept somewhat lower rent to attract tenants to buildings subject to the tax. Exactly how much of the economic effect of the tax is shifted from tenants to landlords depends on market conditions when leases are signed, but it is reasonable to assume that landlords would be able to extract at least some of the benefits of tax reduction through higher rents if the CRT were eliminated or reduced.

Turning now to the legislation before the committee today. Intro 799-a would extend the current rent exemption from $250,000 to $500,000 and provide a sliding scale credit for those taxpayers with rent between $500,000 and $550,000 to avoid a sharp cliff in the tax liability above the exempt amount. The current exemption amount has been in place since 2001 with no adjustment for inflation in the interim. However, the doubling of the exemption amount exceeds the 44 percent change in the consumer price index, or CPI, and the 27 percent change in office rents in the intervening years.

Based on data supplied by the Department of Finance, IBO estimates that approximately 3,540 firms that currently pay a total of $47 million in CRT would be eliminated from the tax, with an average savings of about $13,250. Another 475 would have their CRT liability reduced by about $4.8 million or $10,100 on average. Given the relatively low rents paid by these tenants, it is likely that many are small firms renting relatively small spaces. These results are consistent with a goal of reducing the tax burden on smaller businesses. If implemented, Intro 799-a would likely leave the CRT tax base even more dependent on a relatively small number of large firms. For the 2016 tax year, over 51 percent of the liability ($388 million) came from just 368 taxpayers (4.8 percent).

Turning to Intro 1376, I would first like to complement the Department of Finance for taking steps in recent years to make basic distributional information about the CRT available on the department's website. The Intro would go further by calling for two-way tables such as the distribution of taxpayers and liability by base rent range, industry and location. This additional information would be useful for analysts and others trying to learn about who is paying the tax and how the burden is distributed. Based on IBO's recent experience working with the CRT data we currently receive from the finance department, there may be challenges in using the data to identify the location of CRT payers as called for in the Intro, particularly those with multiple premises. Likewise, we encountered difficulties with the industry coding, which makes it problematic to assess the effects of the other two Intros being considered today.

Thank you again for the opportunity to testify. I would be happy to answer any questions you may have.

NATIONAL SUPERMARKET ASSOCIATION

Testimony before the New York City Council
Committee on Finance
Int. 5597/2017
February 9, 2017

Good Morning Chair Ferreras-Copeland and other members of the New York City Council's Committee on Finance. My name is Nelson Eusebio and I'm the Executive Director of the National Supermarket Association (NSA). The NSA is a trade association that represents the interest of independent supermarket owners in New York and other urban cities throughout the East coast, Mid-Atlantic region and Florida. In the five boroughs alone, we represent 400 stores that employ over 15,000 New Yorkers.

Some quick background on our industry – beginning in the late 1970s, supermarket entrepreneurs began opening stores in areas abandoned by the large chains, as they were economically depressed and mostly minority neighborhoods. These men and women had the vision and the commitment to fill a vacuum in those communities, at a time when the term "food desert" had not even been coined. Currently, many NSA members continue to serve those areas by offering healthy foods and full service supermarkets.

I'm here today to testify in support of Int. 5597 - A Local Law to amend the administrative code of the city of New York, in relation to exempting certain grocery stores from the commercial rent tax.

First, we would like to thank Borough President Gale Brewer and Council Member Corey Johnson for taking a meaningful and comprehensive look at the existing business climate for grocery stores in Manhattan. It's no secret that the industry is in crisis, particularly in Manhattan, with local grocery stores closing their doors regularly and leaving neighborhoods devoid of healthy food options.

The elimination of the commercial rent tax for grocery stores would be a significant step towards protecting the viability and sustainability of the supermarket industry. It would not only save local grocery stores tens of thousands of dollars that would be reinvested in the stores and/or the community, it would also spare storeowners from what is essentially a double tax on property in Manhattan.

Faced with excessive taxes, sky-high rents, cumbersome fines and burdensome regulations, NSA feels the CRT exemption is a necessary relief to an industry that is vital to the City.

The city should have a vested interest in helping supermarkets keep their doors open because one, it's a public health concern and two, it's an economic development issue. Here's why:

- First, we know that access to local supermarkets is vital for the health of every community. Studies have shown that access to grocery stores corresponds with lower obesity rates, diabetes and diet related deaths. In addition to the health benefits, supermarkets offer a cost savings measure for many individuals and households that cannot afford to regularly buy precooked meals or eat out.

- Second, small businesses are to the City, what supermarkets are to their community: the lifeblood. Supermarkets are an economic driver; they employ thousands of people citywide. Not only do they employ a significant amount of people, their employees are from the communities in which they serve. Most of our owners have been in their neighborhoods for years, they know their customers by name; they contract with local vendors and contribute to a robust ecosystem in the neighborhood.

So while NSA comes here today in support of this bill, it's absolutely necessary that it be executed correctly and live up to the spirit of the law. With that being said, we would caution against giving too much discretion to the agencies that are tasks with overseeing implementation and defining supermarkets. If this becomes an arbitrary process, it defeats the purpose of trying to help the industry at large.

I appreciate your time and welcome any questions.

NYC | HOSPITALITY ALLIANCE

February 13th, 2017

New York City Hospitality Alliance

Comments on

Pro. Int. No. 799-A - In relation to the commercial rent tax.

My name is Andrew Rigie and I am the Executive Director of the New York City Hospitality Alliance, a not-for-profit trade association representing thousands of eating and drinking establishments throughout the five boroughs. Many of our member restaurants and bars are located south of 96th Street in Manhattan and are subject to the burdensome, unfair and unjust Commercial Rent Tax ("CRT"). We strongly support Int. 799 and thank Council Member Daniel Garodnick for introducing the legislation, Council Member and Finance Committee Chair Julissa Ferreras-Copeland for holding today's hearing, and all of the Council Members supporting this bill. We urge the remaining Council Members who have not yet signed on to this legislation to do so immediately and urge Mayor de Blasio to sign this important, pro-small business reform of the CRT into law.

The CRT was enacted by a cash-strapped city in 1963. As fiscal conditions improved, the tax has been eliminated over time for more and more neighborhoods of the city, including four entire boroughs and certain parts of Manhattan. Today all that is left of the tax is imposed on commercial tenants south of 96th Street in Manhattan (with limited exception). Most businesses that are subject to this levy pay a tax rate of 3.9% on top of their already expensive base rent.

Only tenants that pay less than $250,000 in annual rent are exempt from the tax. This amount may sound like it is a tax targeted only at large companies and major national chains, but that is far from reality. It is critical to understand that this figure has not changed in decades and it is not adjusted annually. The real estate market has changed a lot since this tax was created in the 1960's, and more recently, between 2012 and 2015 commercial rents increased a whopping 42% in Manhattan. The result is that thousands more local businesses are forced to pay the tax than was originally conceived.

The fact is that this tax is inequitable because only businesses in one section, of one borough are still subject to the surcharge. The CRT is also unjust because it is really a double-tax, as businesses already pay their landlord's property tax in their rent payment or lease agreement. The tax's financial burden compounds with the annual rent increases that are often built into commercial leases. The tax is further punitive and senseless because it is levied on the first $250,000 of rent, not just the excess rent above the exemption threshold.

As Executive Director of the New York City Hospitality Alliance, one day does not go by that I don't hear from members who tell me about the concerns and frustration they have operating a successful business in Manhattan. The sky-high rents, the ever changing, expensive, complex and unforgiving regulatory environment is forcing beloved businesses to shutter and others struggling just to survive. Every day you read stories in local media about the plight of small business owners. It's not a surprise when you read statistics like this: the city's Department of

Finance used aggregate data to compare taxpayers' net income in 2012 with their CRT tax liability in 2014. They found that approximately 1,200 businesses with very low profit margins in 2012 — less than $100,000 each — earned a combined $14 million in net income but together paid $19 million in 2014 CRT tax. This disparity was particularly pronounced among the retail businesses that elected officials often talk about trying to support and save. So when I hear from elected officials who ask how they can help support and save our world-renowned restaurants, the answer is clear: support Int. 799 that raises the threshold to exempt businesses from paying CRT from $250,000, to those that pay annual rent of less than $500,000. Your support will save approximately 4,000 businesses from this unjust tax.

There may be some in the Council and elsewhere who question how the city will make up for lost revenue when this pro-small business tax reform is passed. For those who do, I urge them to apply the same economic theory many of them have used to support minimum-wage increases to support reforming the CRT. The theory is that workers will spend their increased earnings in the local economy by purchasing food and goods. This spending will result in increased economic activity that will forge a stronger and more equitable society that generates tax revenue. The same theory easily applies to eliminating the commercial rent tax on small businesses: the reduced tax revenue will go back into the pockets of local businesses that earned it and they will then quickly pump it right back into the local economy in the form of wages for workers, purchasing of goods and services, and business expansion, all of which generate revenue for the city's tax base.

Passing Int. 799 to reform the Commercial Rent Tax is an opportunity for our elected officials to follow through on their promises to support local Manhattan businesses. Supporting Int. 799 is also a way for council members who represent districts no longer subject to this unfair tax to stand in solidarity with their fellow New Yorkers.

The New York City Hospitality Alliance strongly urges the City Council to immediately pass Int. 799.

We also encourage our elected representatives to take this unique opportunity to support a broader exemption for thousands more storefront businesses that pay more than $500,000 in rent and need financial relief. This can be done in multiple ways: exempt all storefront businesses from the tax, increase the exemption threshold to $1,000,000, calculate the tax only on the portion of rent that exceeds the exempt threshold. It is time for the City of New York to act swiftly while laying the foundation for an eventual repeal of the Commercial Rent Tax that will encourage entrepreneurs, support our diverse culinary and cocktail culture, and promote a Manhattan streetscape that is rich with character.

Respectfully submitted,

Andrew Rigie
Executive Director
New York City Hospitality Alliance
arigie@theNYCalliance.org

REBNY®
REAL ESTATE BOARD OF NEW YORK

TESTIMONY OF THE REAL ESTATE BOARD OF NEW YORK BEFORE THE NEW YORK CITY COUNCIL FINANCE COMMITTEE IN SUPPORT OF INT. NO. 799-A

February 13, 2017

Bill:	Intro No 799-A
Subject:	A Local Law to amend the administrative code of the city of New York, in relation to the commercial rent tax
Sponsors:	Daniel R. Garodnick, Helen K. Rosenthal, Margaret S. Chin, Rosie Mendez, Corey D. Johnson, Ben Kallos, Mark Levine, Julissa Ferreras-Copeland, Robert E. Cornegy, Jr., Ydanis A. Rodriguez, CostaG. Constantinides, Peter A. Koo, Karen Koslowitz, Darlene Mealy, Deborah L. Rose

The Real Estate Board of New York (REBNY) a trade association with 17,000 members comprised of owners, builders, residential and commercial brokers and managers and other real estate professionals active in New York.

REBNY supports Int. No. 799-A which would raise the threshold for the imposition of the Commercial Rent Tax to $499,999 per year and establish a phase-in of the tax from $500,000 to $550,000.

The commercial rent tax (CRT) is imposed on the rent paid by tenants who occupy or use real property for commercial purposes in Manhattan south of 96th Street. Certain tenants are currently exempt from the CRT. The major exemption categories are:

- Tenants with annual rents below $250,000
- Tenants with rental periods of 14 days or less during the tax year
- Tenants that are governmental or non-profit organizations
- Tenants that use the premises for certain theatrical productions
- Tenants located in the "World Trade Center Area"
- Tenants occupying retail space in Lower Manhattan
- Tenants eligible for the Commercial Revitalization Program

This bill would provide important tax relief for approximately for 2740 taxpayers, or 35.6 percent of the commercial rent taxpayers.

Despite the large number of taxpayers to benefit, this change will result in a $35.4 million dollar reduction in the CRT, or approximately 4.7 percent of the taxes generated.

Since 2004, the total tax liability has averaged annually a 4.9 percent increase. In effect, the percentage of foregone revenue as a result of this proposal is the equivalent of a single year's CRT increase.

The amount of revenue the city can collect from the real property tax for operating expenses is capped by the New York State Constitution at 2.5 percent of the taxable value of real estate. The commercial rent tax was first implemented in 1963 as a way to raise revenue from the operation of real estate without violating the constitutional real property tax cap.

In the mid-1990s, significant changes were made to the CRT. The most significant change was to eliminate the tax for rented commercial space north of 96th Street and the other four boroughs. The administration also began a reduction of the effective rate of the tax from 6 percent to 3.9 percent with the goal of eliminating this unique tax in Manhattan as well.

We hope that Int. No. 799-A is the beginning of a prudent process to eliminate this tax entirely.

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Testimony to the New York City Council
Committee on Finance
February 13, 2017
Intros. 799-A and 1107-A

My name is Billy Richling, External Affairs Coordinator for the Times Square Alliance. The Times Square Alliance works to improve and promote the Times Square district. Thank you, Chair Ferreras-Copeland and members of the Finance Committee for allowing me the opportunity to testify before you today.

As the local business improvement district, the Times Square Alliance is thankful to our Council Members, Dan Garodnick and Corey Johnson, for introducing Intros. 799-A and 1107-A, which provide exemptions to the Commercial Rent Tax (CRT). The Alliance wholeheartedly supports both pieces of legislation.

The Times Square district encompasses just .1% of the City's land area, but is responsible for 15% of the City's economic output and supports 7% of the City's jobs. The industries that call Times Square home are diverse, including finance, hospitality, media, technology, theater, and retail, and vary in size from large corporations and national chains to local "mom and pop" establishments and non-profit cultural institutions. It is this unique mix and character that continues to draw 350,000 New Yorkers and tourists to Times Square daily.

The Commercial Rent Tax was first instituted in the 1960s and hasn't been revised since the 1990s, when it was imposed on only commercial properties south of 96th Street in Manhattan. At the time, it captured only the largest companies in the heart of Midtown. Today, however, the average commercial in Times Square is $63 per square foot, meaning that the CRT is assessed on companies with even modest footprints within the district. As New Jersey and other jurisdictions invest in amenities to attract companies from Manhattan, it is crucial that New York City takes steps to remain competitive in an evolving marketplace. Thus, the Alliance supports Intro. 799-A, which would exempt tenants paying less than $500,000 a year in rent from the CRT and establish a credit for tenants paying between $500,000-$550,00 a year in rent.

The Alliance also supports Intro. 1107-A. The theater community is integral to Times Square's cultural fabric. The district is proudly home to 40 Broadway theaters, holding a collective 48,810 seats. Intro. 1107-A will ensure that billboards used solely to advertise new theatrical performances will not be subject to the CRT. This is consistent with other sections of the CRT statute, which exempt theatrical venues from the CRT for the first fifty-two weeks of a performance and further recognizes the economic impact of Broadway and other New York City cultural institutions.

The Times Square Alliance is grateful to the Council for its attention to CRT reform and the impact such a regressive tax has on small and mid-sized businesses in Manhattan. We look forward to continuing to work with the Council to ensure that Manhattan's commercial districts continue to thrive.

Thank you for the opportunity to testify today.

MANHATTAN
CHAMBER OF
COMMERCE

TESTIMONY BEFORE THE NEW YORK CITY COUNCIL COMMITTEE ON FINANCE

OVERSIGHT HEARING ON THE CITY'S COMMERCIAL RENT TAX

JESSICA WALKER
PRESIDENT AND CEO

MONDAY, FEBRUARY 13, 2017

The Manhattan Chamber of Commerce is an organization that drives broad economic prosperity by helping businesses of all sizes to succeed in New York.

Escalating rents are threatening the survival of many small businesses in Manhattan. And the Commercial Rent Tax is only making the problem worse. We urge the City Council and the Mayor to include relief from this burdensome tax in this year's budget. Councilman Garodnick's legislation (Int. 799) is a promising first step in this regard, as it would raise the threshold at which businesses are captured.

Currently, tenants are exempt from the tax if their annual base rent falls below $250,000. That may sound like it's only aimed at large companies and major national chains. But that's not true. Rents jumped 42% in Manhattan between 2012 and 2015, so more and more businesses are now subject to the tax.

Last year the Chamber issued a report showing that more and more businesses are being captured by the tax. In 2003, the city collected nearly $388 million from 5,858 businesses. By 2015, 7,354 businesses were on the hook for the tax, paying $720 million to the city. That's 86% more than in 2003.

The average CRT liability per taxpayer also increased in that time period, growing from approximately $80,000 to $100,000. That's on top of the growing number of well-intended yet expensive government mandates such as increased wages, paid sick leave and health care requirements.

Unfortunately, many unprofitable businesses are paying the tax. The city's Department of Finance used aggregate data to compare taxpayers' net income in 2012 with their CRT tax liability in 2014. They found that approximately 1,200 businesses with very low profit margins in 2012 — less than $100,000 each — earned a combined $14 million in net income but together paid $19 million in 2014 CRT tax. This disparity was particularly pronounced among the retail businesses that elected officials are trying to save.

Exempting these businesses from the tax will help them survive and hopefully grow here. They are counting on you. And the Chamber stands ready to work with you to enact the right solution. Thank you.

THE BROADWAY
ASSOCIATION
FOUNDED 1911

February 13, 2017

Testimony of the Broadway Association on Introductions 799 and 1107-A before the New York City Council Committee on Finance

Good afternoon Chairwoman Ferreras -Copeland and Members of the Finance Committee. My name is Josh Knoller and I'm testifying on behalf of the Broadway Association in support of Intros 799 and 1107-A.

The Broadway Association, founded in 1911, is a not-for-profit business association devoted to the cultural and economic betterment of midtown west, which comprises the Broadway theater district. Our members include property owners, major corporations, hotels, advertisers, unions, civic associations, theater companies, banks, and others. The Association works to foster the healthy climate that ushered in the development renaissance we currently enjoy.

The Broadway Association supports Intro 1107-A which exempts the advertising of theatrical productions from the Commercial Rent Tax (CRT) for one year. While I'm sure the Council is aware of the small minority of Broadway productions that enjoy outstanding financial success, what is underreported is the number of productions that close rather quickly—sometimes in a matter of months or even weeks. In addition to not achieving financial success, these productions are now also being hit by a Department of Finance audit of the CRT retroactively. What this means is that shows that have opened and closed in a matter of weeks, in some cases years ago, are now being billed for a tax on any billboard advertising that promoted the show for its limited run.

The theater industry provides great economic and cultural benefits to New York City, which is unmatched anywhere else in the world. But with a healthy industry comes a competitive barrier to entry that relies almost entirely on early ticket sales. Advertising is a key method for reaching tourists and New Yorkers alike about new theater offerings and a CRT applied retroactively can be cost-prohibitive to the advertising of new productions.

The Broadway Association also supports Introduction 799 which would exempt businesses with annual rent of less than $500,000 from paying the CRT. With sky-high commercial rents, the Broadway Association wants to ensure that Manhattan remains a commercially diverse destination. This legislation would help ease the burden for smaller, independent commercial tenants which are the fabric of our city.

We thank Council Member Garodnick for introducing these bills that help foster new cultural offerings and commercial diversity and we urge the Finance Committee to pass this legislation.

Thank you for your consideration.

ALCHEMATION

110 W. 40th St, Suite 901 • New York, NY 10018

STATEMENT IN SUPPORT OF INTRODUCTORY BILLS 0799 and 1107

Good afternoon. I am Kevin McCollum, President and CEO of Alchemation. I am an independent producer and a member of The Broadway League's Board of Governors. My producing partners and I have produced many Broadway shows including *Rent, Avenue Q, Motown, In the Heights, Something Rotten*, as well as the upcoming *The Play That Goes Wrong*. We finance and operate these and other productions on Broadway and on tour throughout North America. I thank Chairperson Ferreras-Copeland and the other distinguished members of the Finance Committee for this opportunity to present testimony. I also want to acknowledge all of the sponsors of Introductory Bills 0799 and 1107, as well as recognize Council Members Garodnick and Johnson for their commitment to improving the economic environment for thousands of small businesses south of 96th Street in Manhattan.

I am likely preaching to the choir when I tell you that Broadway is one of the main things defining New York City for Americans and visitors from all over the world. Approximately 13.3 million theatre tickets were purchased during the 12-month Broadway theatre season ending in May 2016. Over 80% of these tickets were purchased by patrons residing outside New York City and nearly 60% of tourists reported that attending a Broadway show was a principal reason for their visit to New York. Broadway infused this city's economy with nearly $12.6 billion in 2015, while related spending generated over $500 million in tax revenue and supported nearly 90,000 jobs.

Broadway Tours are vital to the hundreds of venues and cities across North America that offer live theatre. In the 2012 through 2013 theatre season (the latest for which numbers are available), Broadway League Tours contributed approximately $3.2 billion to the nation's economy and approximately 12.4% ($397.4 million) of the fiscal contribution of those tours returned to NYC in wages and dividends.

Despite the enormity of Broadway's impact, approximately four of every five shows that open in a given year fail to recoup their initial capitalization. Commercial theatre always was, and remains, a uniquely costly and uncertain venture. No banks or lending institutions will finance a new Broadway show, so the industry is supported by individual investors willing to place their own money at risk for the possibility of participating in a successful production. High taxes, particularly location-specific and compound assessments such as the Commercial Rent Tax ('CRT'), are disincentives that discourage investing and make attracting new capital particularly challenging. They also increase a show's operating costs, making profitability even less likely.

While Broadway is enjoying one of its best years with respect to attendance, overall industry grosses do not equate to prosperity. While a small number of shows are successful, only an average of one in five becomes profitable. Of 14 new open-ended shows that launched last season, 9 productions closed within a year. In the previous season, 11 of 17 new shows closed in under a year and 11 of 16 new open-ended productions closed within 52 weeks in the 2013 through 2014 season. Last year, Broadway investors lost over $200 million in production capital, while shows that do recoup often require between 1 ½ years and 2 years to do so.

Among several CRT exceptions, Section 11-704 of the Administrative Code notes that "a tenant who uses taxable premises for the production and performance of a theatrical work shall be exempt from the tax imposed by this chapter (Commercial Rent Tax) with respect to the rent paid for such taxable premises for a period not exceeding fifty-two weeks." Intro. 1107 supports the legislative intent of 11-704 and similarly helps lessen some of the risks and barriers to obtaining capitalization for new theatrical works while providing new productions an opportunity to find an audience, avoid turnover and prevent theatres from sitting dark.

Another distinction is that Broadway advertisements are exclusively for NYC visitors and residents. All of the spending that we encourage occurs locally and benefits the 89,000 jobs that we directly support. Broadway's revenue is perishable Unsold tickets not only negatively impact producers, theatres and our direct hires, but the countless restaurants, parking garages and retail outlets in the area. A healthy Broadway lends to a healthy NYC. We are local businesses interwoven with the community, not multinational corporations using the signs to support general public awareness and branding campaigns.

I join with the others testifying today in support of Intro. 799. While CRT is an arbitrary assessment that should be eliminated altogether, any tax relief the City may offer Manhattan's businesses would only encourage investment and continued growth in the cultural sector. Once again, I thank you for this opportunity to support Intros. 1107 and 0799 and am happy to answer questions.

Kevin E. McCollum

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THE BROADWAY LEAGUE

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STATEMENT OF THE BROADWAY LEAGUE
IN SUPPORT OF INTRODUCTORY BILLS 0799 and 1107

Good morning/afternoon. I am Thomas Ferrugia, Director of Governmental Affairs with The Broadway League. For more than 80 years, The League has been the principal trade association of the commercial theatre industry in New York and across North America. Today it represents more than 700 theatre owners, producers and road presenters nationwide. I want to thank Chairperson Ferreras-Copeland and the members of the Finance Committee for the opportunity to speak with you today. I would also like to thank Council Member Dan Garodnick for his dedication and foresight on the issue of Commercial Rent Tax reform. As a representative of Times Square, he is acutely aware of its fiscal challenges and has always been a champion for the businesses and residents of the area. We are fortunate to have both Council Member Garodnick and Council Member Corey Johnson representing the Theatre District.

Like all businesses below 96th Street, Broadway productions are subject to Commercial Rent Tax ("CRT") on rent paid for occupying the venue. However, in 1995, theatrical works were granted a statutory exemption for the first 52 weeks of a new show's run. This was the result of the City acknowledging the reciprocal benefit of supporting an industry critical to the City's economy and to maintaining its status as the world's cultural epicenter.

In the summer of 2014, The Department of Finance circulated a document titled 'Update on Audit Issues' to advise accountants that CRT reporting was required for rent on outdoor advertisements. This publication preceded a series of audits on various midtown billboards. While outdoor advertisements are covered in the CRT statute, prior to publication of this notice the City had not, to our knowledge, collected CRT on any billboard rent in Manhattan and no theatrical production had ever been assessed the tax, even in instances when the Department conducted CRT audits. Therefore, in 1994 and 1995 there was no cause to contemplate that specific language would be necessary to ensure that rent on outdoor advertisements would also be covered by the CRT exemption. We believe that Intro. 1107 is consistent with the intent of the existing statute as the City meant to exclude live theatrical productions from CRT on all rent paid during a show's first year to incentivize the exhibition of live entertainment which, while critical to the City's economy, is a uniquely risky endeavor.

We also think the Department's interpretation that rent paid by a single theatrical entity for a venue and for an outdoor advertisement are two events, when they are directly related and necessary to present the show, seems to circumvent the purpose for the existing law. Accordingly, we endorse Intro 1107.

When CRT was first levied in 1963 to generate income without reaching a constitutional limit on property-tax revenue, an annualized rent of $250,000 characterized the largest spaces in the most desirable areas. That $250,000 annually, adjusted for inflation, is equivalent to $1.95 million in today's dollars. The average commercial rent in Midtown Manhattan is now approximately $80 per square foot, a whopping 6% increase over just last year. This means that even a relatively small 500 square-foot office can command a rent of $480,000 annually. Now, more than ever, CRT is a regressive tax that creates a disincentive to operating businesses in mid and lower Manhattan, as well as an unfair double assessment because these businesses are already paying local property taxes. In addition, as noted, CRT is now being assessed on rents paid on outdoor signs, which greatly expands the universe of properties subject to the tax and includes, perhaps even more egregiously, unoccupied spaces where no business is being conducted.

The fact that this tax schedule has not been reexamined in more than 50 years seems like an enormous oversight. We believe that the City should focus on tax policies that generate employment, revenue and invigorate the city. While we support Int. 0799 because it represents movement in the right direction, the most appropriate action would be to repeal CRT altogether or at least bring the exemption in alignment with inflation and create a mechanism to recalculate the amount going forward

On behalf of the Broadway League, I once again express our gratitude to this Committee for hearing these vital proposals and for the opportunity to appear before you today. We hope that the Council will pass both pieces of legislation. I am happy to answer any questions that you may have.

STATEMENT IN SUPPORT
OF INTRODUCTORY BILLS 0799 and 1107

Good afternoon. My name is Tony DePaulo. I have been a member of the International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts ("IATSE"), Local One, since 1975 and now serve as an International Representative and the Co-Director of the Stagecraft Department at the IATSE. This includes everyone from the people that design and build the scenery to the person that sells you your ticket to the ushers that seat you and all the artiest and technicians that work backstage. I would like to express my appreciation to Chairperson Ferreras-Copeland, the members of the Finance Committee, Council Members Garodnick and Johnson, as well as to the sponsors of Introductory Bills 799 and 1107 for this opportunity to join my colleagues in supporting these important initiatives. Commercial Rent Tax reform is long overdue, and I applaud the City Council for finally addressing it in a meaningful way.

IATSE was founded in 1893 when representatives of stagehands from eleven cities met in New York to formally organize and support each-others' shared goals, which included ensuring fair wages and good working conditions for their respective memberships. Our union has since expanded to embrace new entertainment medium and technological innovation. Today, our members work in all forms of live theater, motion pictures, TV production, concerts, as well as equipment and construction shops that support the arts and entertainment industry. We now have over 130,000 members, with approximately 14,000 working in live theatre in New York City. We have developed close, positive relationships with theatrical producers, theatre owners and The Broadway League.

Among the nearly 90,000 workers that the Broadway Industry supports, approximately 10,000 are regularly employed through a union contract. These highly skilled professionals perform virtually all visible and behind-the scenes work in a live theatrical production. Our work is essential to the quality of the show, as well as the safety of the actors and performers, who are also union members.

A single Broadway show can create employment for hundreds of workers across more than a dozen unions and, if successful, provide ongoing employment for years and, in some cases, decades. However, as you have heard, Broadway Theatre is extremely risky with only 20% of productions ever earning back their capitalization. It is also a very expensive business, with many new productions costing upwards of $10 million to mount. The continued employment of many of our union members depends on a constant stream of new productions, which requires individual backers to continue risking their personal financial resources on investments that offer five to one odds. Securing this capitalization, not to mention meeting the weekly operating expenses, is becoming increasingly challenging as the cost for doing business in Manhattan continues to rise.

Any action that the City may take in the area of tax reform to help reduce the burden on new productions will only incentivize investment, help shows run longer and encourage the development of new productions. Investors have a lot of choices about the types of projects they might finance and the additional burden of Commercial Rent Tax is simply an obstacle to attracting backers and allowing a show to reimburses investors and pay employees.

I therefore join with my colleagues to express support for Introductory Bills 0799 and 1107. Once again, I appreciate this opportunity and am happy to answer questions.

February 13, 2017

Red Apple Group on Behalf of Gristedes Supermarkets

Bill: T2017-5597
Exempting Certain Grocery Stores from the Commercial Rent Tax
Sponsors: Corey D. Johnson, (by request of the Manhattan Borough President)

Testimony by Renee Flores, Red Apple Group

I would like to thank the Committee on Finance for the opportunity to testify today. I would also like to thank Manhattan Borough President Brewer and Councilman Johnson for drafting this legislation and focusing their attention on the plight faced by New York City supermarkets. I am testifying in support of bill 5597.

I am here today on behalf of Red Apple Group, which is the owner and operator of Gristedes Supermarkets. Gristedes has been feeding, employing, and providing for New Yorkers for over 100 years. Our stores supply New Yorkers with fresh meat, produce, dairy products, baked goods, frozen foods, gourmet foods, and non-food items all throughout the year.

New Yorkers rely on us for the food they need for themselves and their families. But New York City grocery stores are struggling. Between 2005 and 2015, 300 family-owned grocery stores closed—that is, about 8 percent of the City's greengrocers. Garden of Eden filed for bankruptcy. D'Agostino is down to nine locations when it used to have twenty-six. And our very own Gristedes has closed two locations on the Upper East Side in the past few years.

One New Yorker, Ms. Bronzaft, speaking for local residents, who was interviewed by The New York Times this past November was dismayed that a high-rise building replaced a local Gristedes at 81st Street and East End Avenue. She said, "high rise buildings are coming onto a block where there is no food. Does that make sense?"[1] It does not. And New York City knows it. It has known it for a long time. In 2008, the New York City Department of City Planning stated in a presentation that a "widespread shortage of neighborhood grocery stores and supermarkets exists in New York City. High need for fresh food purveyors affects approximately three

[1] Ronda Kaysen, *Where Did My Supermarket Go?*, The New York Times (Nov. 4, 2016), https://www.nytimes.com/2016/11/06/realestate/new-york-city-small-supermarkets-are-closing.html?_r=0.

million New Yorkers."[2] The report went on to say that "New York City can support more than 100 new neighborhood grocery stores and supermarkets."[3] Unfortunately, stores are closing—not opening.

The reason this is happening is because the industry is facing significantly greater burdens that it did years ago. Rents today are much higher than they used to be. As Mr. Catsimatidis explained to the New York Times, the rent today is too high. "In the 1970s,...rent consumed 2 percent of sales; now it's 10 percent to 12 percent."[4] Land owners simply prefer to build a high-rise than lease the land to a grocery store. Unfortunately, high-rises do not feed New Yorkers—grocery stores do.

It is also worth noting that rent is but one of the increasing burdens placed on grocery stores: the increasing minimum wage, relatively new sick leave laws, and even the street vendors that park outside our stores to sell the same products for lower prices with a fraction of the overhead borne by traditional brick-and-mortar stores.

After enduring all of the aforementioned hurdles, it is encouraging to see that the City is looking to help grocery stores. Creating a commercial rent tax exemption will play an important role in preserving grocery stores throughout New York City.

The commercial rent tax is a "tax imposed on tenants with gross annual rents of at least $250,000 renting space for business, professional, of commercial purposes in much of Manhattan below 96th Street."[5] The current tax is 6% of the base rent.[6] With a base rent tax deduction of 35%, the effective tax rate is 3.9% for all taxpayers.[7] This amounts to significant sums of money. For example, between 2014 and 2015, Gristedes paid well over $700,000 in commercial rent tax for 24 stores. In 2016, due to the closing of two locations, Gristedes paid about $638,000 for 22 stores. Eliminating this tax will certainly go a long way for grocery stores.

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[2] *Going to Market: New York City's Neighborhood Grocery Store and Supermarket Shortage*, NYC Dep't of City Planning (Oct. 29, 2008), *available at* http://www.nyc.gov/html/misc/pdf/going_to_market.pdf.
[3] *See id.*
[4] Kaysen, *supra* note 1.
[5] *Re-Estimating the Mayor's Executive Budget and Financial Plan Through 2020: A Slowing Local Economy, But a Stable Budget Outlook*, NYC Independent Budget Office (May 2016), *available at* http://www.ibo.nyc.ny.us/iboreports/re-estimating-the-mayors-executive-budget-and-financial-plan-through-2020-a-slowing-local-economy-but-a-stable-budget-outlook.pdf.
[6] *See* NYC Admin. Code § 11-702.
[7] *See* NYC Admin. Code § 11-704(h)(2). *See also Commercial Rent Tax (CRT)*, NYC Department of Finance (last visited Feb. 11, 2017), http://www1.nyc.gov/site/finance/taxes/business-commercial-rent-tax-crt.page.

With this in mind, we do have one primary recommendation for the legislation at this time. The exemption only applies to grocery stores that satisfy "affordability requirements," which will be determined by the Commissioner of Finance in consultation with the Commissioner of Health and Mental Hygiene. In an effort to achieve the goal of supermarket retention, we recommend the City Council consider creating an advisory committee or working group of industry and government members to facilitate the defining of "affordability" within the context of the aforementioned burdens and costs of doing business as a supermarket in New York City. This legislation will only successfully preserve the supermarket industry if it applies to enough stores. The key to maximizing coverage for the betterment of New Yorkers will depend on the definition of "affordability."

In closing, please consider the following final thoughts in support of this legislation. First, grocery stores are indispensable. With each passing day, residents of New York City face the real possibility of living in a food desert—a place where there is limited access to fresh fruit, vegetables, and other healthy food.[8] Second, to quote Finance Commissioner Jiha, the commercial rent tax is a "double tax."[9] Tenants already pay property taxes through their rent payment or lease agreement. Commercial rent tax merely adds an additional layer of taxation to annual rent increases. Third, with the exception of Florida, New York City is the only City that levies a commercial rent tax on tenants.[10] Fourth, granting this exemption for grocery stores is a balanced way to help a struggling industry without the City losing all of the funds it collects from commercial rent tax.

Thank you for your time and consideration.

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[8] The New York Times pointed out this decline in access to fresh and affordable food nearly a decade ago. *See* David Gonzalez, *The Lost Supermarket: A Breed in the Need of Replenishment*, The New York Times (May 5, 2008), http://www.nytimes.com/2008/05/05/nyregion/05citywide.html?pagewanted=1&_r=1&ref=nyregion (noting "A continuing decline in the number of neighborhood supermarkets has made it harder for millions of New Yorkers to find fresh and affordable food within walking distance of their homes….").

[9] Joe Anuta, *Meet the Man Who Keeps New York City Afloat*, Crain's New York Business (June 25, 2015), http://www.crainsnewyork.com/article/20150625/REAL_ESTATE/150629940/jacques-jiha-the-man-who-keeps-new-york-city-afloat.

[10] *See* Marilyn Marks Rubin, *A Guide to New York City Taxes: History, Issues and Concerns*, John Jay College at 4-1 (Dec. 2010) ("The only other jurisdiction in the U.S. besides NYC to impose a specific tax on commercial renters is the State of Florida.").

Morton Williams Supermarkets

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Commercial Rent Tax Repeal for Supermarkets

Testimony presented by Sloan Sloan before the City Council's Finance Committee:

Morton Williams Supermarkets

February 13, 2017

Good afternoon. My name is Steven Sloan and I am one of the owners of Morton Williams Supermarkets, a family-owned chain of 15 stores that operate in NYC. 10 of these stores are doing business in the area designated by the proposed legislation to give relief to supermarkets from the commercial rent tax.

I am here today on behalf of the management and workers of Morton Williams, to voice our full support of this bill-and wish to thank Manhattan Borough President Gale Brewer for her instrumental role in drafting the legislation; and CM Johnson for introducing it.

Morton Williams has been committed to NYC for over 60 years. During the turmoil of the 1970s when many of the chain stores abandoned New York, we not only stayed but we continued to invest in the city. As a result of this investment, we now employ over 1,000 New Yorkers-and the great majority of these workers come from the Kingsbridge area of the Bronx where our flagship store and hiring hall is located.

We have invested in NYC and grown our business, but it hasn't been easy. Taxes and regulations-not to mention rising rents and the proliferation of big box stores-have presented us with many challenges. But we haven't shied away from these and continue to expand and employ more New Yorkers.

What this proposed bill does is require the Department of Finance to exempt grocery stores from the commercial rent tax if they meet certain floor space and affordability requirements. The purpose of this bill is to help prevent affordable grocery stores from closing due to the increased cost of commercial rents. It also promotes healthier grocery store retail practices by requiring that a minimum of 500 square feet of floor space be devoted exclusively to the sale of fresh produce.

We applaud the spirit of the law and if it is enacted the savings will enable us to continue to grow our business. We do have some questions about the definition of affordability, and we believe that defining the term will be necessary if the goal of supermarket retention in Manhattan is to be realized.

May I suggest that as part of the legislation, the city council create a working group of industry and government to develop and fine tune the notion of affordability within the context of the aforementioned considerable costs that supermarket operators in Manhattan face on a daily basis-keeping in mind that supermarkets are a low margin business.

It would make sense to develop a working definition of affordability from an examination and comparison of the costs and profit margins the supermarkets operate under in the designated catchment area of the proposed legislation.

That being said let me take a moment to make some additional points that directly address the ultimate goal of the legislation: preservation of supermarkets so that all New Yorkers may have affordable and healthy food to eat.

While we support the council's proposal with enthusiasm, please don't think it is a panacea to the problem of disappearing supermarkets. As the NY Times pointed out ten years ago, "A continuing decline in the number of neighborhood supermarkets has made it harder for millions of New Yorkers to find fresh and affordable food within walking distance of their homes..."

(http://www.nytimes.com/2008/05/05/nyregion/05citywide.html?pagewanted=1&_r=1&ref=nyregion)

Given escalating rents and taxes-along with onerous regulations that cost us tens of thousands of dollars a year-the current proposed relief from the commercial rent tax, while welcome, only offers a modest relief. The costs embedded in the rise in the state's

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minimum wage will greatly exceed the relief from this legislation, and will make it much harder for us to hire new workers in entry level jobs that involve a heavy investment in training.

On the city side, the continued existence of fruit and vegetable vendors operating directly in front of our stores takes approximately between $5,000 and $7,000 a week from our operating revenues. With ten stores in the designated zone, what this means is that the peddlers are costing us easily over 5 times what the relief that this legislation will grant us.

While you hopefully move forward with this bill, we would also hope you would seriously entertain our industry proposal to limit the location of produce peddlers, who have none of the same overhead costs, from directly and unfairly competing with us.

One last thought. As I mentioned regulatory costs are significant. I would suggest that the city council introduce legislation that would lead to an overhaul of the municipal code (with hundreds of statutes that are irrelevant to customer health and safety); and a reform in the manner in which the Department of Health and the Department of Consumer Affairs goes about their investigatory processes. Too often the goal is not consumer protection but simply revenue collection.

Let me close by saying that I am personally grateful for the efforts made here to address one aspect of the operating costs we supermarket owners face. In my fifteen years in the supermarket business this is the first time that government has stepped up to reduce costs for my industry-and I applaud you for it.

Let's work together to help find more ways to make the industry more successful. I pledge the support of all of us at Morton Williams in this effort to make supermarkets more successful in NYC.

Advocates of the Food Industry Since 1900
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Testimony
By the Food Industry Alliance of New York State, Inc.
in Support of
Preconsidered Int. No. T2017-5597

Thank you for the opportunity to submit testimony on behalf of the Food Industry Alliance of New York State (FIA) in connection with today's public hearing regarding Preconsidered Int. No. T2017-5597. FIA is a nonprofit trade association that promotes the interests statewide of New York's grocery, drug and convenience stores. Our members include chain and independent grocery stores that account for a significant share of New York City's retail food market and the grocery wholesalers that supply them, as well as drug and convenience stores.

FIA supports this legislation (in its current form), which would exempt grocery stores from the commercial rent tax that meet requirements regarding square footage and affordability as well as accept SNAP and WIC benefits. This relief is long overdue. The commercial rent tax is paid on top of some of the highest retail rents in the country. Combined with other high operating expenses paid by NYC retailers, the tax has contributed to the trend of grocery store closures in Manhattan. it has also drained operators of the investment capital needed to open new locations (and thus reduce the number of underserved areas in the City) as well as renovate and expand existing stores, which would provide New Yorkers with a wider assortment of products, including healthier choices, at cheaper prices.

Under the legislation, the commissioner of finance, in consultation with the commissioner of health and mental hygiene, will determine affordability requirements that must be satisfied before a grocery store is eligible for the exemption. We respectfully request that prior to the commencement of the rule making process, the departments of finance and health and mental hygiene consult FIA and its members regarding appropriate affordability standards. The goal of this collaborative effort is to ensure that affordability benchmarks fully reflect the very high operating expenses paid by Manhattan grocers.

In addition, we respectfully request that the bill text be clarified so that a food retailer must accept SNAP, but not necessarily WIC benefits, to qualify for the exemption. While Manhattan retailers typically accept SNAP benefits, some do not accept WIC payments. This is because the administrative costs and burdens of WIC are high while in some neighborhoods, WIC participation is low. In addition, WIC's minimum stock requirements are particularly onerous in Manhattan, where shelf space is limited. Food retailers that accept SNAP benefits should not be denied the tax relief they need simply because they are not enrolled in WIC when such participation is not needed, either because the WIC eligible population is low in the area or program participants are shopping at other WIC authorized stores.

In addition, there is nothing in the legislation about how a retailer obtains certification for the exemption. As with the affordability requirements, we respectfully request that prior to the commencement of the rule making process, the department of finance consult with FIA and its members to ensure that the certification process is reasonable and not unduly burdensome.

Finally, we respectfully request that clauses (ii) and (iii) of proposed section 11-704(j)(2)(a) be combined as follows: "...and that apportions such retail floor space in the following manner...(ii) 30 percent or more is utilized for the sale of perishable goods including dairy, fresh produce, frozen foods and fresh meats, of which 500 square feet or more is utilized exclusively for the sale of fresh produce." The intent is to make it clear that the minimum square footage requirement for fresh produce is part of the 30 percent standard, rather than being an additional, separate condition. This is important given the limited amount of selling area in a typical Manhattan store.

For the foregoing reasons, and assuming that the rule to be adopted facilitates the tax relief needed by grocers operating in the areas of Manhattan subject to the tax, FIA, on behalf of its members, supports adoption of this legislation. We would like to acknowledge and thank Manhattan Borough President Gale Brewer, Councilmember Corey Johnson and their respective staffs for their thoughtful work in drafting this much-needed measure. We look forward to working with government stakeholders so that the final version of this bill, as well as the implementing rule, helps reverse the trend of grocery store closures in Manhattan and provides food retailers with investment capital needed to open new locations as well as to renovate and expand existing stores, thus providing New Yorkers with a wider assortment of products, including healthier choices, at cheaper prices.

Respectfully submitted,

Food Industry Alliance of New York State, Inc.
Jay M. Peltz
General Counsel and Vice President of Government Relations
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February 13, 2017

UFCW
a VOICE for working America
Local 1500
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ANTHONY G. SPEELMAN, President • **ROBERT W. NEWELL, JR.,** Secretary / Treasurer • **RHONDA NELSON,** Recorder

Testimony of Anthony Speelman
President, United Food and Commercial Workers, Local 1500
Exempting certain grocery stores from the commercial rent tax.

Good afternoon. My name is Brendan Sexton and I will be reading testimony on behalf of Anthony Speelman, President of UFCW Local 1500, New York State's largest Grocery Workers Union.

I would like to thank the Chairwoman, Councilmember Julissa Copeland-Ferraras and Councilman Corey Johnson for the opportunity to speak today.

This bill is an important first step in addressing the disappearing affordable supermarket in Manhattan. For decades, neighborhood supermarkets provided good affordable food and good paying middleclass jobs. This is no longer the story, with low-road grocers like Whole Foods and Trader Joes lowering the standards we have fought so hard to maintain and improve, while at the same time raising the prices of staple grocery items we all need.

What is missing in this bill, is any real standards to protect the workers in the grocery stores. Any legislation that is offering tax payers money should directly deal with the impact on the workers.

With over 20,000 members, Local 1500 is one of the largest locals in the UFCW and the largest in New York State. Our union represents men and women in Queens, Staten Island, Bronx, Brooklyn, and Manhattan-along with many in Nassau, Suffolk, Westchester, Putnam and Dutchess Counties.

Our members work for companies that have a long history in NYC. These companies such as Fairway, D'Agostinos, Stop & Shop, Gristede's and Shop Rite have been serving New Yorkers for many years. Our members receive better salaries and better benefits because of the hard work Local 1500 has done in negotiating on their behalf.

By neglecting the impact on workers and allowing low road grocers to benefit from the tax payer, I ask today that the bill be amended to include with the other criteria, Labor Standards. This can come in the form of an already existing Collective Bargaining Agreement or a Labor Peace Agreement.

Far too often, grocery workers are faced with exploitation, wage theft, harassment and intimidation. By including the supermarket industry in his initial target of industries that are a hotbed of exploitation, Governor Cuomo knows the unscrupulous employers these workers face. In light of the industry's tendency to exploit workers, I would include a provision to protect the tax payers money, by whereas any operator that is found guilty of violating worker's rights by a governmental agency including but not limited to, the Department of Labor, the Attorney General's Office and the National Labor Relations Board, immediately lose the tax benefit and make whole for the provable time they were found guilty.

For far too long, businesses have been given handouts while workers perish. This is an opportunity to correct the record and protect workers in a meaningful way.

Our members are watching and hoping that the council will amend this proposal to address the needs of preserving affordable supermarkets and preserving good middle class jobs. We stand ready to work with you to achieve this goal.

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BUSINESS IMPROVEMENT DISTRICT
華埠商業改進區

Monday, February 13, 2017

Testimony before City Council Hearing

We are delighted to learn that the City Council is seriously considering these rent relief bills to help our community and our merchants. As has been said many times, small businesses are the backbone of the economy and given that we are the only area and community still severely affected by the closure of Park Row and disconnected from the rest of Lower Manhatthan, any assistance is a welcome news to us. We look forward to the speedy passage of these important initiatives.

Intro. 799: Commercial Rent Tax
Beginning June 1, 2017, this bill would exempt commercial tenants paying less than $500,000 per year in rent from the commercial rent tax. Commercial tenants paying between $500,000 and $550,000 per year in rent would receive a sliding scale credit against the tax owed. Lastly, the bill would require all commercial tenants who pay $400,000 or more per year in rent or receive $400,000 or more from a subtenant to file a return with the Department of Finance.

Intro. 1107: Exemption from Commercial Rent Tax
Currently, billboards and advertising signs are considered taxable premises for purposes of the commercial rent tax and the rent paid to advertise on those spaces is subject to the tax. This bill would exempt the rents paid for billboards and advertising signs that advertise theatrical productions. The exemption would last from the date the advertisement was first posted through no later than the first 52 weeks of the theatrical production.

Intro. 799 is the one that is of most interest to us. A Commercial Rent Tax of 6% is charged to tenants who occupy or use a property for commercial activity in Manhattan south of 96th street. These taxpayers are given a 35% base rent reduction so the effective tax rate is 3.9%. The elimination or reform of this tax has been a topic of conversation from a number of Manhattan City Council Members as well as the Borough President. This will benefit businesses within this area of Manhattan that pay less than $550,000 per year in rent.

Additional information can also be found here: http://www1.nyc.gov/site/finance/taxes/business-commercial-rent-tax-crt.page

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NEW YORK CITY
FOOD POLICY CENTER
AT HUNTER COLLEGE

Market Basket Affordability Example

For example, a market basket could contain two foods from each of the major food groups: grains, vegetables, fruit, dairy, and meat/eggs (see table below). The items could be selected based on what low-income consumers frequently purchase; these data are available from the U.S. Department of Agriculture (USDA), which publishes "Foods Typically Purchased by SNAP Households."[i] To promote healthy eating, the list could be modified to favor healthier products using the NYC Food Standards[ii] as guidelines. For example, in the suggested list below, sliced white bread, a top-seller according to the USDA report, was revised to 100% whole wheat/whole grain bread, in accordance with the Standards. Benchmark prices for market basket items could be set based on the USDA's National Retail Reports, which document the advertised prices for various goods to consumers at major retail supermarkets nationwide; regional breakdowns provide prices specific to the northeast region.

TABLE: Measuring Affordability—A Proposed Market Basket

Food Group	Proposed Market Basket Item	Average Supermarket Price	Price Source
Vegetables	Russet potatoes	$0.69-1.29 per pound	USDA[iii]
	Green leaf lettuce	$0.99-1.50 per head	
Fruit	Navel oranges*	$1.29-1.49 per pound	USDA[iv]
	Bananas	$0.39-0.79 per pound	
Dairy	Fluid plain white milk, unsweetened	$2.20 per half gallon	USDA[v]
	Yogurt, plain, unsweetened	$3.40 per 32 ounces	USDAv
Meat/Eggs	90% lean ground beef	$4.78 per pound	USDA[vi]
	USDA Grade AA, Large eggs	$1.50 per dozen	USDA[vii]
Grains†	Whole grain cereal	TBD	TBD
	100% Whole wheat/grain bread	TBD	TBD

*100% orange juice was considered as an option, as it was cited as a common purchase by SNAP households; however, we the USDA does not provide average supermarket prices for this product. Some consideration should be given to seasonal price differences that may occur with navel oranges, which may be cheaper in winter months in the northeast region.
†USDA does not provide average supermarket prices for whole grain cereal and whole wheat bread; however, we propose including these items if an average price can be determined in an alternative manner.

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[i] Garasky, Steven, Kassim Mbwana, Andres Romualdo, Alex Tenaglio and Manan Roy. Foods Typically Purchased by SNAP Households. Prepared by IMPAQ International, LLC for USDA, Food and Nutrition Service, November 2016. https://www.fns.usda.gov/sites/default/files/ops/SNAPFoodsTypicallyPurchased.pdf. Accessed February 1, 2017.
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A Local Law to amend the administrative code of the city of New York, in relation to exempting certain grocery stores from the commercial rent tax (File #: T2017-5597)

February 13, 2017

NEW YORK CITY
FOOD POLICY CENTER
AT HUNTER COLLEGE

Testimony to the New York City the Committee on Finance

Testimony of Charles Platkin, Ph.D., J.D., M.P.H., Distinguished Lecturer, Hunter College, CUNY; Executive Director, New York City Food Policy Center at Hunter College

A Local Law to amend the administrative code of the city of New York, in relation to exempting certain grocery stores from the commercial rent tax (File #: T2017-5597)

February 13, 2017

Thank you to Chairperson Julissa Ferreras-Copeland and the members of the Committee on Finance for the opportunity to submit written testimony regarding the proposed Local Law to amend the administrative code of the city of New York in relation to exempting certain grocery stores from the commercial rent tax.

I am grateful to Council Member Johnson, and the Manhattan Borough President, Gale Brewer, and their staff, for their work that went into proposing this bill, which seeks to exempt certain grocery stores from the commercial rent tax. The eligibility of the exemption requires stores to meet certain floor space and affordability requirements, as well as improve access to healthy, affordable food for NYC residents. I would urge this committee and the City Council to support this important legislation.

I am providing written testimony on behalf of the New York City Food Policy Center at Hunter College, of which I am the executive director. The Center was created in 2012 to develop collaborative, innovative and evidence-based solutions to preventing diet-related diseases, and promoting healthy eating and food security in New York City and other urban centers. The Center works with policy makers, community organizations, advocates and the public to create healthier, more sustainable food environments. We thank the City Council and the Speaker's office for their support of our Center.

Ensuring Supermarkets Remain Open and Affordable
What we know is that New York City is rapidly gentrifying.[1] Some neighborhoods saw more than a 78 percent increase in median household rent from 1990 to 2014. Citywide, median rent is increasing dramatically: while rents rose by 1.9 percent between 1990 and 2010, between 2010 and 2014 rents rose on average 22 percent, according to the NYU Furman Center.[1] With the increase in rent and much higher property taxes often comes the loss of old standby supermarkets, such as the Pathmark, which work on very thin margins.[2] The city also lost about 300 green grocers, or family-owned stores of less than 7,000 square feet, between 2005 and 2015.[2]

As New York City watches its neighborhoods change, it is critical that it keep pace to protect the health of residents. Ensuring that supermarkets remain affordable—by incentivizing them to remain in, or locate to, areas of need—provides residents with the basic right to healthy, affordable food.

When it comes to supermarkets, food access and economic ramifications can be minor in comparison to the disruption of a community's sense of safety, identity, and social capital. Variables in research cannot account for whether the floor is covered in cardboard boxes or non-slip mats, whether familiar faces fill the aisle every day, or whether the store owner knows his customers' names, for instance. It's vital to support NYC supermarkets (and greenmarkets).

The New York City Food Policy Center at Hunter College is in full support of the proposed legislation: A Local Law to amend the administrative code of the city of New York, in relation to exempting certain grocery stores from the commercial rent tax, for the following reasons:

1. Supermarkets increase healthy food access, which is critical for New York City residents.
2. Supermarkets are more than simply sources of food, they provide social capital for a community.
3. Exempting supermarkets/grocery stores from the commercial rent tax immediately helps the bottom line profitability of these entities, which work on very thin profit margins.

The Need for Healthy Food Access

The need for all residents to have access to healthy food is clear. Like the rest of the country, New York City remains in the midst of an epidemic of hunger as well as food-related diseases:

- More than half of adult New Yorkers are overweight (33 percent) or obese (24 percent),[3] and obesity is associated with poorer mental health outcomes, reduced quality of life and some of the leading causes of death in this country: diabetes, heart disease, stroke and certain cancers.[4]
- More than one in ten New Yorkers are living with diabetes, putting them at increased risk of heart attack, stroke, blindness, kidney failure, nerve damage and amputations.[5]
- More than one in three adults lives with cardiovascular disease.[6] Heart disease and stroke are among the leading causes of death in New York City.[7]
- 1.3 million New York City residents, or 16.4%, are food insecure or hungry.[8]

Further, New Yorkers are not meeting the federal dietary recommendations; only 10 percent of New Yorkers are consuming the recommended daily servings of fruits and vegetables, and 12 percent consume none.[9]

Supermarkets and Food Access

Many factors contribute to an unhealthy diet, and no single program or policy will change the way residents eat or shop. This legislation, however, complements and bolsters the city's ongoing food access efforts, such as Shop Healthy NYC, the Food Retail Expansion to Support Health (FRESH), Green Carts, Health Bucks, and Stellar Farmers Markets, to name a few. Taken together, these initiatives contribute to increased access to fresh, affordable, healthy food in underserved communities.

Increased healthy food consumption is clearly connected to increased access to healthy food, as is supported by *numerous* studies. For example, a study from Public Health Nutrition[10] showed that the availability of fresh vegetables positively influences vegetable intake, and an American Journal of Clinical Nutrition[11] study found that low availability of healthy foods was associated with a lower-quality diet. And while healthy food access may not be the silver bullet to healthy food consumption, you simply can't have healthy food consumption without availability of healthy foods. It is important to note that research also shows there are other important variables beyond simply access, such as in-store environment, price, and healthfulness of products offered.[12,13,14] We must consider access in addition to the more complex issues at work, some of which are likely yet to be documented in the literature.

The Intangible Benefits of Supermarkets

While research is abundant on the impact of a grocery store on neighborhood food access and affordability, there is much less attention on the more intangible benefits of markets. Grocery stores are where neighbors meet, where weekly traditions come to fruition, and where familiar faces are found—it is not simply about buying food. When a neighborhood loses a store, not only are there negative impacts on perceptions of food access, jobs, and the micro-local economy, but also a disruption to a community's sense of safety, identity, and social capital.[15] Even residents who do not regularly shop at a store feel the impact when one closes, as if the neighborhood is in decline. So when a market opens, it can increase someone's sense of pride in their community—a step forward.

How Can NYC Measure Affordability?

The proposed legislation is designed to exempt supermarkets that sell "affordable" groceries. To measure affordability of supermarkets, so that entities receiving the CRT exemption remain within reach for lower-income residents, we suggest considering an affordability formula that could be applied to each retailer. Typical "food affordability indexes" are the ratio of un-/low-skilled labor wages to the price of one or more foods.[16] A modified index could simply be the cost of a "market basket" of food items, which cannot be exceeded by 10% in order to qualify for the exemption.

For example, a market basket could contain two foods from each of the major food groups: grains, vegetables, fruit, dairy, and meat/eggs (see table below). The items could be selected based on what low-income consumers frequently purchase; these data are available from the U.S. Department of Agriculture (USDA), which publishes "Foods Typically Purchased by SNAP Households."[17] To promote healthy eating, the list could be modified to favor healthier products using the NYC Food Standards[18] as guidelines. For example, in the suggested list below, sliced white bread, a top-seller according to the USDA report, was revised to 100% whole wheat/whole grain bread, in accordance with the Standards.

Benchmark prices for market basket items could be set based on the USDA's National Retail Reports, which document the advertised prices for various goods to consumers at major retail supermarkets nationwide; regional breakdowns provide prices specific to the northeast region.

TABLE: Measuring Affordability—A Proposed Market Basket

Food Group	Proposed Market Basket Item	Average Supermarket Price	Price Source
Vegetables	Russet potatoes	$0.69-1.29 per pound	USDA[19]
	Green leaf lettuce	$0.99-1.50 per head	
Fruit	Navel oranges*	$1.29-1.49 per pound	USDA[20]
	Bananas	$0.39-0.79 per pound	
Dairy	Fluid plain white milk, unsweetened	$2.20 per half gallon	USDA[21]
	Yogurt, plain, unsweetened	$3.40 per 32 ounces	USDA[21]
Meat/Eggs	90% lean ground beef	$4.78 per pound	USDA[22]
	USDA Grade AA, Large eggs	$1.50 per dozen	USDA[23]
Grains†	Whole grain cereal	TBD	TBD
	100% Whole wheat/grain bread	TBD	TBD

*100% orange juice was considered as an option, as it was cited as a common purchase by SNAP households; however, we the USDA does not provide average supermarket prices for this product. Some consideration should be given to seasonal price differences that may occur with navel oranges, which may be cheaper in winter months in the northeast region.
†USDA does not provide average supermarket prices for whole grain cereal and whole wheat bread; however, we propose including these items if an average price can be determined in an alternative manner.

Assistance from the New York City Food Policy Center at Hunter College
We at the New York City Food Policy Center at Hunter College stand ready to help in any way we can to realize the vision of a New York City that is without hunger, with healthy food access, food justice and with an elimination of food related chronic disease and that is not only the food capital of the world, but the healthy food capital of the world.

For more information about the New York City Food Policy Center at Hunter College, visit our website at www.nycfoodpolicy.org or e-mail Dr. Charles Platkin at info@nycfoodpolicy.org.

Thank you again for the opportunity to provide written testimony.

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Testimony

In Support of

T2017-5597 – legislation that would require the Department of Finance to exempt grocery stores from the commercial rent tax if they meet certain floor space and affordability requirements

Submitted by:
American Heart Association / American Stroke Association
Robin Vitale, Senior Director, Government Relations

February 13, 2017

Members of the New York City Council Committee on Finance:

Chair Ferreras-Copeland, thank you for the opportunity to submit this testimony outlining the support of the American Heart Association / American Stroke Association (AHA) for T2017-5597, legislation that aims to improve access to affordable, fresh foods in our city's underserved neighborhoods. The AHA has prioritized this concern as an overarching objective to help reduce the significant health disparities that persist amongst our communities, often evidenced within just a few stops on the subway. We applaud Manhattan Borough President Gale Brewer and Council Member Corey Johnson for their championship of this proposal.

By way of background, the AHA is dedicated to building healthier lives, free of cardiovascular diseases and stroke. As a voluntary health organization, we have further challenged ourselves to achieve a 2020 Impact Goal by improving the cardiovascular health of all Americans by 20% and reducing deaths from cardiovascular diseases and stroke by 20% by the year 2020. This ambitious goal can only be achieved by enacting and implementing sound local, state and federal public policy. Thus, our public policy agenda includes measures that will increase access to healthy food and physical activity, decrease tobacco use and improve emergency cardiac care and stroke treatment.

Approximately 80% of diagnoses involving these chronic diseases could be prevented if Americans improved their lifestyles and adopted healthier behaviors.[1] Studies link eating outside of the home with higher amounts of body fat, and higher BMIs. And increased consumption of fast food meals is associated with consuming more calories, fat, and saturated fat.[2] The corollary between this increased consumption and the alarming rates of heart disease,

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[1] http://www.cdc.gov/vitalsigns/HeartDisease-Stroke/index.html
[2] Center for Science in the Public Interest. Research Review: Effects of Eating Out on Nutrition and Body Weight. Center for Science in the Public Interest: Washington, DC, 2008.

stroke, diabetes and other related diseases is apparent.[3] The goal of this proposal, to improve access to fresh foods, will provide the opportunity for more New Yorkers to create healthy meals for themselves and their families.

Despite city-led efforts to promote and protect the grocery store industry in New York City, we continue to see supermarkets leave, less desirable retail move in and healthy food continue to be unaffordable or a lower quality in many neighborhoods. As part of the AHA's comprehensive agenda, our organization believes the proposal to exempt grocery stores from the commercial rent tax when they provide significant access to healthy fruits and vegetables will serve to benefit the health of New Yorkers.

For far too many New Yorkers in our city, the fast choice is the only choice when it comes to food. Without access to affordable healthy foods, a nutritious diet and good health are out of reach. As a result, diet-related illnesses – especially among children – will continue to be a burden for many of us.[4] Six out of ten adult New Yorkers – and one-third of the state's children – are at serious risk for diseases such as heart disease, type 2 diabetes, certain types of cancer, high blood pressure and high cholesterol.[5] In New York City, recent analysis shows that nearly 21% of K-8 students are burdened with unhealthy weight.[6]

While the AHA supports the effort to improve the accessibility of health food, the language of this legislation uses a precedent for the required square footage that may be troublesome, depending on the size of the grocery store. The goal to mandate that 500 sq ft of retail space be dedicated to produce may be easier for larger stores, while more burdensome for smaller retailers. More typically in other similarly-minded policies, governments are using a standard of 30% of floor space to be dedicated to fresh foods. We recommend the sponsors consider using the percentage of floor space requirement to help make the tax exemption applicable for more grocery stores.

Additionally, the AHA is hoping the City Council will further enhance the focus on affordable access to healthy foods by considering complementary investment in needed programs. For example, New York State has previously funded a Healthy Food and Healthy Communities Fund to garner private investment for new grocery stores in neighborhoods that need them the most. Despite significant success, with 20 new food markets across the state, and 441 permanent FTE jobs and 622 construction jobs collectively, New York has decided to not reinstate the program. The AHA asks that the city consider implementing their own healthy food financing initiative with a $10 million investment. The state did the same more than 10 years ago, and it resulted in close to $155 million in private and public capital.

The AHA also urges the city to elevate its work with the unique needs of smaller food retail business owners who wish to provide healthy food options in their establishments but lack

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refrigeration and storage to do so. By expanding the Shop Healthy program, the city can provide funding for businesses seeking to retrofit their physical plant to accommodate fresh food, thereby increasing healthy food options at existing corner stores in underserved neighborhoods. The AHA recommends an investment of $3 million for this effort.

Lastly, the expansion of healthy food retail is only one part of this campaign to improve the diets of New Yorkers in underserved neighborhoods. The city must also address the affordability of fresh produce. The city's Health Bucks program has a long-standing history of successfully incentivizing the purchase of healthy foods. Started more than 11 years ago, the program has motivated the purchase of more than $2 million worth of fresh produce from our city's farmers' markets. In order to support the sustainability and expansion of this time-tested program, the AHA recommends an investment of $15 million to complement the policies outlined above.

New York City has a lengthy and robust history in leading our nation by implementing strong, innovative public health policies. The American Heart Association looks forward to working with you to craft a comprehensive solution to addressing accessible and affordable healthy foods for all New Yorkers. Healthy food access if good for business and good for health. Let's bring healthy food options closer to home for more of New York City's children and families.

TSAC Times Square Advertising Coalition

February 13, 2017

Testimony of the Times Square Advertising Coalition on Introductions 799 and 1107-A before the New York City Council Committee on Finance

Good afternoon Chairwoman Ferreras-Copeland and Members of the Finance Committee. My name is Laura Rothrock and I am testifying on behalf of the Times Square Advertising Coalition, also known as TSAC. TSAC is a not-for-profit trade association dedicated to the continued promotion of Times Square as the most exciting advertising venue in the world. Our membership includes key out-of-home stakeholders in the Square including Clear Channel Spectacolor and Sherwood Equities.

Our organization not only provides a unified voice for the signage advertising industry in Times Square, but we also donate time on our digital screens for nightly public art installations as part of our Midnight Moment program in partnership with the Times Square Alliance. We also regularly work with elected officials to offer our signage pro-bono for a number of campaigns including our annual display of artwork from talented New York City public school students and our annual 'Go Gold' campaign for pediatric cancer awareness month.

TSAC supports Introductions 799 and 1107-A, but also believes that more can be done to ensure that the CRT is being applied fairly and within the intent of the original law. We understand that Intro 1107-A exempts theatrical productions who advertise for less than a year, either at their physical theater location or elsewhere in the CRT district, including Times Square. TSAC supports this legislation but would also urge the Council to consider similar exemptions for all short-term advertising—not just for the advertising of theatrical performances.

The New York City Department of Finance began conducting an audit of advertising billboard space in Times Square as it relates to the Commercial Rent Tax (CRT) in 2014. The Department of Finance determined that advertisers were consumers of commercial Real Estate and began billing advertisers retroactively as the Department had never collected on this tax before as it relates to advertising. The applicable CRT legislation, enacted in 1963, is thought to typically apply to a more traditional 'brick and mortar' real estate commercial lease that is based on square footage. Applying the CRT to advertising at the same rate as commercial rents does not seem compatible with the law's intent.

The New York City zoning code mandates the inclusion of spectacular advertising signage on buildings in Times Square. The NYC-DOB requirement for new signage is viewed as a material hurdle to complete, prior to an owner securing a permanent Certificate of Occupancy on all post- Times Square re-development construction. As you are well aware, the signs in Times Square are a landmark of the City and create an exciting destination that attracts tourism and business to New York. A recent pedestrian study commissioned by TSAC and the Times Square Alliance found that an overwhelming majority of tourists and residents think that the digital signage in Times Square adds to the appeal of Times Square and makes the area an iconic destination.

We applaud the City Council's efforts in raising the threshold of the CRT and hope to work with you to ensure that the CRT is applied justly and is not cost-prohibitive to the fabric of our City.

Council of the City of New York
Committee on Finance

Intro 799-A

Monday, February 13, 2017

Testimony: **Dan Pisark**
Vice President, Retail Services
34th Street Partnership
1065 Avenue of the Americas, Suite 2400, New York, NY 10018
Tel: 212-719-3434

I'm the Vice President of retail services for the 34th Street Partnership and Bryant Park Corporation. Many of our midtown Manhattan smaller independent retail stores and food and beverage businesses are struggling with ever-increasing rents and stiff competition from national chains. Every day is a challenge for survival for these independent businesses. They need your help. Please pass this legislation to exempt them from the commercial rent tax here in Manhattan for stores and restaurants who annually pay less than $500,000 in rent.

It seems as if more retail businesses in our midtown districts are subject to this unpopular commercial rent tax. It's an unfair tax that's a hardship to many retail stores and restaurants. Please take action to reduce this financial burden and allow our small businesses to prosper in Manhattan.

Thank you.

34th Street Partnership

NEW YORK CITY
FOOD POLICY CENTER
AT HUNTER COLLEGE

Testimony to the New York City the Committee on Finance

Testimony of Charles Platkin, Ph.D., J.D., M.P.H., Distinguished Lecturer, Hunter College, CUNY; Executive Director, New York City Food Policy Center at Hunter College

A Local Law to amend the administrative code of the city of New York, in relation to exempting certain grocery stores from the commercial rent tax. No. 799-A (File #:T2017-5597)

February 13, 2017

Thank you to Chairperson Julissa Ferreras-Copeland and the members of the Committee on Finance for the opportunity to submit written testimony regarding the proposed Local Law to amend the administrative code of the city of New York in relation to exempting certain grocery stores from the commercial rent tax.

I am grateful to Council Member Johnson, and the Manhattan Borough President, Gale Brewer, and their staff, for their work that went into proposing this bill, which seeks to exempt certain grocery stores from the commercial rent tax. The eligibility of the exemption requires stores to meet certain floor space and affordability requirements, as well as improve access to healthy, affordable food for NYC residents. I would urge this committee and the City Council to support this important legislation.

I am providing written testimony on behalf of the New York City Food Policy Center at Hunter College, of which I am the executive director. The Center was created in 2012 to develop collaborative, innovative and evidence-based solutions to preventing diet-related diseases, and promoting healthy eating and food security in New York City and other urban centers. The Center works with policy makers, community organizations, advocates and the public to create healthier, more sustainable food environments. We thank the City Council and the Speaker's office for their support of our Center.

Ensuring Supermarkets Remain Open and Affordable

What we know is that New York City is rapidly gentrifying.[1] Some neighborhoods saw more than a 78 percent increase in median household rent from 1990 to 2014. Citywide, median rent is increasing dramatically: while rents rose by 1.9 percent between 1990 and 2010, between 2010 and 2014 rents rose on average 22 percent, according to the NYU Furman Center.[1] With the increase in rent and much higher property taxes often comes the loss of old standby supermarkets, such as the Pathmark, which work on very thin margins.[2] The city also lost about 300 green grocers, or family-owned stores of less than 7,000 square feet, between 2005 and 2015.[2]

As New York City watches its neighborhoods change, it is critical that it keep pace to protect the health of residents. Ensuring that supermarkets remain affordable—by incentivizing them to remain in, or locate to, areas of need—provides residents with the basic right to healthy, affordable food.

When it comes to supermarkets, food access and economic ramifications can be minor in comparison to the disruption of a community's sense of safety, identity, and social capital. Variables in research cannot account for whether the floor is covered in cardboard boxes or non-slip mats, whether familiar faces fill the aisle every day, or whether the store owner knows his customers' names, for instance. It's vital to support NYC supermarkets (and greenmarkets).

The New York City Food Policy Center at Hunter College is in full support of the proposed legislation: A Local Law to amend the administrative code of the city of New York, in relation to exempting certain grocery stores from the commercial rent tax, for the following reasons:

1. Supermarkets increase healthy food access, which is critical for New York City residents.
2. Supermarkets are more than simply sources of food, they provide social capital for a community.
3. Exempting supermarkets/grocery stores from the commercial rent tax immediately helps the bottom line profitability of these entities, which work on very thin profit margins.

The Need for Healthy Food Access

The need for all residents to have access to healthy food is clear. Like the rest of the country, New York City remains in the midst of an epidemic of hunger as well as food-related diseases:

- More than half of adult New Yorkers are overweight (33 percent) or obese (24 percent),[3] and obesity is associated with poorer mental health outcomes, reduced quality of life and some of the leading causes of death in this country: diabetes, heart disease, stroke and certain cancers.[4]
- More than one in ten New Yorkers are living with diabetes, putting them at increased risk of heart attack, stroke, blindness, kidney failure, nerve damage and amputations.[5]
- More than one in three adults lives with cardiovascular disease.[6] Heart disease and stroke are among the leading causes of death in New York City.[7]
- 1.3 million New York City residents, or 16.4%, are food insecure or hungry.[8]

Further, New Yorkers are not meeting the federal dietary recommendations; only 10 percent of New Yorkers are consuming the recommended daily servings of fruits and vegetables, and 12 percent consume none.[9]

Supermarkets and Food Access

Many factors contribute to an unhealthy diet, and no single program or policy will change the way residents eat or shop. This legislation, however, complements and bolsters the city's ongoing food access efforts, such as Shop Healthy NYC, the Food Retail Expansion to Support Health (FRESH), Green Carts, Health Bucks, and Stellar Farmers Markets, to name a few. Taken together, these initiatives contribute to increased access to fresh, affordable, healthy food in underserved communities.

Increased healthy food consumption is clearly connected to increased access to healthy food, as is supported by *numerous* studies. For example, a study from Public Health Nutrition[10] showed that the availability of fresh vegetables positively influences vegetable intake, and an American Journal of Clinical Nutrition[11] study found that low availability of healthy foods was associated with a lower-quality diet. And while healthy food access may not be the silver bullet to healthy food consumption, you simply can't have healthy food consumption without availability of healthy foods. It is important to note that research also shows there are other important variables beyond simply access, such as in-store environment, price, and healthfulness of products offered.[12,13,14] We must consider access in addition to the more complex issues at work, some of which are likely yet to be documented in the literature.

The Intangible Benefits of Supermarkets

While research is abundant on the impact of a grocery store on neighborhood food access and affordability, there is much less attention on the more intangible benefits of markets. Grocery stores are where neighbors meet, where weekly traditions come to fruition, and where familiar faces are found—it is not simply about buying food. When a neighborhood loses a store, not only are there negative impacts on perceptions of food access, jobs, and the micro-local economy, but also a disruption to a community's sense of safety, identity, and social capital.[15] Even residents who do not regularly shop at a store feel the impact when one closes, as if the neighborhood is in decline. So when a market opens, it can increase someone's sense of pride in their community—a step forward.

How Can NYC Measure Affordability?

The proposed legislation is designed to exempt supermarkets that sell "affordable" groceries. To measure affordability of supermarkets, so that entities receiving the CRT exemption remain within reach for lower-income residents, we suggest considering an affordability formula that could be applied to each retailer. Typical "food affordability indexes" are the ratio of un-/low-skilled labor wages to the price of one or more foods.[16] A modified index could simply be the cost of a "market basket" of food items, which cannot be exceeded by 10% in order to qualify for the exemption.

For example, a market basket could contain two foods from each of the major food groups: grains, vegetables, fruit, dairy, and meat/eggs (see table below). The items could be selected based on what low-income consumers frequently purchase; these data are available from the U.S. Department of Agriculture (USDA), which publishes "Foods Typically Purchased by SNAP Households."[17] To promote healthy eating, the list could be modified to favor healthier products using the NYC Food Standards[18] as guidelines. For example, in the suggested list below, sliced white bread, a top-seller according to the USDA report, was revised to 100% whole wheat/whole grain bread, in accordance with the Standards.

Benchmark prices for market basket items could be set based on the USDA's National Retail Reports, which document the advertised prices for various goods to consumers at major retail supermarkets nationwide; regional breakdowns provide prices specific to the northeast region.

TABLE: Measuring Affordability—A Proposed Market Basket

Food Group	Proposed Market Basket Item	Average Supermarket Price	Price Source
Vegetables	Russet potatoes	$0.69-1.29 per pound	USDA[19]
	Green leaf lettuce	$0.99-1.50 per head	
Fruit	Navel oranges*	$1.29-1.49 per pound	USDA[20]
	Bananas	$0.39-0.79 per pound	
Dairy	Fluid plain white milk, unsweetened	$2.20 per half gallon	USDA[21]
	Yogurt, plain, unsweetened	$3.40 per 32 ounces	USDA[21]
Meat/Eggs	90% lean ground beef	$4.78 per pound	USDA[22]
	USDA Grade AA, Large eggs	$1.50 per dozen	USDA[23]
Grains†	Whole grain cereal	TBD	TBD
	100% Whole wheat/grain bread	TBD	TBD

*100% orange juice was considered as an option, as it was cited as a common purchase by SNAP households; however, we the USDA does not provide average supermarket prices for this product. Some consideration should be given to seasonal price differences that may occur with navel oranges, which may be cheaper in winter months in the northeast region.
†USDA does not provide average supermarket prices for whole grain cereal and whole wheat bread; however, we propose including these items if an average price can be determined in an alternative manner.

Assistance from the New York City Food Policy Center at Hunter College
We at the New York City Food Policy Center at Hunter College stand ready to help in any way we can to realize the vision of a New York City that is without hunger, with healthy food access, food justice and with an elimination of food related chronic disease and that is not only the food capital of the world, but the healthy food capital of the world.

For more information about the New York City Food Policy Center at Hunter College, visit our website at www.nycfoodpolicy.org or e-mail Dr. Charles Platkin at info@nycfoodpolicy.org.

Thank you again for the opportunity to provide written testimony.

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In Support of 0799-A - Commercial Rent Tax Reform

Good morning. My name is Kevin Dugan and I am the Regional Director for the New York State Restaurant Association, a trade group that represents food and beverage establishments both in New York City and throughout New York State. The New York State Restaurant Association is the largest hospitality trade association in the State of New York and it has advocated on behalf of its members for over 80 years. Our members represent one of the largest constituencies regulated by the City and are a key economic engine, with more than 20,000 eating and drinking establishments located in the five boroughs.

New York City is one of the pillars of the culinary arts world. Our restaurants employ hundreds of thousands of New Yorkers and our members represent the backbone of the tourism trade. As one of the most important industries in New York City, its growth and survival should be supported by all levels of New York City government.

The restaurant industry as a whole often survives on razor thin profit margins where every dollar is meaningful. Often these margins fall between three to five percent and any increase in expenses can have devastating effects on an establishment's ability to survive. This is why the New York State Restaurant Association stands firmly in support of Councilmembers Garodnick and Rosenthal's legislation that will increase the threshold for the Commercial Rent Tax in lower Manhattan. .

The fact that this threshold has not been increased since the 1960s is troubling and just continues to highlight that this measure is frankly long overdue. Rent is one of the largest expenses that every restaurant has to deal with and is a cost that is ever increasing. In my daily conversations with restaurant owners and managers, the cost of rent is the number one issue they face and the most prominent reason a restaurant shutters their doors. By increasing this threshold we will provide a much needed reprieve to restaurants across Manhattan, allowing them to get out from under this onerous and superfluous tax.

The original intent of this legislation was to only institute a tax on the larger businesses that dotted New York City in the mid-1960s. However, this is no longer the case. This tax now affects thousands of businesses that no one in this room would consider big. Rents are continuing to skyrocket more and smaller operations are getting caught, unintentionally, in this ever expanding net. By increasing this threshold we can ensure that this unintended consequence becomes further mitigated and does not include those small businesses that were never the target of this tax.

By increasing this threshold we are also leveling the playing field for many of the restaurants in Manhattan. This commercial rent tax has already been phased out in Northern Manhattan, Queens, Brooklyn, the Bronx and Staten Island. It is patently unfair that these restaurants in this specific geographical area have to bear this undue burden while restaurants in other locations no longer have to worry about this cumbersome tax.

Running a restaurant in New York City has never been easy and it is getting harder and harder by the day. With increasing rents and labor costs, many businesses are being forced into daily difficult decisions that will determine the restaurants ultimate fate. These businesses need our help and we should be doing everything we can to help these establishments thrive. This industry provides valuable workplace opportunities for the people of New York and acts as an important economic engine for the City. By increasing this threshold the City is saying that it recognizes that owning and operating small businesses is vital to the long-term health of the economy and our local government is here to help.

In conclusion, the New York State Restaurant Association encourages the New York City Council to pass 0799-A and allow these affected restaurants to get out from under this crippling tax. We look forward to working with the Council on further legislation that helps protect the restaurant and hospitality industry in the City of New York.

Respectfully Submitted,

Kevin Dugan

Regional Director

New York State Restaurant Association

1001 Avenue of the Americas, 3rd Floor

New York, New York 10018

212-398-9160

Re: Proposed Int No. 799-A Testimony by Natasha Amott, Owner of Whisk

My name is Natasha Amott and I own a retail business called Whisk. Whisk is located at 933 Broadway in the Flatiron neighborhood and we sell everything related to cooking and serving food for the home cook and professional chefs alike. We are known for our competitive pricing and for carrying critical products at different tiers with the belief that everyone should be able to buy tools to cook at home. Our customer base loves Whisk and I want to grow the business but the current structure of the Commercial Rent Tax (CRT) makes it hard to stay in business.

Whisk's current annual rent is $314,244 and our CRT tax bill for the 2016/2017 tax year is $15,327. We have been paying the CRT since 2012 when we opened. The current threshold of the CRT needs to be raised to at least $500,000 as per Council Member Garodnick's proposal because:

1 - The CRT **hurts wages**. Instead of paying this additional tax of $15,327 I should be paying this in raises to my staff. My business already attempts to pay a living wage to my staff. My lowest paid staff person earns $16/hr and the average is $18/hr. I don't think my business is alone in recognizing that because we are small and without an HR department, we must support our employees as best as possible to avoid high turnover. We should not be hurting businesses like Whisk that try hard to support NYC residents.

2 - The CRT is **discriminatory**. In 1997, businesses in the Bronx, Brooklyn, Queens, Staten Island, and north of 96th Street became exempt from the CRT altogether. After September 11, 2001, businesses in the World Trade Center also became exempt. But in Manhattan, small businesses paying at least $250,000 operating below 96th Street and north of the WTC area continue to be hit by the tax and at a growing rate. With the exception of Florida, no other jurisdiction in the country imposes such a tax.

3 - There is a **lack of knowledge among real estate lawyers** about the CRT. I hired a midtown based real estate firm to handle the real estate negotiations for my space at 933 Broadway and not once did the CRT come up in the discussions. Businesses consistently report this lack of awareness of the CRT. When the city finally brought it to my accountant's attention I had to pay the CRT for three years and with interest.

4 - This 1963 law is hurting the businesses it was **never intended to target**. The intention was to get more out of rising property values at a time when the city had hit its constitutional limit in what it could extract in property taxes. With the significant rent hikes that tenants are already facing in this area of Manhattan, the current CRT threshold of $250,000 kicks in easily. Between 2013 and 2015, there was a 7.5% increase in businesses forced to pay the CRT. The thinkers behind the tax never envisioned that it would add to the difficulties small businesses are facing to stay open.

I am an entrepreneur and have energy and excitement to create new retail businesses that will serve important needs of New Yorkers but the current threshold of the CRT may mean that I will have to look to other boroughs to make my investments.

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. T2017-5597 Res. No. ______

☑ in favor ☐ in opposition

Date: ______

(PLEASE PRINT)

Name: Nicholas J D'Agostino III

Address: 134 Douglas RD Chappaqua, NY. 10514

I represent: D'Agostino Supermarkets

Address: 1385 Boston Post RD Larchmont, N.Y. 10538

THE COUNCIL
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☑ in favor ☐ in opposition

Date: ______

(PLEASE PRINT)

Name: Jay Peltz

Address: 1385 Boston Post Rd, Larchmont

I represent: Food Industry Alliance

Address: Same

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THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ______ Res. No. ______

☐ in favor ☐ in opposition

Date: ______

(PLEASE PRINT)

Name: JESSICA WALKER

Address: ______

I represent: Manhattan Chamber of Commerce

Address: ______

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

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ______ Res. No. ______
☐ in favor ☐ in opposition

Date: ______

(PLEASE PRINT)

Name: NATASHA AMOTT

Address: ______

I represent: WHISK

Address: ______

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 799 Res. No. ______
☒ in favor ☐ in opposition

Date: ______

(PLEASE PRINT)

Name: Mike Simas

Address: ______

I represent: Partnership for NYC

Address: 1 Battery Pk Pl

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 799 + preconsidered intro Res. No. ______
☒ in favor ☐ in opposition

Date: ______

(PLEASE PRINT)

Name: Manhattan Borough President Gale Brewer

Address: 1 Centre Street, 19th fl.

I represent: ______

Address: ______

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

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. T2017-5597 Res. No.

☑ in favor ☐ in opposition

Date: 2/13/17

(PLEASE PRINT)

Name: Robin Vitale

Address: 122 E. 42nd Street 18th Floor, NY NY 10168

I represent: American Heart Association

Address:

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 799A, 1107A Res. No.

☒ in favor ☐ in opposition

Date: 2/13/17

(PLEASE PRINT)

Name: Billy Richling

Address:

I represent: Times Square Alliance

Address: 1560 Broadway

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 799 Res. No.

☒ in favor ☐ in opposition

Date: 2/13/16

(PLEASE PRINT)

Name: Robert Bookman

Address: 325 Broadway

I represent: Hundreds of small Businesses

Address:

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

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 799 Res. No.

☑ in favor ☐ in opposition

Date: 2/13/17

(PLEASE PRINT)

Name: ANDREW RIGIE

Address: 65 W 55 ST, #203A, NY, NY 10019

I represent: NYC HOSPITALITY ALLIANCE

Address:

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 799 ~~1107~~ Res. No.

☑ in favor ☐ in opposition

Date: 2/13/2017

(PLEASE PRINT)

Name: ANTHONY DEPAULO

Address: 207 WEST 25th ST NY NY 10001

I represent: THE BROADWAY LEAGUE

Address: 729 7th AVE NY NY.

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 799 + 1107 Res. No.

☒ in favor ☐ in opposition

Date: 2/13/17

(PLEASE PRINT)

Name: KEVIN MCCOLLUM

Address: 110 W 40th SUITE 901

I represent: THE BROADWAY LEAGUE

Address: 729 7th AVENUE.

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

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ~~1107~~ 799 Res. No. ______
☒ in favor ☐ in opposition

Date: ______

(PLEASE PRINT)

Name: Tom Ferrugia
Address: 729 7th Ave
I represent: The Broadway League
Address: 729 7th Ave, NY NY 10019

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ______ Res. No. ______
☐ in favor ☐ in opposition

Date: ______

(PLEASE PRINT)

Name: Charles Platkin
Address: 2180 3rd Ave
I represent: NYC Food Policy Center at Hunter College
Address: ______

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ______ Res. No. ______
☐ in favor ☐ in opposition

Date: 2/13/17

(PLEASE PRINT)

Name: George Sweeting
Address: ______
I represent: Independent Budget Office
Address: ______

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

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 5597 Res. No. ____

☑ in favor ☐ in opposition

Date: ____

(PLEASE PRINT)

Name: Richard Lipsky

Address: 140 Riverside

I represent: Morton Williams

Address: ____

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 5597 Res. No. ____

☒ in favor ☐ in opposition

Date: 02/13/2017

(PLEASE PRINT)

Name: Nikki Kateman

Address: 1112 Lorimer Street, Brooklyn 11222

I represent: Local 338 RWDSU/UFCW

Address: 1505 Kellum Place Mineola 11501

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 5597 Res. No. ____

☐ in favor ☐ in opposition

Date: 2/13/17

(PLEASE PRINT)

Name: Brendan Sexton

Address: 425 Merrick Ave Westbury NY

I represent: UFCW Local 1500

Address: 425 Merrick Ave Westbury

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

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 5597 Res. No.

☑ in favor ☐ in opposition

Date: 2/13/17

(PLEASE PRINT)

Name: Steven Sloan

Address: 15 E. Kingsbridge Rd Bronx NY

I represent: Morton Williams Supermarkets

Address: " "

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

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

☐ in favor ☐ in opposition

Date: 2/13/17

(PLEASE PRINT)

Name: Michael Hyman (2-) Kuran (Kumar) Sahlein Vera

Address: 1 Centre St,

I represent: Department of Finance

Address:

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 5597 Res. No.

☑ in favor ☐ in opposition

Date: 2/13/2017

(PLEASE PRINT)

Name: Renee L Flores

Address: 800 3rd Ave 5th Floor NY.NY

I represent: Red Apple Group / Gristedes

Address:

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

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 5597 Res. No. ______
☒ in favor ☐ in opposition

Date: 2/15/2017

(PLEASE PRINT)

Name: Ian Poulos
Address: 1399 Franklin Ave, Garden City NY
I represent: Red Apple Group / Gristedes
Address: 800 3rd Ave, 5th Floor

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 799-A Res. No. ______
☒ in favor ☐ in opposition

Date: 2/13/17

(PLEASE PRINT)

Name: Michael Slattery
Address: 570 Lexington Ave 10022
I represent: Real Estate Board of NY
Address: S/A

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ______ Res. No. ______
☐ in favor ☐ in opposition

Date: ______

(PLEASE PRINT)

Name: Paul Fernandez
Address: ______
I represent: Met Food
Address: ______

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

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. ________ Res. No. ________

☐ in favor ☐ in opposition

Date: ________

(PLEASE PRINT)

Name: Nelson Eusebio

Address: ________

I represent: National Supermarket Assoc.

Address: ________

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

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 799 + 1107A Res. No. ________

☒ in favor ☐ in opposition

Date: 2/13/17

(PLEASE PRINT)

Name: Joshua Kneller

Address: 28 W. 44th St, Suite 1217, NY, NY

I represent: The Broadway Association

Address: ________

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

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 799 & 1107 Res. No. ______
☑ in favor ☐ in opposition

Date: 2/13/17

(PLEASE PRINT)

Name: Laura Rothrock

Address: 28 W 44th St

I represent: Times Square advertising Coalition

Address: ______

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

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 799 Res. No. ______
☑ in favor ☐ in opposition

Date: ______

(PLEASE PRINT)

Name: WELLINGTON CHEN

Address: 217 PARK ROW

I represent: CHINATOWN BID/PARTNERSHIP

Address: ______

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