

**TESTIMONY OF**  
**STEPHEN P. KRAMER, SENIOR COUNSEL**  
**NEW YORK CITY DEPARTMENT OF BUILDINGS**  
**TO THE**  
**NEW YORK CITY COUNCIL**  
**COMMITTEE ON TRANSPORTATION**  
**REGARDING**  
**INTRODUCTORY NUMBER 213**  
**FEBRUARY 28, 2008**

Good morning Chairman Liu and members of the Transportation Committee. My name is Stephen Kramer, and I am Senior Counsel to Commissioner Patricia Lancaster, FAIA, Commissioner of the New York City Department of Buildings. I am appearing before you to testify concerning Intro 213.

Intro 213 attempts to address the problem of illegal curb cuts in the City in several ways. First it proposes that the Departments of Buildings and Transportation conduct a survey throughout the five boroughs to determine the total number of curb cuts and the number of illegal curb cuts. Second, the bill provides that only an employee of the Buildings Department may certify that a curb cut is lawful. Third, the bill provides for the Department to notify each community board of every curb cut application and give the community boards 60 days to comment on the applications, and that the Department inspect the proposed location prior to the issuance of a permit. Fourth, it doubles the civil penalty for creating a curb cut without a permit for each 60 day period that an illegal curb cut exists. And finally the bill provides for the Department of Transportation to restore curb cuts within six months of becoming aware of the illegal condition, and to recover the restoration costs from the adjoining property owner.

Regarding the survey requirement of the proposed bill, you should be aware that under specific provisions of the Zoning Resolution and under section 27-111 of the Building Code, the legality of any existing curb cut is determined not only by the Zoning Resolution's and Building Code's current provisions, but also by the provisions of the Zoning Resolution and Building Code when the curb cut was installed. Thus, many curb cuts in existence today are legal because of earlier provisions of the Zoning Resolution that have been repealed. For example, City Planning has significantly reduced the

number of legal curb cuts in lower density growth management areas, but these new rules do not make existing curb cuts in those areas illegal. City Planning even today has a proposal going through ULURP that will impact the size and design of curb cuts. As a result, determining whether an existing curb cut is legal is not simply a matter of comparing the size and location with existing zoning provisions; rather, all zoning changes enacted after a curb cut was installed must be taken into account.

In addition to the legal issues, there are over 6000 miles of streets in the City, and thus over 12,000 miles of curbs. Locating all of the City's existing curb cuts, mapping all of the existing trees, utility poles, bus stops, fire hydrants, light poles, and public telephones, and measuring the distances of each to the curb cuts and with DOT rules and the limitations of the Zoning Resolution, would be a significant agency enterprise, potentially moving resources away from core agency functions of insuring safety and compliant buildings and into areas with less discernable impact on those responsibilities.

The second major provision of the bill provides that only an employee of the Department of Buildings may certify that a curb cut is lawful. While the Department receives approximately 700 curb cut applications each year, homeowners or professional architects and engineers may submit a curb cut application. Under current rules, homeowners may submit and certify an application themselves if they provide a site survey, which requires a drawing demonstrating curb cut width and the location to the closest cross street, the location of trees, utility poles, bus stops other street fixtures, and a drawing of the off-street parking space or spaces on the abutting lot. (I have with me copies of our Building Knowledge brochure series that spells out these requirements in

more detail). When an architect or engineer submits the application, he or she certifies the accuracy of the application. The assignment of resources to review and certify each curb cut application and its compliance with law would be significant, and would necessarily take resources away from our core mission. Moreover, slowing down the process of approval might well encourage owners to perform work without a permit.

I do want to point out that within the last few months, the Department completed the implementation of one of Commissioner Lancaster's major initiatives: B-scan, which should have a significant impact on ensuring the accuracy of curb cut applications. B-Scan enables the public and community boards to review all curb cut applications on line, without having to come to the Department in person to see if the application is accurate. B-Scan is an electronic document management system under which all documents for certain types of applications – including curb cuts – are scanned and placed on our website. B-Scan:

- Provides online access to most job folder contents on the Internet via BISWeb;
- Empowers Buildings staff to electronically manage construction permit applications;
- Allows most job filing documents to be managed, retrieved, archived and accessed online;
- Provides access to virtually all documents associated with New Building and Alteration permit applications (with the exception of architectural plans).

As a result, community boards and neighbors can now review curb cut applications and have the ability to inform us when a site survey is inaccurate or that an application is otherwise not in compliance with law.

The third major provision of the bill gives community boards 60 days to comment on curb cut applications, and provides for the Department to take the boards' comments into consideration on whether to grant the curb cut. As we understand the intent of this

provision, it would essentially make the issuance of a curb cut a discretionary, rather than a ministerial decision of the Department. This would be a departure from the Department's current role in reviewing the great bulk of these applications, which essentially is ministerial. If an application meets the requirements of the Code and Zoning Resolution, the Department issues the permit.

Finally, the bill provides for a doubling of the civil penalty for creating a curb cut without a permit for every 60 days that the illegal curb cut exists. Under Local Law 48 of 2006, the civil penalty for work without a permit on a one or two family building was raised to four times the filing fee with the minimum increased to \$500. For all other work performed without a permit, the penalty is now fourteen times the filing fee with the minimum being \$5000. Penalties assessed at the Environmental Control Board (assessable only if the respondent does not fix the curb cut and provide proof of compliance within 40 days of the violation) would also typically be \$500. The increased civil penalties that are proposed would be substantial, given the recent enactment of Local Law 48.

Thank you for the opportunity to testify, and I am happy to answer any questions at this time.

**DAVID WOLOCH  
DEPUTY COMMISSIONER  
NEW YORK CITY DEPARTMENT OF TRANSPORTATION  
HEARING BEFORE THE CITY COUNCIL  
COMMITTEE ON TRANSPORTATION  
February 28, 2008**

Good morning, Chairman Liu and Members of the Transportation Committee, I am David Woloch, Deputy Commissioner for External Affairs at the New York City Department of Transportation (DOT). With me here today is Leon Heyward, DOT's Deputy Commissioner for Sidewalk Inspection and Management and Stephen Kramer, Senior Counsel at the Department of Buildings (DOB). Thank you for providing us with the opportunity to testify today on Intros 217-A, 639, 213, and 620 relating to curb cuts.

Let me begin by discussing Intro 217-A, which requires DOT to mark mid-block ramps in a conspicuous and consistent color within 90 days of the bill's effective date. The bill also requires the Commissioner, upon receiving notice that a mid-block ramp needs to be remarked, to investigate and make such a determination within three days. If it is determined that the ramp needs to be remarked, it must be done so in five days.

In April 2006 DOT testified on the first iteration of this bill. That version required crosswalk markings to be installed at each pedestrian ramp, citywide. At the time, we explained that the Federal Manual of Uniform Traffic Control Devices (MUTCD) does not recommend the demarcation of crosswalks at uncontrolled intersections, that is, a crossing that is not governed by a traffic signal or stop sign. However, due to the ambiguity at these ramp locations over applicable parking regulations, we agreed to post No Standing Anytime signs mid-block ramps in commercial areas. We targeted those locations because traffic is transient, and oftentimes motorists may not be familiar with the area's parking restrictions. Additionally we used signs, rather than painting these ramps as paint is not easily maintained, and in fact, we don't have the capacity to do so in-house. Using signage addressed both the initial designation and future maintenance issues at a much lower cost.

We believe that with respect to the intent of Intro 217-A the Council and the Department are on the same page -- parking restrictions should be clear to motorists. But in lieu of the legislation proposed, we would like to offer a more comprehensive solution. Instead of installing signs, which would prohibit parking at these mid-block ramps, we'll be modifying our traffic rules to clarify that parking at these uncontrolled mid-block ramps is in fact legal -- and we'll be working with the Police Department to make sure the rule change is properly enforced. However, we have also begun marking crossings at certain T-intersections with crosswalks, in locations adjacent to land use that generates substantial pedestrian activity where the closest controlled intersection is beyond 500 feet. By doing this, we open more viable parking spots to motorists on the one hand, and clarify these are locations that should not be crossed, but will allocate safe space for pedestrian crossings where it is needed. We feel that clarifying the rule is consistent with the Committee and the Department's commitment to the safe and efficient use of City streets.

Now let me turn to Intro 639, which requires DOB to forward every application involving a curb cut to DOT for review. DOT will then have seven days to review application to determine the impact of vehicular and pedestrian traffic adjacent to the curb. Without DOT

approval, DOB would be prohibited from issuing a permit for the cut. It also requires DOB to forward the application to the Community Board to make a recommendation within ten days. DOB must then take their recommendation under advisement.

Although DOT is the appropriate agency to review applications involving traffic impacts, DOB is the appropriate agency to review applications based on certain rules and zoning requirements. The City's operations aptly assign responsibility over these cuts. Part 25-75 of the Zoning Resolution provides DOT with the opportunity to review applications for curb cuts placed within 50 feet of an intersection as cuts near intersections may effect vehicular or pedestrian traffic. As part of this review, we look at vehicular volume; parking regulations; land use; the location of adjacent cuts; intersection control; roadway direction of travel; traffic and pedestrian volumes; turning movement at the intersection; street furniture; sight distance; and the turning radii of the proposed cut. In addition to cuts at those locations, DOT is also consulted when DOB or the Department of City Planning (DCP) review applications for new developments where an environmental assessment is required. As part of this, DOT conducts a traffic study, reviewing the potential impacts of any new cuts.

Intro 639 would expand the universe of applications DOT reviews unnecessarily. At present, our tailored approach allows us to evaluate those applications where a cut may have an appreciable effect on vehicular and/or pedestrian traffic. In 2007, DOB received 707 applications for curb cuts, of those DOT reviewed approximately 60. The bill would require additional staff and resources to handle the drastic increase in workload, with no benefit to motorists or pedestrians. Further, it is just not possible to conduct a comprehensive review in the time frame allotted in the bill. Our criteria for evaluating the propriety of a curb cut, as I previously enumerated, cannot be done in seven days. In cases where we are evaluating cuts as part of a greater EIS, the traffic studies required may take up to a year. Increasing the volume and decreasing the time frame for approval of curb cut applications will prevent us from performing appropriate assessments at locations where traffic impacts may exist.

The City's present operations offer a customized approach to issuing permits for these curb cuts. DOB and the DCP carefully assess applications that involve these permits. When they are confronted with a potential traffic issue - whether it is because a cut is within 50 feet of an intersection or if it involves a large development project - DOT is called upon to investigate. Intro 639 will not improve our operations; opting for a more cookie cutter approach will only make the process less efficient.

Finally, I would like to address Intros 213 and 620, which require the City to address illegal curb cuts. Intro 213 requires DOB and DOT to perform a survey to identify every driveway curb cut in New York City, within that universe DOB must certify which cuts are legal. Of those cuts created without a permit, or in violation of a permit, the civil penalty will double for each 60-day period a cut exists. Additionally, within 6 months of DOT becoming aware of an illegal cut, the department must restore the cut at the cost of the property owner. Intro 620 similarly requires DOT to order the reconstruction of all illegal curb cuts, or that property owners receive the proper permits for illegal cuts, within 30 days. If the cuts are not made legal within 90 days, DOT must restore the cut at the owner's expense.

At this time, DOT does not frequently restore illegal curb cuts. Our current sidewalk "When and Where" contracts address repairs and installations to sidewalks. We invest \$20 million dollars per year to do this work, and as First Deputy Commissioner Lori Ardito testified to on

Intro 73 in September; we cannot possibly address all of them in 90 days. This is because our current operations allow us to cluster sidewalk work by location, which is cost effective. It is far more efficient for our contractors to go out and perform repairs in one community board than to have to go out to scattered locations. Considering the time frame constraints for sidewalk repairs, the time frame proposed in Intro 213 for curb cuts is equally, if not more unrealistic. DOB will speak in more detail about the other components of the bill, but from DOT's perspective, our greatest concern is that this work will take away from our existing sidewalk work, which is of a greater priority in respect to safety. The imperative associated with illegal curb cuts is not that of safety, rather it is that of equity. Property owners who install curb cuts without the necessary permits, or in locations where they are prohibited, do a disservice to their neighbors and the City. They are creating personal parking spots, taking away the opportunity for others to compete for that space. However, the remedy is not to take resources away from the other functions of the DOB and DOT. Rather, the party who infringed on the ability of their neighbors to park should bear the burden, and through enforcement efforts property owners need to be encouraged to fulfill this obligation.

We hope the Council will consider our proposals to address the issues of parking at mid-block ramps and illegal curb cuts — we believe they are responsible, long-term solutions. Thank you for the opportunity to testify today and at this time we would be happy to answer any questions you may have.





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February 28, 2008

**New York City Council - Committee on Transportation**  
**Written Statement by Samuel I. Schwartz, Daily News Traffic Columnist and President, SSC**

Chairman Liu and other distinguished members of the Committee on Transportation;

I apologize for being unable to attend today's hearing regarding the various bills on curb cuts/pedestrian ramps. Therefore, I have prepared a written statement in advance on the issue.

I want to take the time to commend the transportation committee for taking action against illegal curb cuts, a frequent complaint amongst my readers of the Gridlock Sam column in the NY Daily News. I believe it's a step in the right direction in preventing home and property owners from "creating" their own driveway so they have room for more vehicles. They also deprive law-abiding drivers of parking. It also often creates an aesthetic "gash" through the streetscape and reduces tree planting.

Moving onto 217A, I hold no mercy for those who willingly block a ramp, but in many mid-block cases, the driver has no idea he/she is blocking a ramp because it's poorly marked or signed. I would amend the council's version to place less impact on the city's budget by signing only when the ramp is not grooved in compliance with ADA standards, which should be obvious to motorists. I also prefer signs over markings, since there's a lot of fraudulent curb painting at driveways and the painted curb is not regulatory.

In closing, taking the above suggestion regarding pedestrian ramps into account, I support all the bills regarding illegal curb cuts and mid-block pedestrian ramps. I'd be happy to discuss any questions the committee might have.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sam Schwartz', written in a cursive style.

Samuel I. Schwartz  
Gridlock Sam  
President and CEO Sam Schwartz PLLC



# Community Board Ten

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## TESTIMONY TO NYC COUNCIL REGARDING INTRO 619 and 620

Community Board Ten  
Chairperson Dean Rasinya  
District Manager Josephine Beckmann

Good Morning. My name is Josephine Beckmann and I am the District Manager of Community Board Ten in Brooklyn. On behalf of our Chairperson, Dean Rasinya I am pleased to be here today in support of Intros. ~~619~~ and 620, 217A.  
213


Brooklyn Community Board Ten encompasses the neighborhoods of Bay Ridge, Dyker Heights and Fort Hamilton. The installation of illegal curb cuts is a significant problem in Community District Ten. Illegal curb cuts diminish the number of on-street public parking spaces. Illegal curb cuts have also altered the residential landscape of many pristine tree-lined one and two family row house blocks because front gardens are removed and replaced with cement paved car ports. Area residents remain frustrated because there is currently no city government remedy for violators who install curb cuts without a permit. At present, violations remain until the sale of the property, leaving the illegal curb cut without penalty.

Community Board Ten supports the aforementioned Intro's as they will put an end to the installation of illegal curb cuts throughout all communities in the city that are affected by this problem.

We are asking for your help in this effort and ask that Intros. 619 and 620 are assigned to committee so they can be reviewed as soon as possible.

Thank you for your attention.

Respectfully submitted,

  
Josephine Beckmann  
District Manager

# Bay Ridge Consumer Federation

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Honorable John Liu  
Councilman  
Chair "Transportation Committee"  
New York City Council

Peter Killen  
*Executive Director*

February 28, 2008

Good Morning;

My name is Peter Killen and I am the Executive Director of the Bay Ridge Consumer Federation.

We thank you for inviting us to testify at your hearing on a matter of great importance to the driving public and the citizens of our city.

Members of the Federation conducted a survey on "Pedestrian Ramps" throughout the neighborhoods of Bay Ridge, Dyker Heights and Fort Hamilton. The ramps we looked at had been installed by contractors of the New York City Department of Transportation. Many of these ramps are in the middle of blocks.

We found that these "Pedestrian Ramps" are not marked in any way and that there are no "**marking lines**" in the street showing where these ramps are.

These ramps are poorly visible because they blend almost stealth like on the sidewalks where they are located and there are no markings of any kind to bring them to the attention of a motorist who parks his or her vehicle at a ramp location.

We also discovered that motorists who park their cars at these ramps are receiving summonses for "Blocking a Pedestrian Ramp" with fines of \$165.

This is a city wide plague that not only affects the people of Bay Ridge, Dyker Heights and Fort Hamilton, but of all New York City.

The Bay Ridge Consumer Federation believes that the driving public understands that they are not allowed to park and block a "Pedestrian Ramp" but these "Pedestrian Ramps" are not only the exceptions they are accidents waiting to happen. They are unmarked, placed in the middle of blocks where "Pedestrian Ramps" are not expected to be and where persons would most likely not cross the street because there are no Traffic Lights or Stop Signs making it unsafe for a pedestrian to cross at that location.

We asked Councilman Vincent Gentile to introduce a bill in the City Council mandating that the NYC DOT not only paint crosswalks at these locations but also paint the ramps.

And he did

Intro. 217 was a perfect Law and we supported it.

Now, the Council brings us Intro. 217-A, a Local Law to amend the Administrative Code of the City of New York, in relation to demarcations at mid-block pedestrian ramps on curbs.

The Bay Ridge Consumer Federation supports Intro. 217-A. as a starting point in making our City a better and safer place to live. But, painting the "Mid-Block Pedestrian Ramps" is not enough.


We want more. The driving public deserves more. They should not get a \$165 summons for "Blocking a Pedestrian Ramp" on your watch.

There should be "**marking lines**" on each side of the individual crosswalk coming into the street, approximately seven feet long. These "**marking lines**" will definitely warn a motorist that there is a mid block pedestrian ramp at this location and that he or she should not block it. This will be a warning and allow the motorist to park legally and not get a \$165 summons for "Blocking a Pedestrian Ramp."

This is an important part of the Law, because personnel of every Traffic Enforcement Agency that issues parking violation summonses knows the whereabouts of each and every pedestrian curb cut and will issue a summons even when the curb cut is completely covered and invisible to the motorist, whether by snow, leaves or debris.

The Bay Ridge Consumer Federation requests that you look at adding "**the placing of marking lines**" to Proposed Intro. 217-A so that it also becomes a perfect law.

Thank you;



Peter Killen

Executive Director

Bay Ridge Consumer Federation

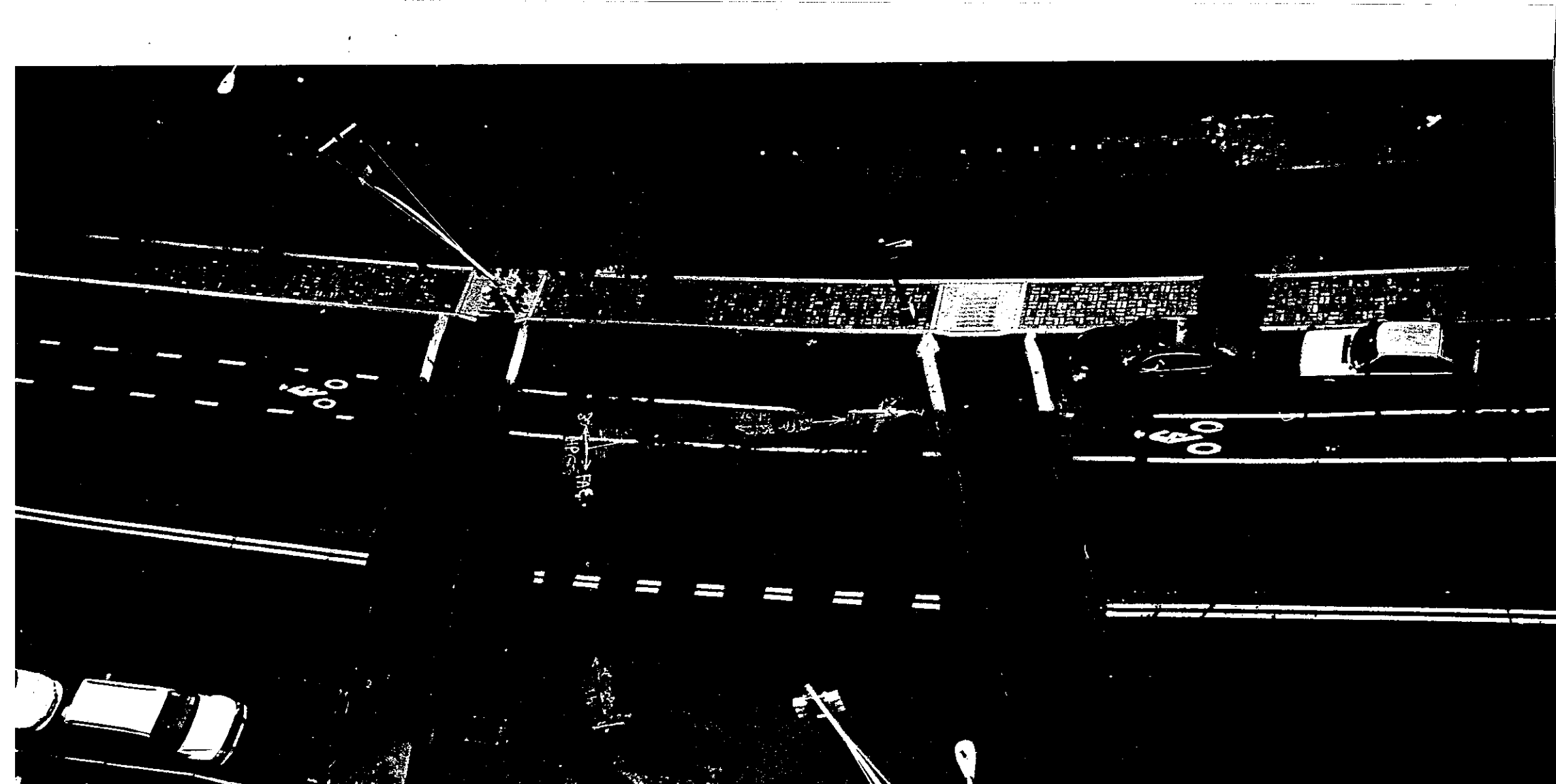
## Bay Ridge Consumer Federation

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Robert V. Cassara  
Bay Ridge/Dyker Heights Resident  
Testimony  
February 28, 2008

### Curb Cut Legislation

Good morning ladies and gentlemen. My name is Bob Cassara and I would like to thank you for giving me the opportunity to speak to you this morning about the proposed curb cut legislation.

First of all, I would like to state that I am in total support of this long overdue legislation. I am a life long resident of Bay Ridge/Dyker Heights and the curb cuts, whether they are legal or illegal, and most of them are probably illegal, is very disconcerting to say the least. Illegal curb cuts are rampant and a growing concern, not only in our neighborhood, but I have seen it done in Sunset Park, and Bensenhurst and it spreading throughout most of the other boroughs.

Curb cutting not only deprives us of the opportunity for street parking, which is in high demand and probably should be taxed especially in business districts, but destroys the very character of a block, with house after house having their front yards paved over. The most distinguishing front yard feature is now the SUV, spare tires and other miscellaneous car parts and junk instead of grass, flowers, trees and hedges. With the passage of this new legislation, we will not only be beautifying the city street-scape but we will be accomplishing one more of the Mayor's goals for PLANYC 2030 and that is adding or keeping plant life in people's front yard, thus removing more green house gas emissions.

I give my full support and congratulate Councilman Gentile and his fellow colleagues for this initiative, but I think it should go a little further. Some of the curb cut requests will be granted. However, the fee should be commensurate with what the City is giving up and for what the other city residents loose as well. Usually a home that has a private or semi private driveway when sold or marketed is valued at more than a home that has no parking available. It just makes common sense. A private driveway is better than a semi-private, etc. Therefore, once a homeowner/business owner is grant the curb cut, his or hers property is automatically more valuable. I believe if a curb cut is granted, there should not only be a one time fee involved for the curb cut and that fee should be high enough so that the curb cut requests are not the norm but the exception but there should also be an increase in the assessed valuation for that property. The homeowner gets more value because of the private parking now available to him, or her and the City is getting more revenue and not in a one shot deal but in perpetuity. I believe that this alternative will reduce the overall requests for curb cuts. Therefore, if a homeowner really desires that curb cut, they will have to pay for it over and over again.

My other concern is about the assessed fines for the illegal curb cuts. Will they result in a lien against the property if the fine is unpaid? If there isn't, there should be a provision whereby the uncollected fines are turned over to a private collection agency, like what is going to be done with unpaid water bills. If the fines are not paid, then the property is seized and sold for the monies due. This may seem a bit aggressive, but if you do not do this, fines will remain unpaid and this legislation will have "All Bark and No Bite..

Again thank you very much. This legislation is long overdue and next on your agenda should be "The High Cost of Cheap Parking" and residential parking permits in the City.

