

TESTIMONY
BY
COMMISSIONER JONNEL DORIS
NEW YORK CITY
DEPARTMENT OF SMALL BUSINESS SERVICES
BEFORE
THE COMMITTEE ON SMALL BUSINESS
OF THE
NEW YORK CITY COUNCIL
FRIDAY, DECEMBER 10, 2021

Good morning, Chair Gjonaj and members of the Committee on Small Business. I am Jonnel Doris, the Commissioner of the New York City Department of Small Business Services (SBS). At SBS, we aim to unlock economic potential and create economic security for all New Yorkers by connecting them to quality jobs, building stronger businesses, and fostering thriving neighborhoods across the five boroughs.

I am here to testify on the oversight hearing on regulatory burdens on small businesses, and I am joined by Deputy Commissioner Jeffrey Shear from the Department of Finance and from my senior leadership team, Assistant Commissioner Amna Malik.

In the Spring of 2020, it became clear that small businesses would be hit especially hard by the economic impacts of COVID-19. The agency quickly shifted our work to meet these challenges. SBS created a small business recovery plan designed to jumpstart the economy in the short term while laying the groundwork for sustainable small business recovery in the long-term. This small business recovery plan, developed in collaboration with business leaders, industry associations, and government partners, was

based on four strategies to ensure an equitable, city-wide economic recovery: 1) support business innovation to increase revenue, 2) equip entrepreneurs with tools to adapt and lower operating costs, 3) foster close collaboration with businesses to cut red tape, and 4) promote equitable economic growth while supporting diverse businesses of the future.

As a result, we launched and expanded 51 recovery programs, initiatives and campaigns. Our team received more than 75,000 calls to our hotline, visited more than 175 commercial corridors, hosted more than 860 webinars with more than 56,000 attendees, and delivered 337,000 services to businesses. Access to capital has been the most critical need in the small business community during the pandemic. SBS has connected New York City small businesses to more than half a billion dollars in funding opportunities to weather the crisis and build back stronger. We've helped more than 6,200 businesses secure \$280 million in local, state, federal and private funding and assisted more than 4,300 businesses in applying for \$343 million in PPP and EIDL loans. And throughout this work, we have assisted businesses of all types across the City — with a particular focus on supporting small businesses in the hardest-hit communities, including vulnerable minority- and immigrant-owned businesses and those in low- and moderate-income neighborhoods.

To support businesses to open and operate, the City launched NYC Business Quick Start, a historic, \$11 million service for small businesses. Quick Start provides small businesses a sole point of contact to help navigate City regulations, including permits, licenses, certificates, inspections, violations, and sign-offs. The initiative guarantees a 48-hour response to all small business inquiries to ensure business owners are guided through any processes and questions quickly and effectively. SBS Small Business Advocates are the lead points of contact for small businesses and help troubleshoot and navigate the regulatory environment and challenges that come up in the process of launching or running a business. Some of the businesses that can benefit from QuickStart include restaurants, bars, cafes, supermarkets, bodegas, meat markets, apparel stores, hardware stores, pharmacies, bookstores, laundromats, shoe repair shops, and beauty salons. Once fully operationalized, this effort will be a collaboration between over 100 City personnel across key agencies, including SBS, Department of Buildings (DOB), Department of Environmental Protection (DEP), Department of Health and Mental Hygiene (DOHMH), and the New York City Fire Department (FDNY). Small Business Advocates walk businesses through regulatory processes and cut

through the red tape by working together with our colleagues at City and State regulatory agencies and utilities.

SBS also has a team of Compliance Advisors that go directly to the business or meet with the business owner virtually. In the consultation, they provide a customized checklist to help businesses understand key City rules and requirements and discuss how to avoid fines and violations in the first place, by addressing the most commonly issued compliance challenges.

Quick Start's ambitious goals were launched on June 21st. We have already made progress on hiring the needed staff and meeting the goals of the initiative for businesses. SBS's team of Small Business Advocates and Compliance Advisors have delivered hundreds of services, and the SBS hotline has fielded over 12,000 calls since the launch of QuickStart, leading to faster openings and an estimated reduction of penalties through education of over \$4 million.

As we continue to provide new services to support small businesses through the pandemic, I am pleased to announce the launch of SBS's \$100 million Small Business Resilience Grant for hard-hit sectors and low- and moderate-income communities. Access to capital has been the most critical need in the small business community during the pandemic. Hard hit small

businesses in the arts, entertainment, recreation, accommodation, and food sectors or businesses located in an LMI neighborhood, as defined by census tract data, are all eligible. Businesses can apply to receive a \$10,000 grant which can be used for payroll and benefits, mortgage, rent, utilities, and other operating costs. To get more information or to apply, businesses can go to www.covidresilience.nyc or call the small business hotline at 888-SBS-4NYC.

As we continue to fight the COVID-19 pandemic, our City and its entrepreneurs will need to remain innovative. SBS will be here to help the City's many and diverse small businesses comply with all health precautions needed to save lives, along with existing regulations to open and operate a business. We will maintain a thoughtful and holistic approach to reducing burdens by advocating for outreach and education first strategies.

As always, thank you to the Council and Committee for your efforts to help small businesses get through the pandemic. The passage of Local Law 80 and Local Law 81 have given financial relief to small businesses during these trying times. Thank you for the opportunity to testify, and I am available for any questions you may have.



Asian American Federation

**Written Testimony for New York City Council Oversight Hearing on
Regulatory Burdens on Small Businesses**

**Submitted to the New York City Council Committee on Small Business
December 10, 2021**

Thank you Chair Gjonaj and members of this committee for holding this hearing, and for providing community members the opportunity to testify.

My name is Michelle Shang, and I am the Small Business Technical Assistance Coordinator at the Asian American Federation (AAF). AAF's mission is to raise the influence and well-being of the pan-Asian American community through research, policy advocacy, public awareness, and organizational development. We represent a network of nearly 70 member and partner agencies that support our community through their work in health & human services, education, economic development, civic participation, and social justice.

Through our small business program, we serve Asian-owned small businesses across the city. Since the beginning of the COVID-19 Pandemic, AAF has provided technical assistance to over 400 Asian American small business owners in securing working capital, navigating government agencies, and staying up-to-date on Pandemic regulations and guidelines. In the summer of 2020, AAF surveyed over 300 Asian American small business owners across the city and published the report *Small Businesses, Big Losses: The Impact of the COVID crisis on Asian Small Businesses in New York City*¹.

Inspection and violation problems are one of the main issues that small businesses, especially immigrant business owners, face in our community. In immigrant communities like Flushing, Queens, and Sunset Park, Brooklyn, small businesses are frequently slapped with violations and fines from various city departments which they are ill-equipped to understand or cure. In particular, the lack of in-language materials at every step of the regulatory enforcement

¹ Kim, A., Khan, R., & Shih, H. (2021). *Small Business, Big Losses*. Asian American Federation. https://www.aafederation.org/wpcontent/uploads/2021/05/Small_Biz_Survey.pdf

process--from compliance education, inspection procedure, to curing/contestation--makes the city's small business regulations especially burdensome for our community.

First and foremost, there is a serious lack of in-language compliance education, which bars immigrant business owners from understanding their rights and obligations regarding city regulations. Business owners often do not understand the minutiae of various department codes regulating, for example, outdoor structures, storefront signage or food labeling, and immigrant business owners face language/culture barriers on top of the puzzling codes and administrative details.

In response to the COVID-19 pandemic in particular, new regulations on cleaning and business capacity were rolled out without sufficient outreach to immigrant communities, resulting in frequent violations issued on small businesses that did not know about the newest COVID policies and were struggling to survive. Even new initiatives such as the Open Restaurant program, which was meant to support small businesses survive through the pandemic, caused much pain for business owners due to frequently changing policy details and harsh enforcement practices.

In contrast to such early COVID-19 regulations which placed inequitable burdens on immigrant communities, AAF applauds the implementation of the Key to NYC initiative, which was better-publicized and enforced. By working closely with community-based organizations who have regular, trusted relationships with business owners, SBS successfully heightened awareness of this program. Also, prioritizing education over penalties during inspection allowed immigrant business owners to adhere to the new policy better.

Until there is more equitable access to compliance education for limited English proficiency (LEP) business owners, regulatory burdens will inevitably be unduly higher for the immigrant small business communities. We encourage the SBS to continue engaging with immigrant small businesses through trusted partners, and to expand language access in all outreach materials. Learning from the Key to NYC, in-language outreach efforts and guidelines should be expanded to include other major Asian languages spoken in the city, such as Korean, Arabic, Bengali, Hindi, and Urdu.

Second, inspection procedures are often particularly onerous for LEP immigrant business owners. Business owners who have trouble communicating with inspectors are left confused as to why a ticket was issued and how to cure it. Unsympathetic and inconsistent inspection

practices in which business owners cannot communicate with city officials, but summonses or tickets are issued regardless has deeply eroded trust in the city among these communities.

While the city suggests language line access is available to anyone in need of language assistance during inspections, small business owners are not informed of their rights and available resources. When faced with an inspector who can write up penalties for the businesses, owners rarely find the courage to demand language access or more information on how to cure their cases during inspection. As a result, our small business team continues to hear about cases where the inspector made no efforts to communicate with them in-language. When language barrier results in poor communication, the inspector may return for multiple follow-up inspections in a short period, resulting in business owners feeling unduly targeted for inspections.

In the height of the COVID-19 pandemic, scores of Asian American small business owners across the city reached out to AAF, citing hostile inspection practices and alleging targeted inspection practices in neighborhoods like Sunset Park, Brooklyn, or Jackson Heights and Flushing, Queens. Inspection data² made available through the Open Data system suggests there indeed have been more restaurant inspections in neighborhoods where Asian businesses dominate the commercial corridor. While we do not allege malicious intent or discriminatory practices, we urge the SBS and other city agencies to carefully review this data to determine why certain neighborhoods end up with disproportionately high numbers of inspections.

AAF applauds efforts like CM Gibson's Intro 2233, adopted in July of this year, to reduce civil penalties attached to trivial regulations on small businesses. However, without sufficient engagement with immigrant communities like ours, such legislative efforts continue to exclude regulations most relevant to industries led by immigrants. We strongly recommend the council and SBS to review the most common and relevant codes that resulted in penalties during the pandemic and introduce more avenues to waive small business owners from onerous fines in this difficult time of economic recovery.

Lastly, the follow-up process for violations lacks language access and technical support, adding regulatory burden to LEP business owners. The process of curing and settling or contesting violations is confusing and difficult to navigate for small businesses. Furthermore, the 30-day cure period on most tickets does not allow nearly enough time for LEP immigrant business owners who are already stretched thin by day-to-day operations to tend to administrative procedures they do not understand.

² Ref. Appendix 1 and 2

LEP business owners in particular find the violation curing process impossible to navigate due to the added language barrier. Navigating OATH and city agency web-pages to follow up on violations is confusing enough for English speakers; for LEP business owners it is near impossible to find the relevant information. Now, as there are considerable delays in finding the right help to cure violations that take outside help, the common 30-day cure period is even less feasible.

As a result, most immigrant business owners resort to relying on their personal network or paid services to cure violations. Unfortunately, many of such cases end up haunting businesses again in the future due to incomplete casework. For instance, immigrant business owners are often unaware of the fact that in addition to paying the fine attached to a ticket, they must also obtain a certificate of compliance in order to cure the violation. In the example of business owners who were issued a storefront signage violation, many assumed hiring a sign hanger to replace the original signage that triggered a violation would be enough to deal with their tickets—many of them have installed a new sign, however, without curing the original violation, or obtaining a certificate of compliance for the new signage.

To this end, AAF requests that the council:

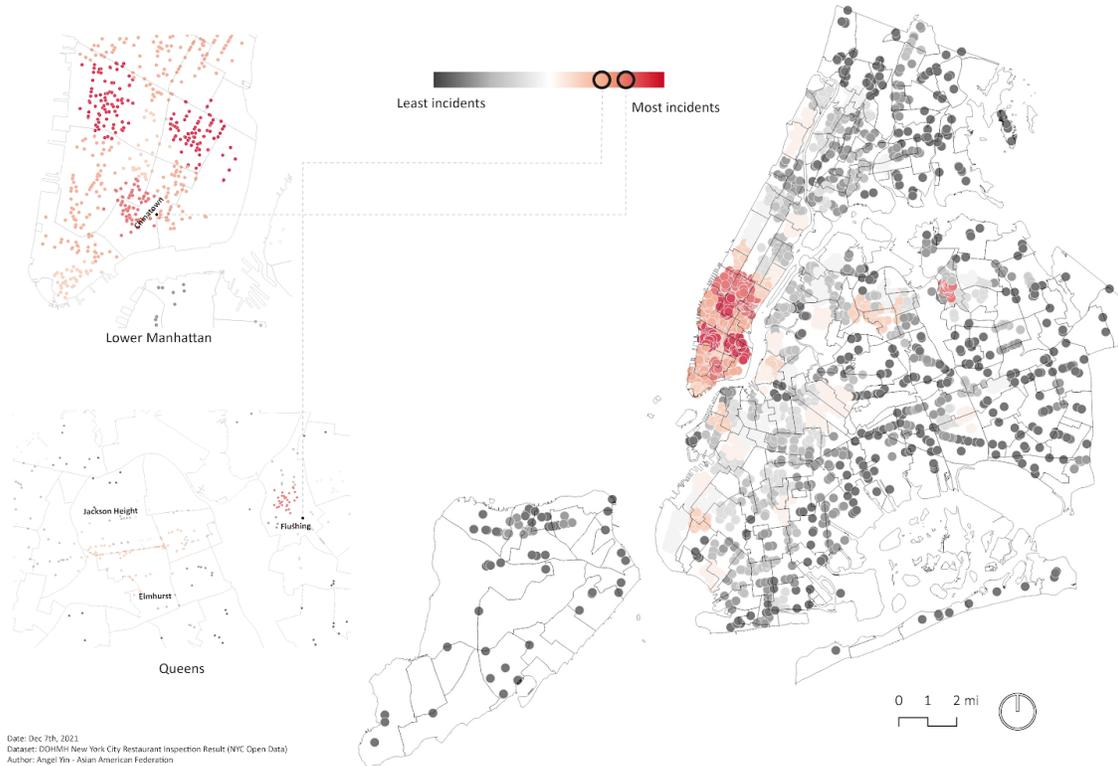
- **Prioritize in-language compliance education.**
 - The first step to reducing inequitable burdens on immigrant small businesses is ensuring that they are aware of regulations and their obligations. This must include easily accessible in-language materials on city webpages, as well as more in-language programming to expand outreach into LEP communities.
- **Offer small business relief through reducing civil penalties.**
 - While AAF applauds efforts like Intro 2233, the breadth of eligible businesses and penalties covered in this legislation are limited. Immigrant business owners who were hit with hostile inspections on new COVID policies they were unaware of in the first place remain frustrated as they wait for hearings on their tickets.
 - We strongly urge the City Council to review the most common and relevant codes that resulted in penalties during the pandemic and introduce more avenues to waive small business owners from onerous fines in this difficult time of economic recovery.
- **Introduce a streamlined system of inspection feedback, to allow for businesses to report harassment and lack of language access.**

- Inspections should not prioritize penalizing business owners over education and outreach to ensure businesses understand their obligations. This can only be done when city agencies have a trusted relationship with small business owners.
- In order to cultivate a cooperative relationship between small businesses and city agencies, there should be a systematized approach covering all inspections.
- We urge SBS to establish a line of communication for business owners to easily report cases of hostility and lack of fair communication without the fear of retribution from city agencies or inspectors.
- **Advocate for city agencies to hire more culturally competent inspectors.**
 - Many of the issues with inspections for immigrant LEP communities can be greatly improved if inspectors had cultural and language competencies for the communities that they work in. We ask the Council and SBS to advocate that city agencies take note of primary language spoken in neighborhoods where certain ethnicities dominate the commercial corridor, and to dispatch inspectors with the appropriate language capacity in such neighborhoods.
 - Where such staffing is not possible, there should be added effort to educate inspectors on the importance of cultural competency—that they should be using translation services to communicate with business owners during the inspection process.
- **Expand language access and culturally competent assistance in SBS programs**
 - The introduction of an Asian liaison in the SBS has significantly improved communications with city agencies for small businesses and CBOS who assist them. AAF supports continued efforts to engage the hardest-to-reach small business community, and urges the department to continue hiring more small business liaisons and advocates with the necessary language capacity to better engage the immigrant small business community.
 - In order to resolve the deep confusions around responding to violations, we encourage the city to hire liaisons at enforcement agencies like OATH, and interagency departments like SBS, to communicate with business owners who need help resolving their violations.

Thank you for your efforts to reduce regulatory burdens on our small businesses in this difficult time. Asian small businesses are a crucial part of New York City's cultural vibrance, and we hope that we can work together to ensure they can flourish during this continued period of instability.

Appendix 1:

Where Did Restaurant Inspections Happen the Most in NYC During Covid-19?



The dots in the figure represent every sustained or not yet adjudicated violation citation from every full or special program inspection conducted from July to December in 2020. The data was drawn from the DOHMH New York City Restaurant Inspection Results dataset which is available on NYC Open Data

<https://data.cityofnewyork.us/Health/DOHMH-New-York-City-Restaurant-Inspection-Results/43nn-pn8j>). A K-mean Clustering analysis has been conducted using QGIS to show whether different neighborhoods are linked with high or low levels of inspection incidents. The result is shown in scale in which the black represents a low percentage of inspection incidents and the red represents a high percentage of inspection.

Appendix 2:

Where Did Open Restaurant Inspections Happen the Most in NYC in 2020?



The dots in the figure represent records of site setup inspections performed throughout the five boroughs of New York City from July to December in 2020. The data was drawn from the Open Restaurants Inspections dataset which is available on NYC Open Data (<https://data.cityofnewyork.us/Transportation/Open-Restaurants-Inspections/4dx7-axux>). A K-mean Clustering analysis has been conducted using QGIS to show whether different neighborhoods are linked with high or low levels of open street inspection incidents. The result is shown in scale in which the black represents a low percentage of inspection incidents and the red represents a high percentage of inspection.

Appendix 3: Narratives from LEP small business owners on regulatory burdens

A. Hostile inspections

- a. A Korean restaurant owner in Murray Hill, Queens, underwent an extremely hostile fire department inspection in the summer of 2020. This was a time when Open Restaurants regulations were not fully available in Korean, and owners were unsure. The inspector loudly threatened to levy heavy fines and shut down the business. He did so in front of customers, compromising the restaurant's daily operations and its reputation.

B. Lack of communication in-language

- a. A Mandarin-speaking salon owner on Union Street, Flushing was subjected to a COVID cleaning inspection in February of 2021. She could not communicate with the inspector, who issued a ticket for not updating her COVID cleaning log, and for not having a safety plan in place, even though she had a completed template. She was unable to explain to the inspector, who impatiently told her she could speak to a judge in court, issued the ticket, and left. Because she wished to challenge the inspector, the judge required his presence and her hearing has now been rescheduled to accommodate the inspector, and as a result she is unsure when this will be resolved.

C. Lack of follow-up support

- a. A liquor store owner in Flushing, Queens, had a signage violation issued on his business in 2018. He paid the OATH fine and changed the sign, and believed the issue resolved, but in 2021 his landlord found that he still had a DOB violation open and pressured him to resolve the issue. He reached out to AAF for assistance, only then learning that he had to obtain a certificate of compliance with information on the new signage in order to cure the violation completely.

D. Excessive Authority Given to Inspectors

A construction company owner in Sunset Park had his site visited by an inspector in October 2021. The inspector issued a Department of Buildings violation as well as an Environmental Control Board violation. Dealing with an inspector is challenging enough when the inspector is a seasoned expert in the codes of one agency; subjecting business owners to regulation from multiple agencies via one inspector is an unfair burden.