



**THE CITY OF NEW YORK**  
**OFFICE OF THE COMPTROLLER**  
**BRAD LANDER**

Testimony of  
Chief Climate Officer Louise Yeung  
Before the New York City Council Committee on Environmental Protection  
Hearing on Oversight – Local Law 97

April 14, 2022

Good morning, and thank you to Chairs Gennaro and Sanchez for the opportunity to testify at today's important hearing on the implementation of Local Law 97, New York City's ambitious Climate Mobilization Act. My name is Louise Yeung, the first Chief Climate Officer to serve at the NYC Office of the Comptroller.

As the City's Chief Accountability Officer, Comptroller Lander takes a long-term view in managing risks facing the city, including the climate risks that threaten New York City's physical, social, and financial future. At the Office of the Comptroller, we are bringing our unique set of tools to confront the climate crisis. We are proud to be the first and so far only large public pension fund system in the country to divest from companies that own fossil fuel reserves. We are deeply committed to a just transition toward a more equitable, low-carbon, and resilient New York City.

As one of the most ambitious climate laws in the country, Local Law 97 represents an unprecedented opportunity to achieve a just transition by dramatically reducing building emissions and creating tens of thousands of green jobs for New Yorkers.

Comptroller Lander was proud to be an early supporter and co-sponsor of the bill when he was in the Council. We remain grateful to the strong coalition of advocates who worked tirelessly for years to demand bold climate action, many of whom are here today, to former Councilmember Constantinides for his leadership—and extend that gratitude to Chairs Gennaro and Sanchez and a growing coalition of new Councilmembers for picking up the mantle.

But Local Law 97 will only be successful in achieving that bold climate action if we are successful in implementation.

Let's be clear: this is a massive undertaking. It is essential for serious carbon footprint reduction, and with great opportunities for cleaner air and job creation – but still a massive undertaking nonetheless. Roughly 50,000 residential and commercial properties are covered, about 60% of the built square footage in New York City. Roughly 20% of the highest-emitting buildings will need to reduce emissions by 2024. By 2030, roughly 75% of buildings.

Effective implementation will require clear and timely rules and guidelines for building owners, sufficient staff at DOB and other relevant City agencies, support for owners who need assistance (especially affordable housing and cooperatives), an appropriate mix of fines and incentives to ensure compliance, and strong oversight of the system as a whole.

As a starting point, the City needs to promulgate clear rules and guidelines so that all building owners understand exactly what they must do to achieve compliance. As the rulemaking process wraps up this year, we look forward to remapping that takes a more nuanced approach to categorizing building types so that the emissions limits are more thoughtfully defined for different building uses and types. We are also eager to have more clarity on the greenhouse gas coefficients needed to calculate building emissions, and hope that the rules allow owners to consider rooftop solar installations (including community solar) as effective strategies for compliance.

We want building owners covered by Local Law 97 to be equipped with tools and resources to implement retrofits and achieve compliance. To achieve this, existing teams at the Department of Buildings must be resourced with additional dedicated staff so that the City is never the bottleneck in guidance or enforcement. The Comptroller was disappointed that the Administration did not include additional funding and positions for Local Law 97 compliance at DOB in the preliminary budget. We were glad to see the proposal in the Council's budget response to add additional DOB staff lines to improve

enforcement. We fully support that recommendation and hope those positions are added in the Mayor's Executive Budget next week.

The City must also expand sufficient resources so that any building owner seeking assistance can be served by technical experts at the DOB or the Retrofit Accelerator, so that the City can provide building owners with a full suite of financial and technical assistance tools—from PACE financing to state incentives—to building owners seeking guidance on how to meet their emissions targets.

Where building owners refuse to comply with the law, penalties will be necessary to address non-compliance; but we should keep in the mind that the goal is 100% compliance, not fines for failure. In those instances where fines are collected, those penalties should go toward retrofits for affordable housing.

We also need to ramp up retrofits to the City's own building stock to meet the Local Law 97 requirements for public buildings to reduce emissions by 40% by 2030 and 80% by 2050. After just a few short weeks working in the Municipal Building, I can tell you we have a very far way to go. We hope to see significant funds in the City's upcoming Capital Budget, followed by efficient project delivery of capital improvements in public buildings across the five boroughs. One bright spot here was the including of design/build authority for DCAS in the State Budget. Let's get busy now putting that to good use.

Finally, strong oversight will be necessary to make sure that implementation is taking place with fidelity, that adjustments can be made as necessary, and that we stay on track together to hit this ambitious but utterly necessary target. The Comptroller's office looks forward to taking part in this oversight work. In addition to ensuring that the City's budget appropriately prioritizes funding commitments needed to achieve compliance and auditing to make sure the process is functioning as intended. We are committed to publicly tracking citywide progress to retrofit NYC's public and private building stock through a new Climate Dashboard that we are releasing next week.

We are optimistic about the leadership of DEP Commissioner and Chief Climate Officer Rohit Aggarwala and Acting DOB Commissioner Gus Sirakis, and the abilities of expert teams at the Mayor's Office of Climate and Environmental Justice, the Department of Buildings, Department of Citywide Administrative Services, and the New York City Housing Authority to aggressively uphold the requirements of Local Law 97. We know that the powerful coalition of advocates who mobilized to pass Local Law 97 will continue to be just as resolute in demanding full-throttle implementation. And we appreciate the Council's leadership in holding this timely hearing to ensure strong oversight.

We look forward to working together with all of you, to hold ourselves accountable to achieving our ambitious climate goals. It is a big task, to be sure, but one that is urgently needed if we are indeed to reach 80% emissions reduction by 2050. Thank you.



**NYSFAH Testimony before the Committee on Housing and Buildings and the  
Committee on Environmental Protection on Local Law 97**

13 April 2022

Thank you, Chair Sanchez, and Chair Gennaro for the opportunity to submit testimony in response to this hearing.

NYSFAH is the trade association for New York's affordable housing industry statewide. Its 400 members include developers, lenders, investors, attorneys, architects and others active in the financing, construction, and operation of affordable housing. Together, NYSFAH's members are responsible for the vast majority of subsidized housing built across the City and State. Founded in 1998, NYSFAH is the nation's largest affordable housing trade group.

NYSFAH member projects have consistently led the field in energy efficiency and innovation to reduce the carbon footprint in affordable housing buildings. We have been working for many years with both City and State agencies to reduce the carbon footprint and operating costs of affordable housing buildings. We believe in the goals set forth by Local Law 97 here in NYC and the state's Climate Leadership and Community Protection Act.

As we strive to meet the goals of Local Law 97 there are still obstacles that need to be addressed if we are going to meet compliance deadlines. For instance, the use of electric heating and cooling solutions, to eliminate the use of fossil fuels, is very expensive and can cause major tenant disruptions. However, an innovative solution might be on the horizon. To accelerate the development of sustainable heating technology, the New York City Housing Authority (NYCHA), the New York Power Authority (NYPA) and the New York State Energy and Research Authority (NYSERDA) are challenging the HVAC industry to design, test and commercialize a standalone, unitary Packaged Window Heat Pump (PWHP) that meets the specifications for installation and performance in multi-dwelling buildings.

As an industry association we are also working on initiatives to reduce the carbon footprint of our members' buildings. For instance, we are currently working on a proposal to amend the Zoning Resolution to allow elevated solar panels over 100% of the roof surface of multi-family residential development. Today, zoning only allows elevated solar panels on 25% of the roof and limits them to 15 feet in height, which makes solar energy very challenging.

Most importantly, however, we would like to ask the Council to carefully consider climate impacts of any proposed legislation. For instance, Introduction 115 would increase minimum interior temperatures during winter months from 62 degrees at night to 66 degrees, and from 68 degrees during the day to 70 degrees. We urge the Council to withdraw this legislation for the following reasons that are directly related to climate change:

- **Increasing interior temperatures will dramatically impair the ability of the City to meet Local Law 97 goals and could result in the City actually increasing its carbon emissions as opposed to reducing them:**
  - We are witnessing accelerating climate change, which has resulted in severe weather events and rising sea levels that are threatening NYC's coastal areas.
  - Buildings are responsible for 2/3rds of NYC's carbon emissions.
  - Increasing interior temperatures in the wintertime will require still greater amounts of fossil fuels to heat buildings.
- **Most residential buildings in the city are heated by burning either natural gas or fuel oil:**
  - Natural gas (methane) is one of the most potent greenhouse gases, with a planet-warming effect 25 times that of carbon dioxide. While cleaner at point of combustion, the huge number of leaks in pipelines and at wellheads means that it has an outsized impact on global warming. Furthermore, energy companies routinely vent many tons of methane into the atmosphere before conducting pipeline maintenance.
  - Fuel oil used for heating in NYC, typically No. 2 oil, is chemically identical to diesel fuel.

Furthermore, this legislation will negatively impact public health, affordable housing finances, and human rights:

- **Burning more fuel oil and methane will increase asthma rates:**
  - Burning fuel oil produces large quantities of sulfur dioxide and nitrogen oxides.
  - Burning methane produces large quantities of nitrogen oxides.
  - Both pollutants are associated with increased rates and symptoms of asthma.
- **Rising costs of building operation:**
  - Residential heating can already consume as much as 10% of a building's budget. Affordable housing runs on tight margins with maintenance and operation costs budgeted for during initial financing. An unexpected increase in operating expenses obviously cannot be offset through increased rents. Given that fuel costs and other operating costs are already spiking, buying more fuel would eat into already dwindling building reserves.
- **Human rights and fossil fuels:**
  - The fossil fuels industry is often associated with dictatorships and conflicts around the world. Russia, for instance, has used income from the sale of natural gas and oil to build its war machine. Given that oil and gas have global markets, in which our actions here affect worldwide demand, we strongly urge the Council to instead focus on policy that reduces demand for these commodities.

Instead, we urge the Council to examine ways that the City can improve enforcement and efficiency:

- **Work on enforcement and energy efficiency:**
  - In 2017, the Council increased the nighttime temperature requirement from 55 degrees to 62 degrees.
  - We urge the Council to focus on ways in which the existing law can be better enforced to ensure adequate heat, as 62 F / 68 F is a reasonable standard of comfort during winter months.
  - We also urge the Council to explore how buildings can be better insulated and retrofitted to make temperatures consistent throughout while diminishing the need to burn fossil fuels.

**Contact: Jolie Milstein, NYSFAH President and CEO, at [jmilstein@nysafah.org](mailto:jmilstein@nysafah.org) and (646) 473-1208.**

## **The Real Estate Board of New York to The Committees on Environmental Protection and Housing and Buildings on the Oversight on Local Law 97 of 2019**

The Real Estate Board of New York (REBNY) is the City's leading real estate trade association representing commercial, residential, and institutional property owners, builders, managers, investors, brokers, salespeople, and other organizations and individuals active in New York City real estate. REBNY thanks the Committees for the opportunity to testify as part of the oversight of Local Law 97 of 2019 (LL97).

REBNY supports LL97's goal of decarbonizing the built environment and is eager to continue serving as the City's partner in achieving our shared climate goal – a carbon-free NYC on the timetable adopted in the law. Since New York City's buildings collectively account for the majority of the city's carbon emissions, the built environment needs to make meaningful carbon reductions if we are to achieve a more sustainable and equitable city.

If we are to achieve these goals, the regulatory structure must adequately recognize that New York is comprised of 1.1 million buildings of varying construction, size, use, and occupancy, each with varying energy composition and economic realities. To effectively reduce emissions from buildings, policymakers will need to account for the unique circumstances of each property and ensure that buildings have viable tools to support their decarbonization in a timely manner.

By design, LL97 is a framework meant to be built out through a collaborative process, which is an opportunity for the City Council and Adams Administration to enact practicable solutions ensure our carbon reduction targets are met. Those solutions should include the following components:

### **An appropriate metric that better accounts for buildings' different realities**

Unless changed by regulation, LL97 measures buildings based on a raw carbon per square foot for the 2024 compliance period and later years. It is a metric based on generalized occupancy type. It ascribes the same carbon coefficient to all buildings in the same broad typology, irrespective of the particular use of the building spaces. In consequence, two commercial buildings, for example, could have similarly efficient systems but can perform wildly different against their LL97 goals because one building is occupied by tenants who are using the building 18 hours per day while another is in use only 8 hours a day.

An improved metric would ensure more owners are actually making enhancements to their properties rather than relying on low tenants and safeguard against fines for owners who are trying to achieve decarbonization through energy efficiency.

To that end, we encourage the City to move toward a metric that addresses the varying energy needs of different occupancies and establish the appropriately tailored requirements for each building. Doing so would require that the metric account for and normalizes factors including density, hours of operations, and the specific type of use of the building. Further, the metric should appropriately balance the need to incentivize onsite energy reductions and the use of lower carbon energy inputs and building electrification.

### **Provide financial support to buildings to secure emissions reductions**

The improvements that building owners will need to make to properties to come into compliance with LL97's carbon caps can come with a significant price tag. Unfortunately, the cost of substantial efficiency improvements or building electrification is out of reach for many owners, particularly residential buildings including middle income cooperatives and condominiums.

For this reason, the City will need to develop a suite of programs to support capital improvements to existing buildings, particularly residential. The work required to decarbonize these buildings is substantial and will impose substantial costs on residents whether they are renters, owners, or shareholders. A wide range of programs – beyond what is offered by existing programs – will be needed to help these buildings make such investments.

### **Support emissions reduction from electricity and district steam generation**

Achieving the goals of LL97 requires the aggressive decarbonization of electricity used in the five boroughs. With this goal in mind, the City of New York has been a strong supporter of New York State efforts to bring more renewable power directly into the city from upstate renewables, Canadian hydropower, and offshore wind. Continued City support for these investments, and more, will be critical to securing building emissions reductions.

At the same time, the City should continue to incentivize building owners to invest in these programs by allowing the use of local renewable energy credits (RECs) for LL97 compliance. Ensuring that buildings get credit for purchasing and retiring these RECs will enable owners to manage their emissions exposure that stems from electricity generation they do not control and will enable the investment needed to ensure these projects operate at lowest cost to all ratepayers.

In addition, the City should prioritize support for the decarbonization of district steam, an issue which has largely been missing in the public conversation. District steam is an important source of energy in many commercial and City buildings in New York City but is currently generated from fossil fuels. While New York State has established clear directives to decarbonize electricity generation and begun implementing policies to do so, no verifiable plan exists to reduce emissions from the district steam system. Greater attention to the role of district steam and strategies to decarbonize this system is needed as a decarbonized district steam system may be able to play an important role in helping convert existing buildings to less carbon intensive energy sources (including on-site combustion) over time.



**Drive investment in buildings, not penalties**

Penalties resulting from LL97 are currently scheduled to be paid to the City's general fund with no obligation for the funds to be used to support building decarbonization. This is a missed opportunity to drive further investment into buildings and should be corrected.

Several proposals have been put forward to do so, including earmarking those penalty funds for specific purposes or allowing owners to make alternative compliance payments that would be used to improve the performance of buildings with below market rate units. These options should be carefully explored to determine how best to ensure that the law results in emission reductions not penalties.

Thank you for the consideration of these points.

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**Natural Resources Defense Council and Regional Plan Association  
Testimony Before the New York City Council Committees on Environmental  
Protection and Housing and Buildings  
Re: Local Law 97**

April 13, 2022

Good afternoon Chairs Gennaro and Sanchez and members of the Committees on Environmental Protection and Housing and Buildings:

My name is Donna De Costanzo and I am Eastern Regional Director for the Climate & Clean Energy Program at the Natural Resources Defense Council (NRDC), an environmental organization that has been advocating for clean energy policies and programs in New York for more than 50 years. We want to thank the Council and Administration for its leadership and its longstanding legacy of tackling climate change and helping to make New York City a national leader on reducing emissions from the building sector. I will be testifying today on behalf of NRDC and the Regional Plan Association (RPA). RPA is also an independent non-profit working to improve the environment in the city and state.

Local Law 97 will play an important role in achieving equitable building decarbonization and, specifically, on ensuring New Yorkers can live and work in clean, healthy, highly efficient, all-electric buildings. It builds upon the foundational laws adopted over a decade ago as part of the groundbreaking “*Greener, Greater Buildings Plan*.” Local Law 97, with effective implementation, will not only result in significant local benefits, but it also lays the groundwork for similarly ambitious actions by other cities around the country who are looking at Local Law 97 and to NYC as a model. We appreciate the very hard work of the Administration, Commissioner Aggarwala, DOB and the Mayor’s Office of Climate and Environmental Justice, to work towards implementing Local Law 97, including their work in the extensive Advisory Board process.

To ensure the law’s success, it is critical that the following principles guide its implementation:

- Implementation should prioritize actual investments in buildings - ensuring ramped up energy efficiency in addition to electrification – it’s not “either/or”. Energy efficiency will remain an essential pillar of affordable decarbonization: in addition to reducing carbon, it is a significant local jobs creator, saves people money on their utility bills and increases grid resilience, making it easier and cheaper to meet additional power needs and to meet our renewables targets, particularly as we need to also electrify our transportation sector.
- Compliance options should prioritize investments that benefit residents of affordable housing, who are most in need of the environmental, health and economic benefits that building upgrades will provide. Owners of affordable housing already face increased operating costs and unique constraints on revenues and expenses, as well as the greatest challenges financing and implementing retrofits.

- Local Law 97 needs to achieve results beyond what is already required by and being accomplished by the State pursuant to the Climate Leadership and Community Protection Act (CLCPA). The CLCPA mandates that we power our electric grid with 70 percent renewables by 2030 and 100 percent carbon-free sources by 2040; as such, it is difficult to show that the purchase of Renewable Energy Credits (RECs) as a compliance option represents additional emission reductions. Their use in the Local Law 97 context should be limited accordingly as compliance should be focused on work happening in buildings. As eligible RECs become more available, their unconstrained use could significantly undercut the likelihood that building owners will comply through on-site energy efficiency and building electrification.

- Local Law 97 should not perpetuate the use of fossil fuels in New York City buildings or the expansion of fossil fuel infrastructure. An implementation framework that encourages the use of so-called “renewable” natural gas (RNG) or hydrogen would do just that. Those fuels should be strategically deployed in hard-to-electrify sectors, such as industrial processes, aviation, and long-distance transportation. RNG is a dead-end solution for buildings. There isn’t enough of it now or expected for the future, it’s too expensive and, most importantly, similar to fossil gas, it produces toxic air pollution when combusted. Similarly, proposals that promote green hydrogen in buildings are a distraction. We would need all new pipes to distribute it and all new equipment to burn it; and burning it in buildings may be as bad or worse for toxic air pollution as methane. Green hydrogen is a woefully inefficient and risky solution to decarbonize buildings relative to proven and readily available high-efficiency electric heat pumps.

We believe that *all* of these principles would be achieved by the adoption of a compliance mechanism in the form of a fund that would allow building owners to pay for energy efficiency and electrification upgrades in affordable housing that otherwise wouldn’t occur. We are strongly supportive of such an alternative, which would provide building owners with flexibility while also delivering local health, economic and environmental benefits. While details will need to be worked out, we are confident that they *can* be with the City’s support; this mechanism also has the ability to attract broad support among advocates, building owners and other stakeholders and is already included in Boston’s building performance framework. We stand ready to work with the Council and Administration to make such a compliance mechanism a reality.

We would also like to highlight two other elements critical to the success of Local Law 97:

- DOB must be provided with the capacity and resources it needs to effectively implement this law; ensuring adequate funding for implementation commensurate with the scale/impact of Local Law 97 is crucial to its success.
- The City, State, and utilities will need to integrate their efforts and programs to the greatest extent possible to provide much-needed resources for building owners as they work toward achieving Local Law 97’s requirements, particularly for smaller buildings that do not have significant resources and expertise on staff. New York City’s Accelerator must be scaled up in both scope and depth to help guide building owners through the Local Law 97 compliance process, as education about the law’s requirements is needed, as well as information about contractor resources, available technologies, and utility and state programs that offer financial and technical assistance.

Thank for you the opportunity to testify today regarding Local Law 97. NRDC and RPA look forward to continuing to work with the Council and the Administration to ensure the law's successful implementation and maintaining New York City's strong climate legacy.

Thank you,  
Donna De Costanzo



**Testimony on Local Law 97**  
**Submitted to the City Council Committee on Environmental Protection**  
**April 13, 2022**

Good morning Chair Gennaro and members of the Committee.

My name is Jeff Rios. I am Partner at AKF Group and Vice Chair of the American Council of Engineering Companies of New York's (ACEC New York) Energy Code Committee, on whose behalf I am appearing today. Members of our Committee are licensed professional engineers serving on a volunteer basis to analyze City laws and proposals that affect or relate to consulting engineering work. Thank you for the opportunity to testify today.

ACEC New York represents close to 300 engineering and affiliate firms throughout New York State, with a concentrated presence in New York City. Our members plan and design the structural, mechanical, electrical, plumbing, civil, environmental, fire protection and technology systems for the City's buildings and infrastructure.

ACEC New York has been supportive of the intent of Local Law 97 since its first draft as Intro 1253, and has been active in providing comments, testimony, and technical insight from the drafting of the bill all the way through enactment. Since enactment in May of 2019, ACEC New York and our member firms have closely monitored implementation of the law. We offer the following comments.

First, we would like to stress the need for dedicated resources within DOB. Years after its historic passage, LL97 remains some of the most ambitious legislation of its kind, and as a result will be one of the most challenging to successfully implement. ACEC New York members sit on both the Advisory Board and Working Groups charged with assisting DOB in implementation. LL97 charges the advisory board to issue a report and recommendations in less than a year from now. There is a concern that at the current pace of rulemaking and implementation; there remain too many unknowns for design teams, consultants and building owners to properly react and start implementing the real changes and improvements that are needed for LL97 to ultimately be a success. We strongly recommend further attention to implementation of law.

Second, implementation must tackle some of the very complicated questions and nuances of the law that have existed since its early form including Building Occupancy Groups. ACEC New York's view is that the DOB Building Occupancy Classification system is an inappropriate way to set limits as it ignores too many necessary indicators of energy and carbon usage within a building. Specifically, the DOB Occupancy is not nuanced enough to recognize different energy intensities in how different usage types, occupancy densities, operating schedules and other factors affect the carbon consumption within the same Occupancy Class. We recommend the Energy Star building classification as a more appropriate way to categorize and set limits. This system, nationally recognized and currently utilized in the City's benchmarking law, is a more appropriate way to classify the type of building and resulting energy and carbon intensity.

ACEC New York understands some progress has been made on these issues, but strict attention is still required to establish enforceable rules that meet the intent of the Law. We urge further attention and focus be put towards the implementation and rulemaking of this very important statute to address these concerns.

ACEC New York is committed to providing what we believe is the best professional judgment of the licensed professional engineers who volunteer time to thoroughly analyze City proposals and policies including Local Law 97. We offer to make these professionals available to you as you work through these issues. If you have questions or would like to discuss these comments with representatives of our Energy Code Committee, please let us know.

**For further information contact:**

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April 13, 2022

**American Institute of Architects New York  
Testimony to the Committee on Housing and Buildings and Committee on  
Environmental Protection**

Thank you, Chair Sanchez and Chair Gennaro for holding this hearing today. The American Institute of Architects New York, also known as AIA New York, is the professional association representing nearly 6,000 of New York City's architects and related professionals.

Since our founding in 1857, AIA New York and our members have worked to advance the quality of life of New Yorkers and protect the public's health, safety, and welfare. Working alongside our partners in City government, AIA New York has and will continue to be a strong supporter of Local Law 97 (LL97).

As you know, buildings contribute two-thirds of the city's total greenhouse gas emissions. LL97 is the centerpiece of the city's climate strategy for large buildings and is crucial to delivering NYC's low-carbon future. The law will also bring important co-benefits, like lower pollution and greater health and comfort to New Yorkers across the five boroughs

AIA New York is committed to working with the Council and the Administration to successfully implement Local Law 97 and ensure compliance within the design, construction and building industry. With important milestones approaching, increased funding is essential to continued climate progress, and to ensure all New Yorkers benefit from a recovery that boosts green jobs and healthy, low-carbon and efficient buildings.

The City must commit to properly funding the Office of Building Energy and Emissions Performance (OBEEP), which is housed within the Department of Buildings. The office is severely understaffed, with only a handful of staffers overseeing compliance for thousands of the city's largest buildings, making enforcement more difficult. In addition, the staff shortage complicates the office's ability to take on further responsibilities and initiatives related to compliance with LL97, such as providing education on sustainable design techniques. We applaud Speaker Adams and the Council's response to the FY 23 Preliminary Budget, calling on the Administration to include baseline funding of \$450,000 in the Executive Budget for six additional positions within OBEEP to assist with Local Law 97 implementation.

AIA New York also urges the City to lead by example, by increasing funding to achieve the City's own requirements under LL 97, which include reducing emissions from government operations 40 percent by 2025 and 50 percent by 2030. The Department of Citywide Administrative Services is in charge of overseeing much of this work, and they have developed a comprehensive plan for meeting the targets. The city should invest further in those agencies that oversee capital works, as they are integral in ensuring that city buildings comply with the law's provisions. Additional funding is needed to ensure the Department of Design and Construction and other agencies can pay for the work and are sufficiently staffed to oversee this significant increase in retrofits.

We have seen already that a lack of funding has decreased confidence in the ability of the city to effectively enforce the law. The best way for the city to rebut these concerns is to properly fund those city agencies who oversee its compliance.

Again, thank you to for holding this important hearing today. Our organization and members remain committed to working with the Council and Administration to deliver NYC's low-carbon future.



## Comments to The Environmental Protection Committee Preliminary Budget Hearing

March 24, 2022

### Board of Directors

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My name is Karolina and I am the Campaign Coordinator at [ALIGN, the Alliance for a Greater New York](#). ALIGN co-coordinates the Climate Works for All Coalition, a citywide partnership of over 50 labor, environmental justice, faith, and environmental groups united to ensure that efforts addressing climate change also create good, career-track jobs and prioritize low-income, climate-vulnerable New Yorkers.

Last year, our coalition released our [Green, Healthy Schools](#) report, an action plan that outlines why the city should prioritize investments for solar installation and deep retrofits in schools to address the immediate public health, economic, and climate crises environmental justice communities continue to face.

Today, **we are calling for an annual investment of \$1.8 billion in the city budget to install solar panels and conduct deep retrofits in public schools, prioritizing those located in environmental justice communities.** Installing solar panels and conducting deep retrofits - starting with HVAC installation - will help enhance air quality, reduce greenhouse gas emissions, create green career jobs, and foster resilient communities.

### *Enhancing Air Quality*

Reducing the city's greenhouse gas emissions, while improving air quality for environmental justice communities, can have consequential positive health outcomes and save lives. [Clinical research links long term exposure to air pollution with high COVID mortality rates](#). Deep retrofits, especially the installation of HVACs and air control systems, are an immediate mitigation tactic that provides long term solutions to health and daily life. Investing in Green, Healthy Schools will ensure all New Yorkers have equitable access to clean air. This is especially important as NYC schools no longer have critical protections like masking in place, despite [disparate student vaccination rates across race and class](#). Now is the time to invest in long term strategies that will protect students, staff, and communities at large.



### *Achieving Climate Goals*

New York City public schools are among [the biggest public climate polluters and account for one-quarter of all city-owned buildings](#). Further, our coalition estimates conducting deep retrofits will yield at least 50 percent in energy savings and emissions reductions. Focusing on this sector of the city's public buildings portfolio will ensure the city makes significant progress towards key solar and resiliency goals, while establishing compliance standards for the private sector.

### *Creating Green Career Jobs*

Green, Healthy Schools will create good-paying, clean energy jobs for New Yorkers. Investing in proven community hiring practices and workforce development programs - like union-linked pre-apprenticeships and apprenticeships - will expand opportunities for traditionally underrepresented New Yorkers to join the sustainability sector including many women, immigrants, and people of color.

Now more than ever, the city budget must prioritize investments and job creation for the communities that have been hit the hardest by COVID-19. As the city looks towards an equitable recovery for all, it must continue the practice of community-led resiliency planning to identify issues and priorities for the most climate-burdened New Yorkers. We believe an annual \$1.8 billion investment to create Green, Healthy Schools will move New York City on the path towards an equitable recovery.

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**Memorandum**

From: Dr. Richard Lipsky

To: Elected officials and concerned media

Subject: Supermarket Energy Usage and the Need to Amend Local Law 97

Date: November, 27, 2020

New City Council regulations require that most buildings 25,000 square feet or larger reduce their carbon emissions by 40 percent by 2030, and by 80 percent by 2050. This, in turn, is supposed to help the city itself reduce its overall emissions by similar levels.

These regulations are part of what's called the 2019 Climate Mobilization Act's "Local Law 97." ([https://www1.nyc.gov/assets/buildings/local\\_laws/ll97of2019.pdf](https://www1.nyc.gov/assets/buildings/local_laws/ll97of2019.pdf)) The city Department of Buildings is the enforcing agency, and is slated to begin enforcing the law in 2024. **Building owners that aren't in compliance will be fined \$268 per metric ton that their carbon footprint exceeds the limit annually.** (<https://commercialobserver.com/2020/11/local-law-97-new-york-what-to-know/>)

Local Law 87, actually passed ten years earlier, is governed by the same parameters but applies to buildings over 50,000 square feet:

*"Local Law 87 (LL87) mandates that buildings over 50,000 gross square feet undergo periodic energy audit and retro-commissioning measures, as part of the Greener, Greater Buildings Plan (GGBP). The intent of this law is to inform building owners of their energy consumption through energy audits, which are surveys and analyses of energy use, and retro-commissioning, the process of ensuring correct equipment installation and performance.*

*In addition to benchmarking annual energy and water consumption, energy audits and retro-commissioning will give building owners a much more robust understanding of their buildings' performance, eventually shifting the market towards increasingly efficient, high-performing buildings."* <https://www1.nyc.gov/html/gbee/html/plan/ll87.shtml>

The law, however, does provide some carve outs and exceptions: "A new department within the NYC Department of Buildings will also have the authority to grant exceptions, for reasons such as financial hardship and practical constraints (like lack of access to building systems due to existing leases)." (<https://cutone.org/2019/07/local-law-97/>) In addition, HPD and Health and Hospital Buildings are exempt from the law's requirements.

## Supermarket tenants never considered

In the discussions surrounding the legislation that led up to the passage of Local Laws 97 and 87, it doesn't appear that any consideration was ever given to the impact that a ground floor supermarket tenant would have on the overall energy usage of the larger building that falls under the jurisdictions of these green energy efficiency laws.

This lack of consideration is problematic and needs to be addressed, since the methods for reduction of energy usage run up against the reality of usage that are characteristic of all supermarkets that provide fresh food to New Yorkers. **In reality, a supermarket tenant's energy usage will often run double for electricity, to ten times more for gas than that of the overall building it rents from.**

This puts the building host at great financial risk for being out of compliance with the relevant laws-and puts the supermarket tenant in an adversarial relationship with its landlord. In fact, if no changes to the law are made, it is unlikely that any landlord would rent to a supermarket and risk the steep fines attendant to noncompliance. Passing on the fines to struggling supermarkets already facing exorbitant rents, high taxes, and stiff competition from online retailers, is a simply unworkable.

The purpose of the laws is to force buildings to take steps to reduce usage and by doing so become more energy efficient yet there is nothing under the law that supermarket can do to reduce usage that is concomitant with refrigeration that runs 24/7 to keep food fresh for consumption.

Energy usage is the third largest supermarket expense after rent, and labor-and the operators are doing all they can to reduce the expense because their business runs on very narrow margins. In Manhattan, the high cost of doing business has already driven out many neighborhood markets-another reason why supermarket retention and sustainability is a hallmark of public policy in NYC. (<https://www.nytimes.com/2016/11/06/realestate/new-york-city-small-supermarkets-are-closing.html>)

Given these issues, it is imperative that city lawmakers examine ways to exempt supermarkets from the overall dictates of Local Law 87. Put simply, supermarkets should be considered in a separate category from the landlords of buildings covered under the law.

While there is an administrative carve out for "practical constraints" in a new department at the Department of Buildings, it makes the most sense to amend both Local Law 87 and 97 to exempt supermarkets and create a separate category to govern their energy usage and efficiency.

Testimony to the NYC Council LL97 Oversight Hearing  
Committees on Environmental Protection and Housing and Buildings  
Association for Energy Affordability  
Martha Sickles

Thank you, Committee Chairs Sanchez and Gennaro and members of the committees for holding this LL97 Oversight Hearing and the opportunity to testify on this legislation critical to New York City meeting its ambitious carbon reduction goals.

My name is Martha Sickles, and I am speaking on behalf of the Association for Energy Affordability, Inc. (AEA) AEA founded in 1990, is dedicated to achieving energy efficiency and transition to clean energy in new and existing buildings to foster and maintain affordable and healthy housing and communities, especially those of low income. The success of this work depends on effective implementation of the City's decarbonization and energy transformation programs, such as those embodied in the leading-edge Climate Mobilization Act (CMA) passed by the City Council in 2019.

As 70% of New York City's carbon emissions are contributed by buildings, successful implementation of the CMA, and its cornerstone, Local Law 97, is essential for New York City to reduce its carbon footprint and pollution as well as to bring greater comfort and health to New York residents. The building retrofits and necessary electrification will generate considerable investment and over 100,000 good green career track jobs. Implementation strategies must ensure an equitable and just building energy transformation, inclusive of all neighborhoods, building types, racial and socio-economic groups. We appreciate the commitment of this administration and the City Council to execute LL97. We offer our support and principles for effective and efficient implementation.

- **Coordination/Complementarity with the Climate Leadership and Community Protection Act (CLCPA) and Climate Action Council Plan:** The more recently passed CLCPA mandates carbon free electricity by 2040 and a carbon neutral economy by 2050. These State commitments to "greening the grid" allow NYC to promote compliance paths that facilitate investment in building retrofits.
- **Compliance Options:** Compliance options and rulemaking must prioritize direct investment into covered buildings rather than increased reliance on REC-based compliance that should be more limited than at present or carbon trading schemes. A new alternative compliance concept is creation of an "Equitable Buildings Fund" into which building owners could pay that would be used to fund energy efficiency and clean energy upgrades in affordable housing. This conforms to the principles of NY State's Climate Leadership and Community Investment Act (CLCPA) to prioritize investment in affordable housing and disadvantaged neighborhoods.

- **Adequate Agency Funding:** AEA testified at the Committee on Environmental Protection’s preliminary budget hearing that adequate funding for all agencies contributing to LL97 is essential to accomplish the goals and reap the benefits of LL97. The Office of Building Energy and Emissions Performance (OBEEP) at the Dept. of Buildings, established to manage the implementation and rulemaking of the law requires adequate staffing to perform critical tasks. OBEEP convenes the Advisory Board tasked with recommending approaches to assessing building performance and analyzing and recommending improvements in energy and emissions requirements for covered buildings. Further, OBEEP is to conduct extensive outreach and education to building owners.

As the first compliance deadline of January 1, 2024, is fast approaching, much work must be done in a relatively short time frame to afford clear and timely information to building owners, managers and energy professionals so they can plan and finance retrofits and/or seek compliance alternatives. This work requires greater staffing than the six positions in the Mayor’s FY 23 budget. We commend the City Council for the proposed increased funding in their budget response and ask that additional funds be allocated.

Another issue, raised at the DOB Budget hearing, is the high number of unfilled vacancies at 421 with 20% of them building inspectors and 11% plan examiners, professions essential to the implementation of LL97. The reasons, including non-competitive compensation, for the lack of interested candidates should be explored and addressed so these positions will be filled.

- **Leading by Example:** All NYC agencies, tasked with roles in the implementation of LL97 including the Dept. of Buildings, Dept. of City Administrative Services, the Dept. of Environmental Protection, the Dept. of Housing Preservation and Development, NYC Housing Authority and the Mayor’s Office of Climate and Environmental Justice must be funded and empowered so NYC can “lead by example” bringing creative retrofit solutions to public buildings, fleets, and operations. Much must be done to implement plans that meet the 2030 and 2050 goals of 40% and 80% reductions in greenhouse gas emissions from 2005 levels.
- **Project Funding and Financing:** The administration must create funding and financing mechanisms that will support the necessary retrofits in both market rate and affordable buildings. Tax incentives and collaboration with the State and the Green Bank to develop strategies to attract private capital, supplemented by government funding, will afford greater flexibility and certainty to building owners, managers and energy professionals to decide on their paths to compliance with LL97. Achieving LL97 goals of carbon reduction and job creation, through comprehensive retrofits avoids compliance by penalties that provide no benefit.



- **Education and Outreach:** Over the years, despite substantial funding from the System Benefit Charge, funneled through NYSERDA and the utilities, and New York City's funding of the NYC Accelerator, outreach and education of energy end users has been grossly inadequate. Yet, success with LL97 requires engaged building owners, managers and residents contributing to emissions reductions. We ask the Council to request performance data from the NYC Accelerator that is funded at \$10million a year to review the impact of different program strategies. We suggest greater cooperation and collaboration amongst all parties engaged in client outreach and education to maximize resources. We further suggest funding local community-based organizations especially in disadvantaged communities to ensure a most equitable energy transition.

Thank you for this opportunity to testify at this hearing. In keeping with its mission, AEA is committed to the effective implementation of Local Law 97 and is available to provide continuing support of this effort.



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## **Testimony on the Implementation of Local Law 97**

Submitted to the City Council Committee on Housing and Buildings and Committee on Environmental Protection

*April 13, 2022*

*Alex Heil, Vice President for Research, Citizens Budget Commission*

Thank you for the opportunity to submit testimony on Local Law 97 (LL97), New York City's ambitious greenhouse gas (GHG) emissions reduction law. I am Alex Heil, Vice President for Research at the Citizens Budget Commission (CBC), a nonprofit, nonpartisan think tank and watchdog dedicated to constructive change in the services, finances, and policies of the New York City and New York State governments.

LL97 can help the City reduce its GHG emissions in a cost-effective way, but only if it is implemented well. The City should use the flexibility in the law to balance the incentives to encourage building owners to reduce energy consumption and convert to low and no emission sources rather than just pay fines.

The law aims to cut emissions from large buildings 40 percent by 2030 and 80 percent by 2050 by setting limits, based on gross square footage and occupancy group, on the annual emissions of buildings larger than 25,000 square feet. Buildings with emissions above the limit will be assessed an annual fine of up to \$268 per metric ton. Emissions limits take effect in 2024 and become increasingly stringent in 2030 and five-year periods thereafter, requiring significant reductions for many affected buildings.

CBC found that today nearly one in four affected buildings do not comply with 2024 levels, rising to three in four when 2030 limits take effect. The median building will need to reduce emissions by 20 percent by 2024 and 33 percent by 2030, with 24 percent of buildings needing to cut emissions by more than half to comply with 2030 standards.

While some owners may be able to comply through relatively minor retrofits like installing thermostatic sensors of heating and cooling systems, for other buildings, compliance may require significant capital investments, including upgrades to the building envelope or the wholesale replacement of a cooling system. For these buildings, reducing emissions may be a costly, long-term effort.

In CBC's report *Balancing Incentives to Maximize Emission Reduction*, we identified four challenges that hinder LL97's ability to create the incentives for building owners to reduce emissions cost-effectively:

1. Inadequate renewable energy supply: If owners electrify building systems without a concurrent adequate increase in renewable energy supply, owners may still face fines.
2. Disincentives for density and certain occupancy use types: By using the metric of emissions per square foot, LL97 penalizes densely occupied buildings, disincentivizing building owners from hosting tenants that use space densely. Dense use can increase GHG per square foot but can be beneficial citywide. The law disincentivizes some economically important uses that are economically important, including data centers and restaurants;
3. Lack of clarity and potential lack of feasibility of alternative compliance paths: DOB rules will substantially affect how buildings will change to comply including the purchase of Renewable Energy Credits (RECS) or use of distributed energy resources. The lack of clarity now and in the future may hamper building owners' ability to plan for and implement changes needed to comply; in some cases, the process may leave insufficient time to design, finance, and complete retrofits ahead of the start of compliance in 2024; and
4. The COVID-19 pandemic impact on the real estate market: The pandemic's impact on the real estate market and economy may hamper owners' ability to make the major capital investments required by LL97 in a timely or economically viable manner.

The City can use the rulemaking process to overcome these challenges and secure needed emissions reductions. The Department of Buildings (DOB), in consultation with the advisory board, should tailor the policy and compliance rules to provide building owners the most cost-effective compliance paths. This will promote investments in emissions reduction rather than owners simply paying the penalties.

The following six steps will help ensure that citywide emissions reduction goals are met:

1. Adjust credits appropriately for lack of renewable energy availability to encourage electrification: If the greening of the grid is slower than established by the New York State Climate Leadership and Community Protection Act, the law's credits for beneficial electrification should be calculated accounting for those missed goals;



2. Expand allowable RECs to offshore wind and a portion of Tier 2 RECs: Provide buildings with flexibility while the New York City electric grid remains mostly fossil fuel-powered by allowing buildings to purchase unlimited amounts of RECs associated with downstate offshore wind projects and limited amounts of existing RECs from existing generation;
3. Specify, expand, and continue emission limit adjustments for density and specific uses: Alleviate counterproductive disincentives to density and certain economically vital uses by clearly adjusting and extending adjustments past the first compliance period;
4. Specify and extend need-based building-level adjustments: Set an accelerated, public timeline for rulemaking that includes critical rules governing limit adjustments and penalty mitigation and universal criteria so building owners can determine eligibility and adjusted requirements as-of-right, rather than through individual petitions. This will encourage building owners to begin planning for compliance in good faith;
5. Allow carbon trading within an owner's portfolio: Allow owners of multiple buildings to target the most cost-effective emissions reductions across their assets by establishing a carbon trading scheme that allows credits to be traded within a portfolio; and
6. Adjust limits and penalties appropriately to the post-pandemic economy: Study whether LL97 emissions limits or alternative compliance paths in the first compliance period should be modified due to permanent shifts in work patterns, delays in retrofit projects, or financial strain. Adjust limits as necessary to maintain citywide emissions targets.

Following these six recommendations will ensure that cost-effectiveness becomes a key component of meeting New York City's ambitious climate goals.

Thank you.



## **Council of New York Cooperatives & Condominiums**

**TESTIMONY TO THE ENVIRONMENTAL PROTECTION COMMITTEE  
& COMMITTEE ON HOUSING & BUILDINGS  
ON LOCAL LAW 97  
April 13, 2022**

The Council of New York Cooperatives & Condominiums (CNYC Inc.) is a membership organization providing information, education and advocacy for housing cooperatives and condominiums located throughout the five boroughs of New York City and beyond. More than 170,000 New York families make their homes in CNYC member buildings, which span the full economic spectrum from very modest, income-restricted housing to solid middle class apartment complexes to upscale dwellings. New Yorkers who make their homes in housing cooperatives and condominiums are committed to this city and invested in its future. We understand how important the control of energy use and significant reduction of our carbon footprint are to a successful future for our City. We are also painfully aware of the financial burdens that Local Law 97 compliance imposes.

The drafters of Local Law 97 established an Advisory Board of talented experts to provide ongoing guidance for the administration of this sweeping legislation. In turn the Advisory Board established a number of working groups. I have been privileged to be invited to participate in the Multi Family Working Group and the Communications Working Group. Both are comprised of knowledgeable volunteers, giving generously of their expertise. Both are supported by dedicated DOB staff. As the Multi Family Working Group reaches the end of its year and a half of hard work, it is offering the Advisory Board many suggestions to improve the effectiveness of Local Law 97 and to clarify compliance requirements.

### **FUNDING TO STAFF AND ADMINISTER THE PROGRAM**

As the Advisory Board examines these suggestions and makes its recommendations to the City Council, it is essential that there be sufficient funding to ensure that the staff of the Office of Building Energy and Emissions Performance and the NYC Accelerator have the time and the expertise to consistently provide the outreach, the



## **Council of New York Cooperatives & Condominiums**

education and support necessary to effectively administer this long term program.

### **CONSIDERATION FOR CONTINUING EFFECTS OF COVID**

The Covid-19 Pandemic has caused setbacks in the plans of many buildings, and even as recovery progresses, the shortages of supplies and labor are further delaying progress toward Local Law 97 compliance. Consideration should be given to buildings unavoidably delayed in their compliance efforts by the diverse unpredictable effects of the pandemic.

### **INCENTIVES RATHER THAN PUNISHING FINES**

#### **WE MUST KEEP NYC BUILDINGS AFFORDABLE**

The majority of CNYC members – like so many other buildings citywide – will need to undertake significant capital projects to comply with the levels of reduction required by Local Law 97 by 2029. Not only will these capital expenditures have to vie with other mandates, but the tight time frames in the current bill make it a real challenge to engage in the careful long range technical and capital planning every building need to undertake to address energy requirements along with all the other mandates and requirements of City law. Short term ‘fixes’ or one -off projects may help meet an interim requirement, but could, in the long run, prove to have been a side track or an unnecessary expense. Once in place, new systems need to be tested, fine tuned, and integrated into building operation before they function as they should. And buildings that have already invested in costly new equipment and sophisticated retro-commissioning protocols recommended in their energy reports, are wondering whether they will have the opportunity to amortize these investment.

Buildings need to plan for the long term and the very long term, seeking input from experts, mapping out a progressive program of upgrades, replacements, etc. and finding the funds to implement these projects. Yes, many energy projects eventually recover the cost of their installation through energy saved, but how is the initial cost covered? In cooperatives and condominiums, home owners must either borrow to meet these unanticipated additional costs or reach into their own pockets for assessments and higher carrying charges. Co-op underlying mortgages are typically refinanced at ten year intervals, so boards and finance committees try their best to foresee and provide funding for all major



## **Council of New York Cooperatives & Condominiums**

projects the cooperative will face in the interval, while still keeping debt at a level that does not overwhelm resident owners. Condominiums associations have far less borrowing power and have little recourse other than to the home owners to meet the cost of these mandates.

CNYC supports with enthusiasm the legislation establishing the PACE loan program (though it would be very helpful if its interest rates were less onerous) and is more than grateful for the free guidance and support that the NYC Accelerator is funded to provide. But more is needed if the housing stock of New York City is to meet the ambitious goals of Local Law 97 and still continue to house New Yorkers of moderate and middle income. For buildings that can find the funds to initiate improvements, we suggest a creative gamut of incentives including an enhanced and financially realistic revision of the J-51 program (it could be called E-51!) calibrated to demonstrated energy savings or carbon reduction.

Thank you for this opportunity to express our views.

Mary Ann Rothman  
Executive Director

**Testimony of Atalia Howe  
Assistant Vice President, Initiatives and Impact Investing  
The Community Preservation Corporation**

**New York City Council Environmental Protection Committee and Housing and Buildings  
Committee  
Joint Hearing, Local Law 97 Oversight**

**April 13, 2022**

Thank you, Chair Gennaro, Chair Sanchez and other distinguished members of the New York City Council, for the opportunity to speak today. My name is Atalia Howe; I am the Assistant Vice President of Initiatives and Impact Investing at the Community Preservation Corporation (CPC). Over our 48-year history, CPC has deployed over \$12 billion in private and public capital for affordable housing and community development, leading to the creation and preservation of over 220,000 units of residential housing. CPC is a recognized leader in promoting sustainability in the industry and has a deep expertise in supporting the needs of small building owners. CPC focuses on decarbonization because we recognize the urgency and necessity of reducing carbon emissions from buildings, which are responsible for approximately 70% of the city's total carbon footprint. Building electrification is a vital step in this process, and we must commit resources to make decarbonization a top priority.

CPC is supportive of Local Law 97 (LL97) and shares the desire to reduce the city's emissions. However, the sustainability upgrades that are required for compliance are expensive and we remain convinced that mandates without adequate incentives are the wrong way to encourage decarbonization and building electrification. Given the high cost to retrofit existing buildings to be both energy efficient and low carbon, and the higher utility cost associated with electricity, we have seen that in some cases, it is less expensive for building owners to pay the fines than to electrify, which negates the intent of the law. The city needs to allocate resources to pair with Local Law 97 in order to ensure compliance and continued emissions reductions.

To that end, CPC recommends that several financial interventions be considered.

First, we recommend that the city create a specific tax incentive for covered buildings required to comply with LL97. This will help create additional cash flow that otherwise would not be available for decarbonization upgrades.

Secondly, the city should also consider supporting its own public pension funds in providing decarbonization enhancements when they buy first mortgages on buildings meeting LL97 requirements, such as a reduced interest rate or supplemental financing. This could be paired with a similar initiative with the State Common Retirement Fund.

Additionally, fines collected from non-compliance should be set aside specifically to address decarbonization in disadvantaged communities, in low-and-moderate income neighborhoods, and in smaller buildings that demonstrate financial need and are required to comply with LL97.

The City should also look to the State to provide additional utility cost incentives. Electricity is significantly more expensive than gas and serves as a disincentive to building owners evaluating the operational costs associated with electrifying. The City and State should work with the Public Service Commission (PSC) to create a separate utility rate structure for electrified buildings to reduce the cost burden of decarbonization.

Finally, while LL97 is an important step in electrifying New York City's buildings, a large portion of the building stock, specifically affordable housing, is exempt and will not benefit from a transition to clean energy. In particular, much of CPC's portfolio of small rental housing under 50 units are not required to electrify, and thinner margins and tighter financing prevent owners from making the investment themselves. The City must not leave these buildings behind. The J-51 tax abatement, which is expiring in June, presents an opportunity for the City to include decarbonization as a covered cost, recognizing that creating healthy, sustainable and resilient housing is part of improving and ensuring quality housing.

Thank you for your time and I am happy to answer any questions you may have.

Testimony of Anthony E. Malkin, Chairman, President and CEO of Empire State Realty Trust before the  
New York City Council Committees on Housing and Buildings and Environmental Protection

Submitted electronically for the meeting on April 13, 2022 at 10:30 a.m.

My name is Anthony E. Malkin, and I am the Chairman, President and CEO of Empire State Realty Trust (<https://www.esrtreit.com>). I am also a board member of the Real Estate Roundtable (<https://www.rer.org/>) and chair of its Sustainability Policy Advisory Committee, as well as a member of the Real Estate Board of New York. My testimony is mine and that of Empire State Realty Trust and not on behalf of those organizations.

I would like to thank Chairs Sanchez and Gennaro and the members of the Committees for the opportunity to submit this testimony electronically. Since inception I have been a member of the Local Law 97 Advisory Board and the co-chair of the Commercial Building Working Group. It has been and continues to be a privilege to be the sole representative of the for-profit real estate community in the work of the Advisory Board, to share the leadership of dozens of volunteer engineering and property professionals on the Working Group who have contributed thousands of hours of their time, for which I am eternally grateful, and to share our own lessons learned as the existing office building energy efficiency retrofit leaders.

Our groundbreaking work at the Empire State Building (<https://www.esbnyc.com/about/sustainability>), on the development of tenant energy efficient design and construction guidelines (<https://tenantenergy.uli.org/>), and the release on April 21, 2022 of the new, Empire State Building Playbook: A Guide to Low Carbon Retrofits, all contribute to my input on the Advisory Board's work and are the formation for my testimony herein. I am bound by a confidentiality agreement as a member of the Advisory Board, and therefore all my testimony is based on publicly available information and my informed opinion thereon and does not disclose any specific recommendation from, nor discussions within, the Advisory Board.

Directionally, we agree with the goal to reduce greenhouse gas emissions from buildings. That said, Local Law 97 as drafted is flawed and those flaws largely have their root in the introduction of policy with a lack of consultation with practitioners and experts in this area and a failure to integrate the input that was received. I am committed to continue to work with New York City government, through the Advisory Board's refinement of the law under its powers granted by the law and through recommendations of amendments to the law. I want New York City to be a symbol of how this effort can be a success, rather than an example of failure.

For starters, Local Law 97 conflicts with New York City energy and building codes. A comprehensive rework of other energy related legislation and building codes must be undertaken. For example, tenant fit out and new construction codes should be amended to adhere to high performance energy and emissions standards as applicable to their uses, and the uses must accommodate trading, data centers, refrigeration requirements, etc. Better metrics are required to account for varied usage within a given building typology including density, hours of operation, building height, etc. We cannot disincentive data centers, trading floors, and other high energy intensity and dense use of buildings and maintain New York City's competitive position.

Local Law 97 also fails because it exclusively focuses on electrification. In fact, there is not one word about energy efficiency. Energy efficiency must be the critical first step. The kilowatt hour that is not consumed is infinitely cleaner than any “green” energy source. New York State’s CLCPA presumes a massive reduction in electricity consumption. Electrification of everything is not the answer. The electricity distribution grid is already strained with peak consumption during hot summer days, and with full electrification conceived under Local Law 97 a new, higher peak is reached in the winter during the heating season.

Technologies to replace steam and natural gas heat are not developed/proven at the scale needed for large buildings. Local Law 97 completely ignores embodied carbon; there is no measurement for the carbon produced when solar panels manufactured in factories powered by coal burning power plants in China are installed to produce “clean energy.” There is no measurement for electricity derived from wind turbines with generators filled with copper extracted in Latin America and Africa and blades made in questionable conditions in Mexico.

There is no measurement of the fact that buildings are a huge store of carbon in steel, masonry, concrete, cast iron radiators, and glass. You cannot just scrape the earth clean and build “green.” Local Law 97 does not measure, nor should it measure, the carbon involved in the construction of new buildings. It is an idyll dream to think we can build or import our way to electrification. Much of the “green power” sources is off shored to emerging economies with fewer rules and regulations. The systems replacements we do make should not be made in advance of lifecycle requirements unless both economically and environmentally feasible (inclusive of embodied carbon); to rip out a new or functioning system with remaining life is to release embodied carbon.

District steam must be preserved. The vast majority of large buildings in New York City already exist and the majority of pre-2000 buildings utilizes steam or high temperature hot water radiators. In buildings served by steam, it is not feasible to rip out and replace these radiators with electric resistance heaters and there is no good electric technology to replace the steam that goes through them. Instead, District Steam should be made as clean as possible. Alternate fuels for district steam should be utilized. Hydrogen consumes a tremendous amount of energy to produce; first we must harness the highly polluting methane from wastewater treatment plants, composting, and landfills that is presently vented into the air throughout the tristate region and in New York City specifically to produce steam.

A major error at the start of local law 97 is a failure to acknowledge that New York City is already one of the most energy efficient cities in the world, and cities are far more efficient than any other aggregation of population. The greatest cause of greenhouse gases is the source energy in our grid. Our focus should be on energy efficiency, not electrification. Tenant fit outs should be required to be energy efficient. There is ample proof that this is cost effective and as appropriate from a lifecycle replacement perspective. At the same time, tenant fit outs must take into account the different uses, energy and physical densities.

Users should bear the burden of their energy consumption. Local Law 97 puts the burden of energy efficiency exclusively on the landlord. More than 50% of energy consumed in buildings is



controlled by tenants. If, after adjustment for the energy intensity and time of day of its use, a tenant has high consumption, it should bear the burden of its consumption. Buildings are required to “recommission” to ensure system performance, and tenants should be required to do the same. Different types of tenancies must be considered; a long-term operating or net lease of a building in which the tenant controls should make those tenants the regulated parties under Local Law 97.

Finally, the Department of Buildings has a huge burden to assess, design the implementation of, implement, and administrate Local Law 97. It has no budget to carry the load that has been assigned to it. We can make great strides towards a cleaner NYC. We are committed to help. Thank you for the opportunity to testify. I will continue my work on the Advisory Board and welcome the opportunity, when allowed under the terms of my involvement there, to discuss that work product with the Council.

Onward and upward.

April 13, 2022  
Hon. City Council,

Thank you for the opportunity to provide comments regarding *the budgetary need for Housing and Buildings* on April 13, 2022. We appreciate New York City's climate leadership and its investments in clean energy. We encourage the City Council to expand upon those investments, fostering a vibrant clean energy economy that prioritizes environmental justice New Yorkers.

Kinetic Communities Consulting (KC<sup>3</sup>) is New York City's first certified Minority & Woman (M/WBE) BenefitCorporation energy equity consulting firm. KC<sup>3</sup> advocates and implements energy market transformations for diverse New York communities. KC<sup>3</sup> works on projects throughout the City of New York. Kinetic Communities Consulting Corporation is supporting testimony shared by ALIGN, NYC Environmental Justice Alliance, El Puente, and WeACT for Environmental Justice.

The passage of the landmark Climate Mobilization Act in 2019, was a significant step in the right direction to reduce NYC's greenhouse gas emissions. Buildings across New York city contribute to [over 70% of the city's GreenHouse Gas emissions](#). Local Law 97 of 2019 (LL97) requires building owners to meet emission reduction targets by optimizing building energy systems to make them more efficient. This year we are fighting for funding to ensure that we make significant progress in implementing LL97 equitably and create thousands of good green jobs here in New York City.

*Funds for implementation*

We ask City Council to provide adequate funding in the FY 2023 New York City budget for increased staff at DOB's Office of Building Energy and Emissions Performance (OBEEP) which is responsible for "Overseeing implementation of building energy and emissions performance laws and policies for existing buildings, new construction and major renovations" among other tasks, and NYC Housing Preservation and Development to support Affordable Housing buildings in NYC.

The first compliance deadline for building owners is coming up in 2024, which leaves the city less than two years to ensure that the numerous technical details required for the implementation of the law are worked out. Staffed at the current capacity of six, this will not be sufficient going forward as there is much to do in order to work with the Advisory Board on recommendations and finalize numerous technical details to ensure the effective compliance of thousands of buildings.

*Implementation needs an environmental justice lens overall*

Energy efficiency will play a bigger, life-saving role in environmental justice communities. Decarbonization in the form of building energy efficiency upgrades can play a dual role in not only moving us off fossil fuel dependency and mitigating climate change impacts, but can also lead to immediate health benefits in environmental justice communities.

Respectfully Submitted,  
*Daphany Rose Sanchez*  
Executive Director  
Kinetic Communities Consulting

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# 100 YEARS

April 13, 2022

Good morning Chairs Gennaro and Sanchez, and members of the Environmental Protection and Housing and Buildings Committees, thank you for the opportunity to provide testimony regarding the oversight of Local Law 97 (LL97) of 2019.

The New York Building Congress' membership consists of more than 550 constituent organizations and 250,000 skilled tradespeople and professionals, including architects, engineers, contractors and labor, many of whom design and build the projects that create a more sustainable city. As such, we commend the New York City Council and City's efforts to create a greener built environment and more sustainable future for the five boroughs.

Aligned with those goals, we proudly support the intent of LL97 and look forward to working with the City Council and the Adams Administration on its implementation. We are deeply concerned, however, with the prospects of building owners paying significant fines for non-compliance on their buildings beginning in 2024 due to flawed language in the law as enacted, targets that are not achievable in the short term and a lack of guidance or flexibility from the City.

First, the law as enacted singles out buildings that may have already invested heavily in cutting their carbon emissions, either because they are newer or have recently undergone efficiency upgrades. By targeting buildings that are 25,000 square feet or larger – which totals 50,000 buildings, or five percent of all buildings in New York City – the law is focusing its efforts on facilities that are much newer, are a small segment of all buildings and are already more efficient and sustainable than those not covered under the law. By virtue of their density, these buildings are already more sustainable and efficient on a per-capita basis than those not covered by the law, and they represent some of the most important buildings to our economy: hospitals, offices and large multifamily dwellings. Second, while well intentioned, the law sets very aggressive targets that may not be reasonably achievable, and therefore does a disservice to the building industry and the public. The law calls on covered buildings to begin reducing their carbon emissions by 40 percent by 2030, a date not too far into the future. As a matter of best practice, building owners already began working to make their facilities more efficient prior to LL97, and yet they may still face significant penalties if they do not cut their emissions further. For example, One Bryant Park, completed in 2009 and one of the world's first LEED Platinum buildings, could face millions of dollars in penalties beginning in 2024 if it does not begin reducing its emissions. The building industry does not negate its responsibility to meet our shared climate goals, however, the law seems to ignore the reality that our energy infrastructure and outdated electrical grid depend almost entirely on fossil fuels

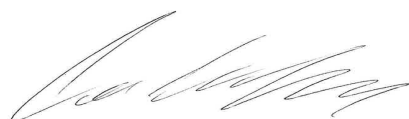
now and will continue to do so in the near future.

Additionally, the pandemic also caused unforeseen delays on green energy projects across the state that would have aided with implementation, and we must all recognize that and adapt accordingly. As we build the necessary infrastructure to support a greener energy network, we must adjust the timeline targets in LL97 to account for these realities, so as not to penalize building owners. The building industry does not negate its responsibility to meet our shared climate goals, however, the law seems to ignore the reality that our energy infrastructure and outdated electrical grid depend almost entirely on fossil fuels now and will continue to do so in the near future. Additionally, the pandemic also caused unforeseen delays on green energy projects across the state that would have aided with implementation, and we must all recognize that and adapt accordingly. As we build the necessary infrastructure to support a greener energy network, we must adjust the timeline targets in LL97 to account for these realities, so as not to penalize building owners.

Lastly, a comprehensive effort such as limiting building emissions on a grand scale requires partnership between the public and private sectors. The building industry stands ready to contribute to the goals of LL97 and requires the City and future administrations to help in this effort by releasing timely guidance or making reasonable adjustments in collaboration with us. For example, LL97 calls on the Department of Buildings to grant an adjustment of the annual building emissions limit applicable to a covered building in existence should they meet certain criteria. The deadline for the adjustment application is July 1, 2021 and the City has yet to release the criteria for eligibility for this important provision or guidance on how to apply. Further, certain deadlines are now being extended and new loopholes created. The Council recently enacted legislation (Int 1593A) to delay the submission of the City's Long Term Energy Plan from December 31, 2021 to June 1, 2022, and recently enacted legislation that creates a loophole in LL97 to protect certain fossil-fuel powered systems in buildings. As we move toward the 2024 timeline to begin compliance, we must take a comprehensive look at how we adjust LL97 – either through new legislation or rulemaking – that supports the entire industry, reduces the potential for fines and progresses the goals of the law.

The New York Building Congress and its members are committed to advancing policies that create a cleaner, greener New York. We look forward to a continued partnership with the City Council to help deliver transformative initiatives that will improve the efficiency and reduce the carbon footprint of our buildings. Thank you for your time and consideration.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'Carlo A. Scissura', written in a cursive style.

Carlo A. Scissura, Esq.  
President and CEO  
New York Building Congress

**Testimony of New York Communities for Change to the New York City Council  
April 7th, 2022**

*[this testimony will be condensed into 3-5 minutes of verbal testimony, as directed. It will be modified as appropriate based on the Administration's live testimony and Q&A]*

My name is Pete Sikora. I am the Climate & Inequality Campaigns Director for New York Communities for Change. I am also a member of the City's Advisory Council for Local Law 97's implementation.

NYCC organizes in low- and middle-income communities of color in New York City and on Long Island. We work for affordable housing, good jobs, and racial justice. We also work against climate change, which hurts low income and communities of color especially badly.

Local Law 97 is often referred to as the city's "Green New Deal law". That captures that it is poised to create massive numbers of jobs in slashing climate and other air pollution.

Indeed, Local Law 97 is the world's most important municipal level climate and jobs law.

It is vital to this city's future survival and our world's survival. It is a law that should be replicated across the U.S. and the world. Now, some cities, such as Boston, D.C. and St. Louis, are enacting similar laws. That's huge.

We are very proud, along with many others, to have played a significant role in winning Local Law 97's passage. Many of us in this hearing vividly remember the titanic political struggle in the last Council over this law.

It was a long, intense fight. The real estate lobby did everything it could to hold the city back. Collectively, elected officials led by Costa Constantinides and Corey Johnson and then-Mayor de Blasio stood with experts and a movement to defeat the real estate lobby by passing this law.

It is fair to say it was the biggest and most important legislative action the last Council took. I believe that in the not-too-distant future, it will be remembered as the most important law the city passed in decades.

But now the Empire aims to strike back, so to speak. The real estate lobby wants to gut the law administratively. We, really you, can't let them win.

Right now, the law's requirements are already starting to create jobs as building owners begin to assess their buildings and prepare to comply.

The law's first requirements, which cover only highest-polluting buildings, begin in 2024. These simple, clear pollution limits per square foot will reduce pollution from the most wasteful, most egregious polluters in real estate. Many of these super-polluting buildings haven't done some of

the very basics of energy efficiency, including very low cost upgrades like insulating heating pipes and installing LEDs or training and managing their staff so that boilers are properly tuned.

These buildings, which are about one in five buildings, will save money immediately on very short paybacks by reducing their energy waste. The city gave five years of time for building owners for these requirements, which virtually any affected building can meet with a good faith effort. It makes perfect sense to require the worst polluters to reduce their egregious emissions.

Much lower, stronger pollution limits start in 2030. The 2030 pollution caps are at a level which about 75% of covered buildings currently exceed. The city's given these owners over a decade. That also gives the city the time to set all the rules into place in a thoughtful, thorough manner.

There are many regulatory decisions that must be made to set into place the specific levels for 2030, including a finer categorization of building types to more tightly match specific types and uses of buildings to pollution limits. The law directs the Department to take such action. That's all spelled out.

Right now, landlords know roughly what they need to achieve for 2030. In fact, you can very easily look up your building on an easy to use database and online tool and check it. In the coming year, all large building owners will know more exactly the level they need to achieve as various rules and regulations are set into place.

The staff at the Office of Building Energy and Emissions Performance tasked with implementing the law are proceeding competently and appropriately in very close consultation with experts on the Advisory Council and Working Groups. These are top-notch, widely-respected experts led by Gina Bocra. They are an impressive bunch. Director Bocra and her team are making these decisions carefully and properly. That is in everyone's interests.

Already, building owners are moving to hire experts and assess their buildings. For example, a friend of mine is the President of a covered buildings co-op. (a brave guy!) His building is already considering their options to improve the building to reach the 2030 limits. They know they can do it and that they will have a better building with lower operating costs as a result.

Local Law 97 is now on track to slash climate and other air pollution, cut energy costs, and deliver better, more valuable and more comfortable buildings.

While New York City is not doing everything it should to combat climate change and create good jobs, it is far ahead of the state and virtually every other locality, nationwide. Along with a gas ban and city pension fund divestment, NYC is leading the way, though of course far more must get done, and fast.

But all is not well. The real estate industry lobbyists and billionaire developers bitterly opposed this law's passage. Now, they want to undermine or gut the law administratively. As the UN's most recent IPCC report identifies, the resistance of powerful, incumbent interests that use or

produce fossil fuels is the primary obstacle to enacting and implementing the transformational policies the world desperately needs.

*We are very concerned that Mayor Adams may attempt to weaken or gut the law, primarily through non-enforcement by eliminating, reducing or delaying penalties.*

The Administration could also decide to weaken the law in the regulatory process through other means besides gutting penalties. The Mayor also did not allocate the small number of additional staff lines and funding needed in the office implementing the law to ensure the smoothest possible roll-out. We commend the Council for adding 6 staff in its response to the Mayor's budget. We believe 10-15 staff are needed.

The overriding concern we have, however, is to prevent an administrative gutting of the law, particularly through weakened enforcement and penalties.

*NYCC and many other groups and experts have repeatedly urged the Mayor or his Administration to make a clear statement that the law will be fully enforced and implemented.*

Instead, the Mayor's spokespeople have repeatedly over several months answered inquiries from the media about the law with comments to the effect of "we agree with the law's goal but the requirements and penalties are unfair" (I'm paraphrasing). These talking points are the same as REBNY's talking points.

The Mayor himself has been conspicuously silent. In fact, last month, he avoided answering a direct question from the press after a rally of activists, advocacy groups and citywide and Council elected officials urged the Mayor to fully implement and enforce the law.

The Administration's rhetoric is already having a negative real world effect.

We have been told by some in the industry that some building owners are delaying pollution cuts and job creation because they take the Mayor's spokespeople's comments as a hint that the law will not be enforced. They currently believe that they will ultimately be allowed to ignore its provisions, just as the government all too often fails to enforce other provisions of housing and tenant-protective law. As a result, these building owners are sticking their heads in the sand and delaying the work they'd otherwise perform to upgrade their buildings to high energy efficiency.

Thankfully, most building owners believe what I believe: Mayor Adams, in the end, will recognize the vital nature of creating good jobs and slashing pollution and fully enforce Local Law 97. They're not trying to evade the law. They are rolling up their sleeves to get the job done.

Local Law 97 was carefully written and enacted to be backed up by strong penalties for a reason: it's necessary to have both a carrot and a stick. The city has created educational, supportive and financing programs. The city has created the Accelerator, PACE financing, and

NYCEEC. It helps fund the Building Energy Exchange. All are great programs. The state, although it is way behind the city in this area, also has grant, financing and other supportive programs.

Those are all carrots. Nice big, juicy carrots. Certainly the city could offer more carrots. But it can't be all carrots. We know that won't work. There's now over a decade of evidence from all across the country: building owners by and large won't implement energy efficiency projects even if those projects save them money AND they're given helpful resources, even grants. They simply opt, by and large, not to do any work and run their buildings the same way they always have. Inertia prevails. That's why this is such a difficult problem: the "market" is not going to solve it. The government has to set and enforce requirements.

I can relate to building owners who aren't taking action even though they could save money and cut pollution: that's my building. I live in a drafty old four unit co-op with a battleax of an oil boiler. We aren't doing anything currently to improve the building even though we know we should.

But let me contrast what happened when the city sent us a notice that we'd get fined if we didn't fix the sidewalk: we fixed it! I hadn't even noticed that the sidewalk plate was bulging up and could trip people, but it was. We spent a couple thousand bucks on that routine maintenance.

It's vital to enforce laws. As everyone in this hearing knows, housing and tenant laws are routinely not enforced and therefore landlords just ignore them. That can't happen with Local Law 97 and it won't happen if the Mayor simply continues on the current proper course set by the previous Administration.

Local Law 97 has real penalties and real enforcement. There is a formula in the law to assess penalties on building owners who pollute above their requirements. These penalties are set directly in proportion to the level of pollution. The more that a building exceeds its pollution cap, the higher the penalty. It is simple multiplication. Your excess pollution per square foot over your cap times a dollar penalty. The formula is set at a level that makes it economically in the interest of owners to comply. It's not excessive. It's simply a strong and appropriate lever.

I want to quote from an industry news publication that makes the point<sup>1</sup>:

"[T]he fact that the law has serious financial penalties for not meeting reduction targets has created a push for owners to begin planning for emissions reductions, emissions monitoring, and even building retrofits and electrification.

'LL97 is one of the few laws with actual teeth,' said Nikhil Daftary, executive vice president of product at Carbon Lighthouse, a building analytics firm focused on

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<sup>1</sup> See BisNow "City Emissions Laws Fueling Cottage Industry Of Sustainability Consultants" March 2, 2022

<https://www.bisnow.com/national/news/top-talent/city-emissions-laws-creating-ecosystem-of-firms-for-sustainable-shift-112069>



decarbonizing buildings. ‘What’s interesting is that it’s forcing change in the market in interesting ways. You can’t just pay lip service, you need thoughtful implementation.’”

The previous administration was very clear: the city would penalize landlords for failing to cut their pollution as in the formula in the law. However, the law leaves some room for discretion in enforcement by the City. That discretion is not there to weaken or gut the law. The Administration should not try to weaken or gut the law in any way, including through weakening penalties or otherwise relaxing enforcement.

It would be a tragedy if in fact the Mayor weakens or guts Local Law 97.

The city needs to slash its air pollution - both climate and local air pollution - and create jobs. Local Law 97 is on track to create tens of thousands of jobs this decade while achieving over 40% cuts in the city’s climate pollution.

Local Law 97 is a shining example of a city confronting its top source of pollution with real, specific and enforceable requirements that will get the job done. It is on track to deliver what could become the beginning of a “Green New Deal” for our city.

The scale and positive effects are immense: if all building owners comply with the law by undertaking improvements on site to their buildings, the law would create an estimated 141,000 jobs this decade alone.<sup>2</sup>

The construction and renovation jobs that will be created as building owners begin to implement solutions in their buildings are especially important to our members, who are predominantly from Black and Brown communities. These are jobs that are similar to existing work, which means the construction and renovation industry will significantly increase in size.

Local Law 97 will meaningfully help reduce unemployment and raise wages in the city. Our members need good jobs. Local Law 97 will create tens of thousands of such jobs, including many union jobs. It is by far the city’s largest jobs program that it does not directly pay for.

Local Law 97 is on track to grow the size of the city’s energy efficiency industry by a staggering 13X in this decade. It would generate an estimated \$20 billion of new capital investment, again if all owners comply with on-site energy efficiency improvements. It is already accelerating New York as the knowledge center for upgrading large energy inefficient buildings to green buildings. There is already a major boom being created by the law in design and assessment work.

Moreover, the large majority of affected buildings will save money over time through compliance because their energy use and utility bills will drop as they waste less energy. For some buildings, some of these requirements may require improvements with a short payback. For

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<sup>2</sup> See Urban Green Council Retrofit Market Analysis  
<https://www.urbangreencouncil.org/content/projects/all-about-local-law-97>

most, it'll be more like a 10-20 year payback period. Building owners will tend to save money over and above their financing costs. Buildings will also become more comfortable.

Most importantly, lives will be saved.

RMI and university researchers [recently estimated](#) that about 1,000 New Yorkers are killed each year by pollution from fossil fuel use to heat, cool and power our city's buildings<sup>3</sup>. Air pollution is worse in low income and communities of color, with Black New Yorkers breathing 32% dirtier air<sup>4</sup>. Local Law 97 will save lives in our city.

Globally, Local Law 97 sets an example for cutting climate-heating pollution at the pace and scale needed to satisfy agreement like the Paris deal. This is an existential crisis and Local Law 97 is a solution.

Unless it is gutted. Or weakened.

None of this is to say that the law isn't complex, or that there aren't many important regulatory decisions left to be made. We commend the Council for proposing to add 6 staff lines to the office implementing the law. We urge the Council to increase that to 10-15 additional staff lines for a total of about 20 staff lines in the office.

The city, state and federal government must also allocate the funding to bring NYCHA to a state of good repair, which would include energy efficiency improvements that would help the city comply with Local Law 97 in its own properties. The city is cutting pollution from its buildings, but it needs to accelerate these efforts as a large landlord itself.

Thankfully, the current leadership in the Office of Building Energy and Emissions Performance is highly competent and professional and should be supported. They are a credit to the de Blasio and Adams Administrations and the Council.

The Advisory Council and its working groups are working through many complex questions to inform rule-making and regulations, which the Department is closely involved in to help inform its decision making. This process is unfolding at a speed that helps ensure the proper care is taken in setting metrics and requirements into place for 2030 and beyond.

The 2024 requirements are the immediate issue. We are highly concerned about any weakening of the penalties that back these requirements, which are simple and clear. The pollution caps set by the law that start in 2024 are purposely set high. They are so high that only one in five buildings covered by the law exceeds them. And for most of those buildings, they are only just above.

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<sup>3</sup> See RMI blog post with links to studies at <https://rmi.org/new-york-emits-more-building-air-pollution-than-any-other-state/>

<sup>4</sup> *ibid*

These are the most-polluting buildings in the city. Many of them are flagrantly wasting energy and have “low-hanging fruit” for energy efficiency improvements. In many cases these are low-cost or even no-cost simple operational improvements that should be made.

Moreover, the law created a waiver process for buildings more than 40% over their cap. There are about 2,000 of those buildings. They were all diligently contacted by the Department to alert them to the existence of a waiver process. Only 90 of these large buildings’ owners applied for a waiver. That’s further evidence that the 2024 caps are more than fair.

Experts tell us that buildings undertaking a good faith effort can comply with the 2024 limits, often with limited effort. It’s not even particularly hard for most.

Of course, there are unusual buildings like One Bryant Park, a super-polluting building that currently exceeds its 2024 limit, whose owners, the Durst billionaires, have taken strong exception to the law.

It’s absurd that multi-billionaire developers whine about requirements to cut their pollution. Even if they couldn’t cut their pollution - and they can and should - they can buy RECs to satisfy the law. They should get over it, comply with the law, and clean up their acts.

There is no reason to relax the law’s penalties, especially at the behest of billionaire developers. The Administration should stop suggesting it may consider doing so and instead make a clear statement that the City will fully implement and enforce the law.

We also want to introduce into the record our proposed agenda for strengthening the law, pasted below. We hope you follow it. The City should properly implement rule-making, fund NYCHA, and cap REC use for the law.

Our top recommendation is for the Mayor to make a clear statement that the Administration will fully implement and enforce Local Law 97. That would end uncertainty in the market that their rhetoric is creating, which is inhibiting air pollution reductions and job creation.

The Administration should stop dog-whistling to the most regressive elements of the real estate industry. It should stop suggesting to billionaire real estate developers and owners that want to keep sticking their heads in the sand that they’re going to catch a break with Mayor Adams in charge. The billionaire developers and all building owners should roll up their sleeves and get moving to improve their buildings both in the short term for 2024 where necessary and in the longer multi-decade future. They can slash energy waste and therefore slash climate and other air pollution. In the process, they will save money, save lives and set an example of action that can save our whole world.

We’re New York City. We should lead. Let’s do it.

Our agenda for Strengthening, Not Weakening, Local Law 97:



## **Mayor Adams Must Implement and Fully Enforce Local Law 97, NYC's "Green New Deal" Law**

*Mayor Adams Should Implement an Agenda to Strengthen, Not Weaken,  
Local Law 97 to Maximize Job Creation & Pollution Cuts*

Local Law 97 is currently on track to create tens of thousands in energy efficiency design, renovation and construction. It will slash climate-heating pollution by over 40% by 2030 and over 80% by 2050, unless new Mayor Adams' administration fails to properly implement and fully enforce the law. While the letter and spirit of the law are clear, the Mayor through the Department of Buildings has substantial administrative latitude over its implementation.

The real estate lobby bitterly opposed enactment of Local Law 97 and is attempting to gut it. If Mayor Adams chooses to misuse the discretion afforded to regulators by the law, the Administration could make it toothless by eliminating/weakening the law's penalties for violating pollution limits. The Administration could also direct regulators to weaken its requirements through regulatory discretion. Mayor Adams should not listen to the real estate lobby's deeply misleading arguments. Instead, the law should be fully implemented, enforced, and strengthened, by the Mayor, his appointees and the Council as follows:

- **Mayor Adams should make a clear statement that the law will be fully enforced.** Right now, some developers and building owners are holding off on energy efficiency improvements, waiting to see if NYC's new Mayor will fully implement the law. A clear statement would make clear that the city will not go backwards. Instead, Mayor Adams' spokespeople are using real estate industry talking points in response to media inquiries about the law, calling into question whether its penalties and requirements are "unfair". In fact, the law is fair, and the penalties the law sets are necessary for building owners to comply. *The Administration should not weaken penalties to let billionaire real estate owners evade its requirements to cut pollution from their buildings.*
- **Use rule-making to strengthen, not weaken, the law** - there are a wide variety of technical issues in Local Law 97's implementation, including finer categorizations of building types to hone in on more specific building typologies, as required by the law. Under the de Blasio administration, the Department was proceeding appropriately, in

consultation with the law's Advisory Council, to set rules and regulations to implement the law. Each of these technical items is important. All need to be performed fairly and not skewed to weaken the law in favor of any particular interest, such as billionaire developers.

- ***The City should limit Renewable Energy Credits (RECs) to 10% and only for electricity use*** - Local Law 97 was enacted with a very large potential loophole, which community groups, environmental justice and other groups opposed: allowing building owners to purchase an unlimited number of RECs from renewable energy projects that connect into NYC's grid (Zone J) to satisfy the requirements of Local Law 97. REC use should be limited to a maximum of 10% of the pollution limits so that owners cannot simply buy their way out of cutting their building's energy waste and on-site use of fossil fuels. NYC needs jobs locally and pollution reductions locally, not just to subsidize renewable energy development elsewhere. While the REC loophole is not likely to be used by all building owners, REC use should be capped. Moreover, since RECs only apply to the electric grid, they should not be allowed to account for on-site fossil fuel combustion in buildings (boilers/furnaces). Either the Administration should put these REC limits into place or the Council should introduce and pass legislation.
- ***Stop any carbon-trading scheme that is environmentally unjust*** - City government is exploring creation of a carbon trading system that would allow building owners to trade in some sort of market created to allow payment and swapping of requirements between owners. Building owners could purchase credits to pay for energy efficiency upgrades by other building owners, presumably at lower cost to themselves. Such a system would be very difficult to design and implement in a manner that would maximize pollution cuts, job creation, ensure that low income communities of color did not end up with higher levels of pollution and not reward slumlords with an undeserved subsidy, such as slumlords with violations on their buildings. Fundamentally, the law's requirements are fair: billionaire building owners should not be able to buy out of their obligations to clean up their dirty buildings. While in theory a carbon trading system could be a benefit, the Council should not pass any enabling legislation that would allow an unjust system.
- ***Properly fund the Office of Building Energy and Emissions Performance to Avoid Potential Administrative Chaos*** - Local Law 97's first pollution limits apply in 2024. OBEPP was created by the law within the Department of Buildings. Fully implementation and enforcement will soon require about 15-20 staff and further funding for studies and outside reviews. The Adams administration should allocate the funds needed to properly staff the office as the law heads to full implementation. If the Adams Administration and the Council do not allocate the funding to hire the approximately ten to fifteen additional staff needed, the law's implementation could be rocky. For example, if there are not enough staff in place, the process of examining specific buildings requests for exemptions or adjusted - which may or may not be merited - will be effectively impossible to conduct in a timely manner because it takes dedicated, experienced and knowledgeable staff to conduct such reviews.
- ***Fund a major public educational program through the NYC Accelerator*** - the de Blasio Administration and Council put into place a \$10 million contract to operate the NYC Accelerator, which is a program designed to help building owners with practical

advice and referrals, in large part to help them comply with Local Law 97. It is a solid program with the funding in place for the coming years to deliver guidance and advice to any building owners who wants or needs it. Accelerator staff are reaching out to many building owners. On top of its current funding, the City should allocate about \$10 million per year to the Accelerator for a large-scale public education program of advertising to highlight the needs and benefits of action on climate, air pollution and jobs.

- ***Reverse the fossil fuel giveaway to the gas fuel cell industry passed in 2020*** - Speaker Johnson was very strong on this set of issues, with one major exception: he pushed through a poorly-considered change to the law that gave a special advantage to gas fuel cells. One connected entity, in particular, Bloom Energy, was behind the legislation's passage, which experts, community groups and advocates unsuccessfully attempted to stop. This loophole is a corporate giveaway that unfairly privileges a specific fossil fuel technology that should be treated specially by the law. The Council should repeal this giveaway.
- ***Fund NYCHA for Local Law 97 compliance*** - NYCHA needs tens of billions of dollars to return to a state of good repair. Outrageously, the Federal and State governments continue to disinvest from public housing, leaving the burden to the City, which increased NYCHA funding substantially under Mayor de Blasio. Much more funding is needed: the City should increase capital and ongoing funding for NYCHA and ensure Local Law 97 compliance will be on track, which would result in better housing with lower costs. NYCHA is undertaking some innovative work using its purchasing power for energy efficiency upgrades. The authority is [inducing private companies to build new models of heat pumps](#) cheaper at a larger scale for NYCHA's use in apartments, which could be a game changing improvement. However, heat pumps won't be enough: far more funding will be needed to bring NYCHA's buildings up to a state of good repair including higher energy efficiency to slash pollution, cut costs and create jobs while satisfying Local Law 97.
- ***Mayor Adams should direct funds from any penalties to affordable housing*** - Mayor Adams has the discretion to direct any money paid in penalties by owners who do not cut their pollution into affordable housing. He should announce he will use this discretion to direct funding into affordable housing, such as NYCHA, for high energy efficiency and to return NYCHA to a state of good repair. Note: the Council cannot direct such funding or pass legislation to do so because the city is pre-empted by state policy from enacting a penalty that could be considered to be a tax. However, the Mayor appears to have the administrative discretion - even under the state's preemption of the city's power to set taxes - to direct the funding to affordable housing.

Good morning Chair Gennaro and members of the Committee on Environmental Protection. My name is Crystal Smith, and I am the Director of Originations at Nuveen Green Capital. Thank you for the opportunity to testify today.

Nuveen Green Capital is one of the pre-qualified vendors for the NYC Accelerator PACE Program.

C-PACE, or Commercial Property Assessed Clean Energy, is an innovative financing tool that provides commercial building owners with affordable sources of private funding to make energy efficient and renewable energy retrofits. The program was adopted as part of New York City's Climate Mobilization Act to help property owners to pursue energy-efficient upgrades of their buildings, in accordance with Local Law 97. Only two pilot projects have been approved and closed by the City, and the program has been closed for the past year.

C-PACE stakeholders, including Nuveen, continue to work with the New York City Mayor's Office of Climate & Environmental Justice (MOCEJ) and New York City Energy Efficiency Corporation, known as NYCEEC, to ensure that this program is a useful tool that will lead the City towards a decreased carbon output. We emphasize that in order for this program to drive LL97 compliance projects, guidelines must be accessible, easy to understand and interpret, and have achievable standards for developers, many of whom have already invested significant sums into construction projects, expectant that this program would mimic NYSERDA standards.

I testify today to urge the Council, in coordination with the MOCEJ and NYCEEC, to ensure that the program reopens *as soon as possible* and approves and executes on the active pipeline of projects that have been developed since the C-PACE legislation was enacted, in 2019. This requires the City to publish its revised closing documents so that transactions may be executed, and property owners may access C-PACE capital to implement retrofit projects.

We also encourage that the city adjusts the C-PACE guidelines for new construction, which now sit with the City and will go through the CAPA process for the second time, to align with the timing for the city's building electrification requirements that were passed last session by the City Council. Once the electrification requirements go into effect in 2027, then C-PACE should reflect that requirement as well. Until the electrification requirements are imposed citywide, C-PACE should align with the existing building code and NYSERDA requirements for new construction projects. New buildings permitted and approved by the City *prior to these deadlines* should still be able to access financing for eligible costs under the NYSERDA C-PACE new construction standards.

We want to be clear that we support the city's goals for building electrification. However, mandating C-PACE to require electrification five years before the electrification law goes into effect is counterproductive for the city, developers, the real estate community, and environmental advocates. It is also counterproductive to continue to stall the program when there is an active pipeline of projects awaiting this funding.

I urge your Committee, the Council body, and the Office of Climate & Environmental Justice to work towards an immediate reopening of the C-PACE program for retrofits under current standards, and to take into thoughtful consideration the recommendations we have outlined, before finalizing the regulations of the program for new construction projects.

Thank you again for the opportunity to testify today.



## **New York City Environmental Justice Alliance Testimony on LL97 to NYC Council Committee on Environmental Protection and Committee on Housing and Buildings**

**April 13, 2022**

Good morning Chairperson Sanchez, Chairperson Gennaro and members of the Council. My name is Shravanthi Kanekal and I am the Resiliency Planner for the New York City Environmental Justice Alliance. Founded in 1991, NYC-EJA is a non-profit citywide membership network linking 11 grassroots organizations from low-income neighborhoods and communities of color in their struggle for environmental justice. I am here today to testify in support of the complete and equitable implementation of Local Law 97 (LL97).

The passage of LL97 was a momentous step forward in aiming to reduce GHG emissions from the City's largest emitting source - [buildings](#). With less than 2 years left until thousands of building owners need to meet the first compliance standards, NYC-EJA urges the city to focus its efforts on equitably and aggressively implementing the law.

In the wake of the COVID-19 pandemic and the following unemployment crisis and ongoing climate crisis, the successful implementation of LL97 provides an incredible opportunity to create about 40,000 good green jobs, move us towards our climate goals, and directly invest in reducing harmful localized pollution levels in environmental justice communities.

There is an urgent need for additional funding in the upcoming fiscal year budget for increased staffing at DOB's Office of Building Energy and Emissions Performance (OBEEP). Successful implementation of LL97 depends in large part on adequate funding for a larger, dedicated team at OBEEP. We remain extremely concerned that the office's current staff positions and funding are not consistent with the upcoming responsibilities - including conducting technical analyses, completing the rulemaking process, driving outreach and education to building owners and eventually managing compliance and enforcement. We are glad to see the Council's response to the budget include additional funding for OBEEP, but that is not sufficient. Experts estimate that there needs to be 10-15 additional positions added to OBEEP at the earliest, and this figure will need to increase as the responsibilities of the office add on leading up to 2024 and beyond. We estimate that 15 additional positions would mean \$1,125,000 in DOB's budget for OBEEP.

OBEEP needs to expand outreach across all sectors to ensure building owners are aware of the law, their compliance obligations, as well as the resources available to them such as NYC Accelerator and other funding opportunities. On this front, there needs to be transparency on the



workings and progress of NYC Accelerator (i.e., how many building owners have been assisted, how many are underway, etc.).

Environmental justice communities have long held a deep skepticism of market-based false solutions such as carbon trading to address the climate crisis. We reject neoliberal approaches to addressing the deeply rooted injustices that disproportionately harm low-income communities and communities of color. Existing trading schemes have yielded documented increases in pollution for environmental justice communities.<sup>1</sup> We are concerned that any emissions trading scheme will allow large, polluting buildings to avoid making deep energy efficiency improvements by engaging in a complex trading system that will be difficult to enforce, leaving environmental justice communities vulnerable to continued localized pollution and further contributing to GHG emissions that fuel the climate crisis. To that end, we welcome the City's decision not to pursue a building emissions trading scheme.

Additionally, we are concerned that the allowance for building owners to use an unlimited number of Renewable Energy Credits (RECs) as a means for compliance, may allow for continued localized emissions while purchasing in renewable energy that may be sited outside of city limits, for example from the Champlain Hudson Power Express project.

There must also be sufficient renewable distributed energy generated within New York City for buildings to reduce their carbon emissions to meet LL97's mandates. To this end, City and State agencies must work in concert to rapidly scale up in-city renewable energy generation and storage infrastructure and to ensure that these investments specifically benefit the communities most burdened by high energy costs, poor air quality, and heightened risks from climate crises under our current, fossil fuel-intensive energy system.

Energy efficiency will play a bigger, life-saving role in environmental justice communities across the city. Decarbonizing buildings will be critical to reducing local pollution from fossil fuel power plants and fossil gas infrastructure disproportionately located in environmental justice communities. It can also lead to immediate health benefits like improving indoor-air quality in environmental justice communities.

Scientists tell us that we have less than a decade to address the climate crisis. We must move forward with the implementation of LL97 in a fair, equitable way to advance New York City's climate and economic recovery goals to curb emissions, create environmental justice equity, and create good green jobs.

Thank you for your time and the opportunity to testify today.

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<sup>1</sup> Serrano, Kim. 2017. "Greenhouse Gas Reduction Fund Investments in and around Orange County Observations on Place, Purse, and Politics." *UCI Community Resilience*.  
<https://communityresilience.uci.edu/wp-content/uploads/2018/02/UCI-OC-GGRF-Report-FINAL-1.pdf>



**Testimony of Justin Wood, Director of Policy of  
New York Lawyers for the Public Interest to the  
Committees on Housing and Buildings and Environmental  
Protection of the  
New York City Council on April 13, 2022  
Regarding Implementation of Local Law 97**

Good morning, my name is Justin Wood and I am the Director of Policy at New York Lawyers for the Public Interest. Thank you, chair Sanchez and chair Gennaro for the opportunity to testify on the implementation of Local Law 97, New York City's landmark building emissions and efficiency law.

NYLPI is a member of the PEAK Coalition, which also includes UPROSE, THE POINT CDC, New York City Environmental Justice Alliance, and the Clean Energy Group.

We're a coalition of frontline community organizations and clean energy advocates seeking to end the long-standing pollution burden from power plants on the city's most climate-vulnerable people. Our current focus is on closing all of New York's peaker plants - our most polluting, expensive, and inefficient fossil fuel power plants - by replacing them with renewable energy and storage solutions.

Our City's electrical grid remains heavily dependent on fossil fuel combustion. New York Independent System Operator estimates that 70% of electricity in Zone J is produced by fossil fuel combustion. Electricity production becomes even dirtier and more expensive on hot summer days and, increasingly, on cold winter days when a fleet of the oldest and most polluting power plants are fired up to meet energy demand from residential and commercial buildings. Analysis by the PEAK coalition has found that energy generated by these outdated plants can cost up to 1300% of the New York State average price per kilowatt hour, and cumulative payments to peaker plant owners have totaled a massive \$4.5 billion over the past decade. As fossil fuel prices have become more and more volatile, it is even more critical now to wean off our reliance on fossil fuel generation.

Like so much of our polluting infrastructure, peaker plants have particularly severe impacts on Disadvantaged Communities identified by the Climate Action Council, where peakers are disproportionately clustered. PEAK's recent report "[The Fossil Fuel End Game](#)" finds that:

- 750,000 people in New York City live within one mile of a peaker plant; 78 percent of these people are either low-income or people of color.

- In New York State, peakers contribute as much as 94 percent of the state's NOX emissions on high-ozone days, despite providing as little as 36 percent of the gross energy load. These disproportionately large emissions occur because many of the older peaker plants do not have any form of NOX controls and are not compatible with emissions-reducing retrofits.
- Annually, peakers in New York City emit almost 2.7 million tons of carbon dioxide (CO2) constituting almost 5 percent of New York City's 2019 CO2 emissions. Based on New York State Department of Environmental Conservation guidelines on the cost of carbon, the CO2 emissions of the peaker fleet cost the world more than \$300 million each year.

It is beyond time for our city to invest in smart, readily available efficiency and renewable energy solutions and to stop pouring money into a dirty and harmful energy system.

Local Law 97 requires an analysis and recommendations for improving energy and emissions performance requirements for covered buildings, including incentives to reduce peak energy demand. LL97 also gives deductions to buildings that generate distributed energy resources and storage that reduces emissions during peak emission periods.

Because buildings consume so much energy, making heating systems, cooling systems, and appliances more efficient and lessening the demands on the electric grid during peak periods are critical to reducing our short-term reliance on fossil fuel peakers and retiring these plants as soon as possible. If fully and robustly implemented, Local Law 97 can strongly incentivize building owners to invest in efficiency, peak demand reduction, and renewable energy solutions that can bring immediate health benefits to communities burdened by fossil fuel power plants.

1. **Local Law 97 implementation must promote the development of local renewable energy resources like rooftop solar and battery storage, which are critical to realizing the health and environmental justice benefits from retirement of fossil fuel peaker plants.** We find in [The Fossil Fuel End Game](#) that half of New York City's peaker plants could be replaced as soon as 2025 with 3.2 gigawatts of combined solar, offshore wind, and storage assets. The remaining 2.9 gigawatts of peaker capacity could be replaced by 2030 with a similar combination of renewables and storage. Achieving these ambitious but feasible targets will require focus, cooperation and a firm commitment to implementing both Local Law 97 and the state's Climate Leadership and Community Protection Act from all levels of government.
2. **By providing strong incentives to electrifying buildings and enabling the adoption of smart demand management technologies, Local Law 97 can help reduce energy demand peaks and facilitate the retirement of peaker plants.** Local Law 97 requires the Advisory Board to include strategies for reducing peak demand from buildings in the comprehensive report due this year. Promisingly, [a recent study](#) by the Rocky Mountain Institute finds that demand flexibility strategies can reduce a building's energy consumption by 30-50% during peak afternoon periods. Moreover, the study finds that this is an

achievable, cost-effective path to compliance with Local Law 97's emissions reduction mandates.

3. **Currently, only a small number of customers participate in "demand response" programs administered by NYISO and Con Edison designed to pay or reward electricity users for reducing consumption during peak times.** In addition to helping building owners comply with Local Law 97, innovative technologies like smart thermostats and price incentives such as variable time-of-day pricing and real-time demand reduction payments have enormous untapped potential to help tenants, businesses, and homeowners save money on energy bills while helping building owners meet the emissions reductions mandates of Local Law 97. The City should do everything in its authority to promote development of and widespread participation in these programs.

As we've heard today, Local Law 97 sets up a comprehensive, unprecedented, and appropriately ambitious framework and timeframe to tackle one of our City's largest pollution sources, reduce both the economic and public health costs of our energy system, mitigate the spiraling climate crisis, and create thousands of local green jobs. The City Council can and must continue to actively monitor and oversee the implementation of this law at every stage and ensure that building efficiency, electrification, and distributed renewable energy projects are particularly focused on disadvantaged communities including those bearing the largest pollution burdens from peaker plants and other fossil fuel combustion. Thank you for the opportunity to testify today; we look forward to working with you on this critical process for the remainder of this term.

**Justin Wood**  
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**NYC Council Hearing –  
Committee on Environmental Protection  
(Jointly with the Committee on Housing and Buildings)  
April 13, 2022**

**Written Testimony by the New York State Nurses Association  
(Part of the Climate Works for All Coalition)  
Presented by: Nella Pineda-Marcon, BSN, RN-BC  
NYSNA Board of Directors, Secretary; Chair of the NYSNA  
Climate & Environmental Justice Committee**

My name is Nella Pineda-Marcon, and I work as a registered nurse at Mount Sinai Morningside and Mount Sinai West. I am also a proud union member of the New York State Nurses Association. I serve as an elected Director and Secretary of the NYSNA Board, and am Chair of NYSNA's Climate & Environmental Justice Committee. NYSNA represents 42,000 nurses across New York State, including 25,000 RNs in New York City. This includes nurses in all the city's public hospitals.

As nurses on the frontlines of patient care, we have seen up close the horrors of the COVID-19 pandemic. Over 67,000 people in New York City have died and countless others have been left wounded, physically and emotionally. We have seen the deep impact that the pandemic has had on low-income communities of color. The disparities are all-encompassing, affecting marginalized communities physically, mentally, and economically. We know that this is just a preview of what lies ahead if we do not take climate change seriously. It is critical that we heed the warning.

In fact, we have already seen the destruction that climate change and environmental degradation has had on the health of our patients. Increases in extreme heat waves have contributed to an increase in hypertension. Pollutants are being discharged into our city air, causing a steady increase in chronic asthma conditions in our most vulnerable communities. In addition, these communities

also face environmental injustices like contaminated water supplies and tainted soil. They are also the ones that are usually hit the hardest by catastrophic events such as Superstorm Sandy. This is not OK.

We are proud members of the Climate Works for All coalition, a coalition of unions, climate and environmental justice organizations, and advocacy groups committed to addressing the impact of climate change. We have fully endorsed Local Law 97 (LL97) and helped to get it passed in 2019 with the landmark Climate Mobilization Act.

Studies show that 70% of the city's Greenhouse Gas emissions are produced by the city's office and residential buildings. LL97 ensures that building owners make the necessary changes they need to make in their buildings through retrofits so that they can be more energy efficient. In order to see that LL97 is as successful as we know it can be, we must fund the implementation process appropriately.

We know we need increased funding in the FY 2023 NYC budget to increase the staff at DOB's Office of Building Energy and Emissions Performance (OBEEP). This office is responsible for overseeing the implementation process of LL 97. The first compliance deadline for building owners is coming up in 2024. This will be here before we know it. We have less than 2 years to make sure that thousands of buildings are in compliance!

OBEEP must expand its outreach across all sectors. Building owners need to be fully aware of the law and what their obligations are in order to meet their compliance responsibilities. There are also funding opportunities out there for them to take advantage of and other resources such as the NYC Accelerator program. In addition we need NYC Accelerator to be fully transparent on its progress in assisting with the goals laid out in LL97.

Our hope is that NYC will focus on what we know we can actually do to solve these complex problems rather than pour money and resources into things we would consider false solutions. These ineffective approaches include policies like carbon trading that have proven to actually increase pollution, particularly in vulnerable communities that are bearing the brunt of environmental pollution and climate change. We are concerned such a system will lead to polluting

buildings dodging the necessary work they need to do to fix the problem and will continue to leave impacted communities vulnerable.

As nurses we are always making the link between climate and environmental justice and public health. LL97 will not only help to move us off fossil fuel dependency and combat climate change, but will create an immediate shift in health outcomes for those that are living in our most vulnerable communities.

We must treat this climate crisis like the emergency it is. We must do better for our children, our patients, and our communities. Fully implementing LL97 is a solid step forward for the sustainability of New York City and the health of its residents. We also have an opportunity to act as a catalyst for our state, the country, and the world. We urge you increase funding to implement LL97 and enforce compliance by building owners.

Thank you for your time and consideration today.

April 12, 2022

The Guarini Center on Environmental, Energy & Land Use Law at New York University School of Law respectfully submits the following points regarding Local Law 97 (LL97) for the City Council's consideration. The information that we present flows from the findings of a large-scale study into Local Law 97 and the potential to add carbon trading program to the law. The study, which was mandated by LL97 itself, was led by researchers at New York University, who worked in concert with the Mayor's Office of Climate & Environmental Justice as well as experts at The Brattle Group, HR&A Advisors, Steven Winter Associates, and Sustainable Energy Partnerships. The full results of the study are available at [www.guarinicenter.org/issues/cities/buildings](http://www.guarinicenter.org/issues/cities/buildings)

*Summary of Findings about Current Local Law 97 (Without Trading)*

- The cost of implementing LL97's caps on building greenhouse gas (GHG) emissions will depend significantly on whether New York State achieves its goals of decarbonizing electricity on time. If the State changes the sources of electricity supplies on time, the study projects that LL97's caps will save buildings money over 2024-2050. A November 2021 N.Y. Times [article](#) suggested that the State is on track to meet its 2030 goal, while more uncertainty remains about the 2040 goal.
- If the grid decarbonizes on pace with the State's targets, 51% of square footage covered by LL97 will not have to take any action to comply with its LL97 caps until after 2034.
- The city will not be collecting large amounts of penalties under Local Law 97 in its current form. The city will start collecting penalties in 2030 at around \$5 million per year, an amount that will increase to \$50 million a year by 2040. Between 2024 and 2050, LL97 will generate \$224 million in penalties in 2020\$ at net present value.

*Two Illustrative Trading Market Designs*

- The study proposes two options for designing a carbon trading market. Compared with current LL97, both options would save building owners money, and reduce more local air pollution and lead to more investment in environmental justice communities.
- The two proposals differ importantly based on how significantly they would depart from the structure of LL97 as it is written today. Under Option #1, which would require more extensive adjustments to LL97, buildings outside environmental justice communities would have to buy some credits from the city in auctions, and would be given the remaining credits that they need for free; the city would use the funds from the auctions to subsidize retrofits of buildings in environmental justice communities. Under Option #2, which requires much less adjustment to the existing law, buildings would choose whether they want to sell or buy credits, and the buildings that choose to sell credits would generate them by reducing their emissions by more than they are required to do under LL97.



- Although both options benefit property owners and environmental justice communities compared with the current LL97, Option #1 benefits environmental justice communities more than Option #2, while Option #2 benefits property owners more and is also simpler for the city to administer.



**Testimony of Cecil Scheib, PE, CEM, LEED AP  
Chief Sustainability Officer, New York University**

before

**New York City Council Committee on Environmental Protection &  
New York City Council Committee on Housing & Buildings**

April 13, 2022

Thank you, Chairpersons Gennaro and Sanchez, for the opportunity to submit testimony. My name is Cecil Scheib, and I am Chief Sustainability Officer at NYU, a licensed Professional Engineer in the State of New York, and a Certified Energy Manager.

NYU strongly supports the joint efforts of the City Council and the Mayor's administration in reducing emissions from buildings, the principal source of NYC carbon emissions. Climate change is a collective problem and it will require collective action to achieve solutions. Even prior to the enactment of the Climate Mobilization Act's Local Law 97, NYU has worked to develop pathways toward carbon neutrality.

Since 2007, NYU has set demanding reduction goals.

- In 2009, NYU released its first Climate Action Plan detailing NYU's New York City GHG emissions and established our first GHG reduction goals.
- By 2012, NYU reduced building emissions intensity by 30%.
- By 2025, NYU aims to achieve a 50% reduction. This goal is tracked and reported to the NYC Mayor's Office of Sustainability.
- By 2040, NYU aims to achieve carbon neutrality.

We are meeting these goals by working with campus partners in energy engineering, operations, construction management, procurement, campus services, grounds, and more. As the largest private university in New York City, we are leading by example, making significant investments toward achieving building emissions reductions.

- The NYU cogeneration plant provides heating and/or cooling to 44 NYU buildings and electricity to 26 buildings. By utilizing waste heat from electricity production, the plant provides energy to buildings more efficiently than providing heating, cooling, and electricity from separate sources, but it is still reliant on fossil fuels. With assistance from NYSERDA, NYU is currently examining the role of the cogen plant in our 2040 carbon neutral goal, including options for geothermal and electrification.
- Our planned renovation of the historically recognized first-year student residence Rubin Hall, on 5<sup>th</sup> Avenue at 10<sup>th</sup> Street, is seeking Passive House certification, making it one of the largest retrofit projects of this type in the world. Its triple pane windows were just approved unanimously by the Landmarks Planning Commission.

- The roof of Bobst Library is equipped with 304 SunPower solar panels, which have the capacity (at full sun) to generate 110 kilowatts of electricity.
- Every significant construction project NYU undertakes is LEED certified, targeting Silver as a minimum. Presently we have about two dozen projects, over 2 million square feet, certified or undergoing certification.

These are but a few examples of how green construction and large-scale retrofits are helping NYU build a greener future. However, we have also found that run of the mill engineering and behavioral changes can also achieve deeply impactful results.

For instance, in 2014 we renovated Brittany Hall, a student residence on Broadway at East 10th Street. During the process we removed heavy #4 fuel oil boilers from the basement and replaced them with light natural gas boilers on the roof, providing resiliency against flooding. These boilers are ready to be fully electrified with heat pumps when required. In all, we reduced fossil fuel needs for heating by 81%, and emissions and cost by almost half including the addition of air conditioning. The building is healthier and more comfortable for its occupants, with windows that seal out NYC air pollution and noise. These co-benefits of green retrofits should always be included when evaluating the potential for deep energy retrofits. We invite you to review our [Climate Action Plan Update](#) detailing how NYU is meeting its GHG reduction goals.

Despite the success NYU has achieved, we recognize that many building owners across the city— large and small— will face complex challenges in coming into compliance with Local Law 97. Significant change, at any scale, is never easy.

For this reason, we encourage the City to make every effort to ensure that adequate staffing and resources are in place to help building owners understand the new requirements and comply with the law. As the City Council continues to oversee the implementation of Local Law 97, NYU hopes to continue to partner with you as we work to make New York more sustainable and reduce the impacts of climate change on our City. We would be happy to respond to any questions members of the committees might have.

Thank you again for the opportunity to submit testimony. I would be happy to answer any additional questions the Committees may have. (Please contact Konstantine Tettonis, NYU Government Affairs, kt1249@nyu.edu.)



## **Written Testimony of the PEAK Coalition Submitted to the**

Joint New York City Council Committee Environmental Protection & Committee on

Housing and Buildings

April 13th, 2022

Oversight Hearing: Local Law 97

The PEAK coalition—UPROSE, THE POINT CDC, New York City Environmental Justice Alliance (NYC-EJA), New York Lawyers for the Public Interest (NYLPI), and Clean Energy Group (CEG)— aims to end the long-standing pollution burden from power plants on the city's most climate-vulnerable people. This coalition is the first comprehensive effort in the US to reduce the negative and racially disproportionate health impacts of a city's peaker plants by replacing them with renewable energy and storage solutions.

PEAK Coalition members NYLPI and UPROSE have testified and submitted written testimonies separately on a comprehensive implementation of Local Law 97. We would like to further emphasize the Local Law's requirement of analysis and recommendations for improving energy and emissions performance requirements for covered buildings, including incentives to reduce peak energy demand. Local Law 97 also provides deductions to buildings that generate distributed energy resources and storage that reduce emissions during peak emission periods.

Making heating systems, cooling systems, and appliances more efficient will significantly reduce energy demands from buildings in New York City. Lessening the demands on the electric grid during peak periods is critical to reducing our reliance on fossil fuel peakers and retiring these costly and polluting plants as soon as possible.

PEAK is delighted to see that the City will not pursue false solutions such as building emissions trading as an alternative method for owners to comply with Local Law 97. PEAK's research shows that half of the City's peaker plants could be replaced as soon as 2025 with 3.2 gigawatts of renewable energy and storage assets. Local Law 97 implementation must simultaneously promote the development of distributed energy resources during the building retrofit and emissions compliance process. These resources are critical to realizing the health and environmental justice benefits of replacing fossil fuel peaker plants and ensuring that this Law works in tandem with the State's Climate Leadership and Community Protection Act.

The ambitious framework and timeframe to tackle one of our City's largest pollution sources are critical to support the environmental health of Disadvantaged Communities and a clean future for our city. We urge the New York City Council to support reducing peak energy demand and growing distributed energy resources deployment through Local Law 97 policies. Thank you to the New York City Council for holding this hearing and for the opportunity to submit written testimony.



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## Testimony of Candis Tall, Vice President and Political Director, 32BJ SEIU

### The Committees on Environmental Protection and Housing and Buildings on the Oversight on Local Law 97 of 2019

Joint Hearing, April 13

Submitted Electronically

#### Attn:

Council Member, James F. Gennaro, Chair, Committee on Environmental Protection  
Council Member Pierina Ana Sanchez, Chair Committee on Housing and Buildings

32BJ is the largest property services union in the nation. We represent 175,000 members across 11 states including 75,000 here in New York City. Our members are the backbone of the property service industry, working as superintendents, porters, janitors, security officers, window cleaners and other vital roles in our city's commercial and residential buildings, airports, stadiums, theatres and other properties.

32BJ is committed to supporting the building decarbonization goals of LL97 and I'm pleased to represent the union on the Local Law 97 Advisory Board.

LL97 intersects with our members lives in a number of ways. We live in neighborhoods that endure the worst of climate change and environmental harm – from flash flooding due to increasingly severe storms, to elevated levels of pollution – we know the need to reduce emissions from buildings. We also work in buildings every day and stand ready to play our part, upgrading our buildings and ensuring they operate as efficiently as possible. Lastly, we rely on a thriving building sector, one that this able to continue to support family sustaining jobs while making the investments needed to transition away from fossil fuels. We want to see LL97 implemented in a way leads to buildings achieving carbon savings, not simply paying fines.

As we draw closer to the first compliance period under the law, 2024-2029, we believe the City Council and the Adams Administration should consider the following suggestions to ensure effective implementation:

#### Financial support for buildings

The cost of electrifying building and performing deep energy efficiency improvements will be substantial. Even with projected lower energy costs over the long-term, the upfront cost can be prohibitive for many owners, particularly residential buildings, including middle-income cooperatives and condominiums. A broader range of programs, than what is currently available, is needed to ensure that all buildings covered by the law are able to comply and achieve the carbon reductions intended. Any public funding provided should be administered in a way that supports good, family sustaining jobs for workers, including buildings' operations and maintenance staff.

### **Fully fund the laws' implementation**

To ensure successful implementation of the law, it is vital that the FY 2023 New York City Budget include increased funding for staff and resources at OBEEP. Among the valuable work the Office will perform in the lead up to the first compliance period is outreach and education to building owners. The office needs resources to help owners understand their obligations and pathways to compliance, and to facilitate access to support programs.

### **Improved metric**

The carbon coefficients in LL97 for each building typology do not account for the range of uses and density levels within the same category. A commercial building that operates 24/7 is currently held to the same carbon limit as the same size building that operate 9-5 Monday to Friday. Similarly, a luxury residential building with few occupants per square foot is held to the same standard as a more densely occupied complex of the same size. The metric that determines buildings' carbon limits must be adjusted to appropriately account for these variables.

### **A greener grid and more renewables**

In order to achieve the substantial carbon reduction goals set out in LL97, the city's grid must be greener and buildings incentivized to invest in renewable energy. The City should continue its support for state initiatives that will deliver more renewable energy into the five boroughs, as well as maximizing its own procurement. In addition, the law should encourage building owners to invest in renewable energy by allowing the reasonable use of renewable energy credits for LL97 compliance.

### **Training for workers**

It is workers, like 32BJ members, who will be the hands on agents-of-change in the transition of our city's buildings. The City should ensure that training providers, particularly joint labor-management funds that hold the interest of workers in mind, have what they need to deliver the most up-to-date training programs. This includes ensuring access to new technologies and providing flexible support options that will help workers get time off the job to learn the skills needed now and in the future.

We thank the committee for considering these suggests and we reiterate our commitment to being a helpful partner to the City in the laws implementation and beyond.



**Sierra Club Testimony  
City Council Oversight Hearing: Local Law 97**

Good afternoon Chair Gennaro, Chair Sanchez, and members of the Environmental Protection and Housing Committees. My name is Hannah Birnbaum and I am testifying on behalf of the Sierra Club and our 118,944 members and supporters in New York City.

We appreciate the City Council's strong track record of work on decarbonizing our building stock. Passing the Climate Mobilization Act was an essential step towards reducing our dependence on fossil fuels, cleaning up our air, and protecting our health. Now, we respectfully urge New York City to deliver on Local Law 97's promise by fully resourcing implementation and ensuring that environmental justice communities benefit.

OBEEP needs an infusion of funding in the FY 2023 budget so that it can successfully implement Local Law 97. There are still many technical details and rules that need to be finalized with enough time for building owners to meet the law's first compliance deadline in 2024— which will require additional staffing. Additionally, OBEEP needs resources for widespread outreach to building owners to help them understand their new obligations and what financial assistance is available. We ask the City Council and the Administration to commit sufficient resources this budget cycle to meet these needs.

We also believe that New York City must do all it can to guarantee that Local Law 97 benefits the people who are most impacted by pollution and climate change.

The City should ensure that the final implementation plan for Local Law 97 requires buildings that are a key source of pollution in environmental justice communities to meaningfully reduce their emissions. We know that there are significant concerns in environmental justice communities about the carbon trading scheme contemplated in the law. We hope that the City will carefully consider the feasibility study showing that the carbon trading proposal is very unlikely to be needed to offset compliance costs, and will prioritize maximizing reductions of NOx emissions in environmental justice communities by focusing on the phasing out the dirtiest fuels.

We also urge the City to develop a clear plan for directing financial and technical support for compliance with Local Law 97 to the communities most impacted by energy burden and most in need of assistance to make the transition to a carbon-free building stock.

Thank you for the opportunity to testify today, and for your work to make sure Local Law 97 is implemented effectively and equitably.



**Testimony from Steamfitters Local 638 to the New York City Council  
(4/13/2022)**

My name is Brett Thomason, and I am the Political Director of the Enterprise Association of Steamfitters Local 638. Our union represents over 9,300 hardworking, highly-skilled and trained men and women in the pipe trades working in New York City and Long Island. Thank you for the opportunity to speak with you today about the importance that Local Law 97, and its enforcement and implementation have to our membership. Steamfitters at local 638 work on all of the major mechanical systems in the large buildings that fall under LL97. The work our construction and maintenance professionals do on these systems is vital to ensuring that buildings maximize energy efficiency and modernize in order to meet the pollution-cutting goals of local law 97.

Our workforce is vital to ensuring that the City meets its climate goals: we have the knowledge and expertise to ensure that work is done correctly and efficiently; the training our members have ensures that systems will be built, replaced and modernized to the highest possible standards, and our collectively-bargained wages and benefits means that people working in this sector have access to family-sustaining, middle class jobs.

If implemented properly, we think LL97 could be a vital source of jobs for our members for the next three decades. However, experience in our industry has shown that all too often a lack of oversight and enforcement from DoB and other city agencies is pervasive, leading to low-road standards for employers, cost overruns, and poor installation on construction and retrofit projects. We urge the Council to pay diligent attention to the staff at DoB and the competent experts at the Office of Building Energy and Emissions Performance can continue to do their work. Our industry relies on steady, thoughtful and measured guidance that sends a clear market signal so that contractors and employers in the energy efficiency sector can plan and grow as New York builds out its clean energy economy: an economy that the Steamfitters at Local 638 plan to be at the center of, so that we can provide even more access and opportunity for New Yorkers to join the building trades and develop their careers.

Finally, but most importantly, I want to draw our focus to another aspect of enforcement, and that is *investment*. It is important that the City continue to invest public dollars in energy efficiency for its own buildings, in order to lead the way for private developers and set the highest standards for efficiency. Public money more often than not funds good union jobs with high labor standards, so we will continue to beat the drum for more public investment in efficiency and retrofit projects. For example, we support New York City's \$228 million capital proposal to replace boilers in public schools by 2030. If properly implemented, this plan will have dramatic effects on the air quality where our children learn and play, create thousands of good union jobs, and dramatically slash pollution in New York City. An investment like this should be the model for how the City can improve its public building stock and create good jobs.

In closing, I want to reiterate our union's commitment to solving the climate crisis and creating good jobs. Without the hard work, dedication and expert-training of our members, and our

brothers and sisters in the building trades, New York will not be able to meet its climate goals. We look forward to working with you to ensure that these carbon reduction targets are hit in a smart and thoughtful way that cuts pollution and creates thousands of new high-paying jobs.



**Testimony of Urban Green Council  
Before the New York City Council Committee on Environmental  
Protection and Committee on Housing and Buildings**

**Re: Oversight of Local Law 97**

April 13, 2022

Dear Chair Gennaro, Chair Sanchez and members of the Committees:

My name is Chris Halfnight and I am Director of Policy at Urban Green Council, an environmental nonprofit focused on reducing the carbon footprint of New York City buildings.

Local Law 97 is a transformational law and the centerpiece of New York City's climate strategy for buildings, which make up two-thirds of citywide GHG emissions. It is also a leading model for many other cities seeking to enact policies to decarbonize the building sector.

Urban Green thanks the City Council and staff for continued focus on climate progress. And we support and appreciate the strong commitment of the City Council and this Administration to full and effective implementation of Local Law 97. We also appreciate the ongoing efforts of the Administration's leadership and staff, including Commissioner Aggarwala and the teams at the Department of Buildings and the Mayor's Office of Climate and Environmental Justice, who have been working diligently to facilitate the law's Advisory Board process and develop many important technical details.

Successful implementation of Local Law 97 means ensuring the law remains ambitious, equitable and practical, ultimately driving down carbon emissions through major investments in New York City buildings that will also create new green jobs, save energy, reduce pollution, and deliver greater health and comfort for New Yorkers.

With these aims in mind, we offer the following recommendations for near-term implementation focus:

**1. Increase funding for implementation.**

We strongly support increased funding for Local Law 97 implementation. The Office of Building Energy and Emissions Performance (OBEEP) is doing an excellent job with limited resources,

but we urge allocation of greater funding for staff and resources commensurate with the scale and impact of this law, including for:

- Rulemaking, compliance and enforcement to ensure a smooth and timely rollout and effective compliance for up to 50,000 buildings;
- Analyses required under the law and to inform rulemaking, including for third-party consultant modeling to help set requirements for future compliance periods; and
- Outreach and education, including coordination with existing support entities like the NYC Accelerator, with a focus on harder-to-reach sectors like co-ops and smaller buildings with fewer resources.

We thank the City Council for including new funding for OBEEP in its response to the Mayor's Preliminary FY 23 Budget, and we hope additional funds will be allocated. The relatively small sums required will repay many times over by driving successful compliance, climate progress, job creation and economic development.

## **2. Finalize details for the first compliance period as soon as possible.**

With Local Law 97 carbon limits starting in 2024 – less than two years from now – finalizing the law's details for the first compliance period must be an immediate priority. The market needs certainty to plan and execute compliance strategies, including operational improvements, capital upgrades and alternate compliance options. Armed with significant input from the Advisory Board process, rulemaking should proceed as soon as possible to provide clarity on outstanding questions, including additional property types, details of the metric and criteria for deductions.

## **3. Prioritize investments in NYC buildings.**

Implementation should prioritize investments in building energy efficiency and electrification, which provide many local benefits beyond carbon reduction, including green jobs, lower energy bills, less pollution and improved grid resiliency. Compliance options like renewable energy credits can provide building owners with valuable flexibility to make the most cost-effective upgrades over time, but unlimited use could also enable owners to avoid making on-site upgrades. Reasonable limitations will help ensure Local Law 97 ultimately drives investments in buildings, including energy efficiency and electrification.

## **4. Create a compliance option based on payment into an Equitable Buildings Fund.**

We strongly support adding a new compliance option to Local Law 97 with appropriate guardrails that would allow building owners to pay into an "Equitable Buildings Fund" fund to pay for energy efficiency and electrification upgrades in affordable housing. This compliance option

would help address the significant challenges of financing decarbonization in the affordable housing sector, while also diverting dollars to building retrofits instead of penalties.

While many details need to be worked out, we are confident that with the City's support an effective and equitable compliance option can win broad stakeholder support and strengthen Local Law 97, as is the case with Boston's similar building performance law.

#### **5. Increase outreach, education and support.**

Local Law 97 is the leading edge of an enormous transition. Building owners – particularly those with smaller buildings and fewer resources – need help navigating and financing this transition. We credit the City's efforts to increase support through the NYC Accelerator and PACE financing, and we urge a significant expansion of these efforts, additional funding and financing mechanisms, and much deeper coordination with the State and utilities to reach and catalyze action in the tens of thousands of buildings covered by this law.

#### **6. Ensure the City leads by example with public buildings.**

Lastly, it is crucial that the City lead by example with energy efficiency and electrification retrofits for public buildings to meet its own requirements under Local Law 97, which include reducing emissions from government operations 40 percent by 2025 and 50 percent by 2030. The Department of Citywide Administrative Services (DCAS) has made good progress to date and developed a comprehensive plan for meeting these targets, but capital work can take years to complete and the scale of activity necessary to meet the 2025 target in particular requires a significant increase in resources and new implementation strategies.

Thank you for the opportunity to comment at this hearing. Urban Green looks forward to continuing our work with the Council and the Administration to successfully implement Local Law 97.

#### **CONTACT:**

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## **Testimony of Summer Sandoval**

### **Energy Democracy Coordinator, UPROSE**

Joint New York City Council Committee Environmental Protection & Committee on  
Housing and Buildings

Oversight Hearing: Local Law 97

April 13th, 2022

Good morning and thank you for the opportunity to submit testimony today. My name is Summer Sandoval and I am the Energy Democracy Coordinator at UPROSE. Founded in 1966, UPROSE is Brooklyn's oldest Latino community-based organization. UPROSE is an intergenerational, multi-racial, Black and Indigenous women of color-led organization working at the intersection of racial justice and climate change through community organizing, planning, policy, youth development, and cultural and artistic expression.

The passage of the Climate Mobilization Act in 2019, was a precedent-setting commitment to climate action and bold progress to reduce NYC's greenhouse gas emissions. Buildings across New York City contribute to over 70% of the city's Greenhouse Gas emissions. Local Law 97 (LL97) requires building owners to meet emission reduction targets by retrofitting and upgrading building energy systems to be healthier and safer especially for frontline communities across NYC. This year we are fighting for adequate funding to ensure that LL97 implementation is grounded in equity and racial justice to prioritize and support environmental justice communities across the city and create thousands of well-paying local green jobs here in New York City.

**Local Law 97 must be fully funded under the city's 2023 budget.** We urge the City to include adequate funding in the 2023 budget in order to ensure implementation is prioritized especially in disadvantaged communities

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In order to operationalize a true Just Transition and a Green Re-Industrialization of our Significant Marine Industrial Areas (SMIAs), we need to protect and support industrial and manufacturing buildings. The City must utilize a comprehensive framework that provides necessary investments, technical assistance, and resources to help these buildings meet LL97 goals while developing our city's ability to produce and manufacture locally for resilient local supply chains.

**Local Law 97 must reject false solutions such as building emissions trading.**

Local Law 97 must NOT incorporate a building emissions trading scheme in its implementation. A building emissions trading scheme is a false solution to greenhouse gas emissions reductions and would allow emissions intensive buildings to evade onsite and direct emissions reductions. Moreover, a building emissions trading scheme would require significant oversight and strict policy mechanisms leading to administrative costs. These costs would be better directed towards subsidizing building energy retrofits in disadvantaged communities.

**Local Law 97 must prioritize funding and technical assistance for low-income building owners.**

In environmental justice communities, like Sunset Park, there are low-income buildings that include community facilities, residential buildings who offer affordable rents for longtime residents, and industrial businesses who are all constantly fighting the pressures of gentrification and displacement.

LL97 must ensure that there is sufficient funding and technical assistance available to ensure that low-income building owners and buildings that serve low-income residents are not burdened with high costs in order to meet emissions benchmarks.

State and local resources should be leveraged such that building upgrades for low income buildings are fully subsidized, and build community trust because many EJ communities have experienced years of energy scams. Funding resources for low-income building owners must be clearly communicated to and easily accessible.

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**Local Law 97 Implementation must incorporate improved building health and address the climate crisis**

Local Law 97 must be implemented with a framework that prioritizes the health of New Yorkers in order to increase climate adaptation, mitigation, and resilience. The COVID-19 pandemic has highlighted the need for healthy indoor spaces, especially for disadvantaged communities who have lived with a legacy of pollution exposure and health disparities. Building emissions reductions that occur as part of compliance with Local Law 97 must be conducted with the goals of improving overall building health. Potential emissions reductions must be coupled with improved air quality, reduced exposure to mold and vermin, and fully functioning heating and cooling systems. These health improvements must be especially prioritized in climate vulnerable and environmental justice communities with high existing toxic exposure pathways.

**Local Law 97 implementation must promote the development of local renewable energy resources like distributed solar and battery storage, which are critical to realizing the health and environmental justice benefits from replacing fossil fuel peaker plants.**

Half of New York City's peaker plants could be replaced as soon as 2025 with 3.2 gigawatts of combined solar, offshore wind, and storage assets. The remaining 2.9 gigawatts of peaker capacity could be replaced by 2030 with a similar combination of renewables and storage. Achieving these ambitious but feasible targets will require a bold commitment to accountability, equity, and collaboration in implementing both Local Law 97 and the state's Climate Leadership and Community Protection Act (CLCPA).

**Local Law 97 must support workforce development in disadvantaged communities**

According to the Urban Green Council, building energy retrofits required under LL97 could create approximately 126,000 jobs by 2030. New York City must ensure that disadvantaged communities have the resources and skills to access jobs, training, and opportunities in this growing green market. Members of disadvantaged communities must be prioritized for apprenticeship and training programs that prepare residents for positions in workforces needed for building energy retrofits.

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## **Local Law 97 must address the potential for increased heating costs for New York City tenants**

UPROSE is concerned that as New York City buildings electrify heating systems, that tenants will bear increased heating costs both due to higher electricity costs. Currently, many landlords are currently paying fossil fuel based heating bills in buildings, so we must be proactive in addressing potential energy cost concerns. New York City must ensure that implementation of LL97 does not increase energy cost burden for low-income residents in the short and long term.

We urge the New York City Council to support a bold and comprehensive model of LL97 implementation and investment in New York City. The City must be committed to co-governance and work directly with disadvantaged communities to retrofit buildings, support low-income building owners, and create workforce training opportunities to ensure green jobs are accessible to historically marginalized communities.

I would like to thank the New York City Council for holding this hearing and for the opportunity to testify.

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Climate Works for All Environmental Protection Committee - LL97 Oversight Hearing  
UHAB Testimony  
4.13.22

Good afternoon everyone, my name is Lucia Santacruz and I'm here on behalf of UHAB, or the Urban Homesteading Assistance Board. For 47 years, UHAB has been creating, preserving, and supporting resident controlled housing. We work with low and moderate income residents in housing cooperatives, known as HDFCs, as well as tenant associations to build leadership, democratic participation, and community through cooperation.

UHAB is part of the Climate Works for All campaign because HDFC communities are on the front lines of the climate crisis. Most HDFC residents are disproportionately impacted by the legacies of redlining, disinvestment, and deteriorating buildings, and many HDFC residents live in the areas of the city most vulnerable to rising sea levels and increasingly dangerous urban heat islands.

We are calling for the City to invest equitably and efficiently in affordable housing buildings that need retrofits in order not only to reach LL97 goals but also to maintain affordability and improve health and safety for the underserved residents. We are grateful for the strides the city has already made to fund energy efficiency and retrofit programs for affordable housing, but this progress still falls short. Many of the buildings we work with encounter roadblocks while trying to carry out large energy efficiency projects as there is a lack of funding for structural repairs which are part of the preparation process for clean heat and solar ready. Many buildings that we work with are committed to beneficial electrification and solar but are stalled due to high upfront costs of structural repairs like roof repair, which is not funded by the programs offered by the City and utilities. Consequently, we call for a shift of funding in existing programs to include structural measures that will help buildings prepare to electrify and install sustainable systems. Bearing in mind that the structural issues in these buildings come from historical disinvestment and redlining.

Residents and owners of affordable housing cannot be left behind in this fight: they are the ones on the frontlines of climate change, and they need to be at the table to guide us through a just transition to a more sustainable New York City. We demand targeted and efficient funding for the communities that need it the most in the most efficient way. Thank you.



April 13, 2022

**Founders**

Vernice Miller-Travis  
Peggy M. Shepard  
Chuck Sutton

**Testimony of Jasmine Graham, Energy Justice Policy Manager at WE ACT for Environmental Justice and Climate Mobilization Advisory Board Member**

**Board of Directors**

*Chair*

Jeff Jones

**To the New York City Council Committee on Environmental Protection & Committee on Housing and Buildings**

**Regarding Local Law 97 Implementation**

*Secretary*

Nancy E. Anderson,  
Ph.D.

Dear Committee Chair James Gennaro and the Committee on Environmental Protection and Chair Pierina Ana Sanchez and the Committee on Housing and Buildings:

*Treasurer*

Ken P. Mak

WE ACT for Environmental Justice is a community-based organization in Northern Manhattan that builds healthy communities by ensuring that people of color and/or low income residents participate meaningfully in the creation of sound and fair environmental health and protection policies and practices. Today we are testifying in strong support of Local Law 97 (LL97) and the need for adequate funding, enforcement, and implementation.

*Members*

Lakeisha M. Aquino  
Peter Bokor  
Dennis Derryck,  
Ph.D.  
David Evans, Ph.D.  
Abiola Fasehun, Esq.  
Eric A Goldstein, Esq.  
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Sarangi Iyengar  
Marielle Villar  
Martiney  
Crystal Romeo  
Upperman  
Vernice Miller-Travis  
Phillip Morrow  
Dart Westphal

My name is Jasmine Graham and I am the Energy Justice Policy Manager here at WE ACT. I am also appointed to the City's Climate Mobilization Advisory Board, where I am tasked with representing environmental justice communities in the implementation of LL97.

LL97 is a groundbreaking Building Performance Standard, which has garnered praise and set a precedent for large cities across the globe when it was enacted in 2019. Since its passage, there have been many attempts to undermine the strength, veracity, and necessity of the law and what it seeks to accomplish.

But here in New York City, over 70% of our total greenhouse gas emissions - the primary driver of climate change - are from buildings.<sup>1</sup> The climate crisis is rapidly worsening, so much so that the co-chair of the latest United Nations International Panel on Climate Change (IPCC) report, released less than two weeks ago, stated: "*It's now or never, if we want to limit global warming to 1.5°C (2.7°F); without immediate and deep emissions reductions across all sectors, it will be impossible.*"<sup>2</sup>

*Executive Director*

Peggy M. Shepard

<sup>1</sup> See <https://council.nyc.gov/data/green/>.

<sup>2</sup> See <https://www.ipcc.ch/report/ar6/wg2/>.



Without Local Law 97, our buildings will continue to be the leading local driver of the climate crisis, while poisoning the health of our children, families, and communities at large. Even more so, environmental justice communities - like the folks that we represent in Harlem - will continue to face the brunt of this burden and will be forced to sacrifice our health to subsidize the wealth of the real estate and fossil fuel industries.

Over 1,000 New York City residents are killed each year by pollution from fossil fuel use in our buildings,<sup>3</sup> and these harms are not felt equally across the City. Communities of color are exposed to 17% more air pollution, and Black communities are hit the hardest, breathing in 32% more particulate matter than their counterparts.<sup>4</sup>

**This is the time to ensure that Local Law 97 is implemented fully, robustly, and equitably. We strongly urge the Council to stand up against any attempts to weaken this mandate through penalty reductions or delays, meager enforcement, or the inclusion of “false solutions.”**

I would like to highlight a few overarching areas of concern and subsequent recommendations on behalf of WE ACT for Environmental Justice, which I will elaborate on in more depth in my written testimony:

**1) This is not the time for false solutions that fail to lessen our dependence on deadly fossil fuels in our homes and in our communities.**

Building owners should not be able to buy out of their obligations to clean up their dirty buildings. Given the severity of our City’s building emissions, it is crucial that we strengthen the law to prevent harmful cap-and-trade schemes and what the environmental justice community calls “false solutions.” For this reason, we would like to see more stringent requirements on the purchase of Renewable Energy Certificates (RECs) to meet emissions requirements and a steadfast opposition to carbon trading by the Council and Administration.

Ultimately, RECs should only be applied to electricity supply and should not be used to offset the GHG emissions from on-site fossil fuel combustion. Life offsets, REC purchases should be limited to 10% of a building’s GHG reduction requirements in order to maintain the local emissions reductions that this law was designed to generate.

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<sup>3</sup> See <https://iopscience.iop.org/article/10.1088/1748-9326/abe74c>.

<sup>4</sup> See <https://www.science.org/doi/10.1126/sciadv.abf4491>.



**2) We must ensure that costs will not be passed to tenants and that a clean energy transition centers energy affordability and addresses the energy burden crisis in New York City.**

New York City has an energy affordability crisis. We have some of the highest utility rates in the United States and it leads to exorbitant energy cost burdens. 32% of Black and 33% percent of Latino households in New York City have a high energy burden, meaning they spent more than 6% of their household income on their energy needs.<sup>5</sup> For reference, the median energy burden in New York City is 2.9%, yet the median energy burden among low-income folks is 9.3% and one in four low-income households has an energy burden over 17%.<sup>6</sup> In addition, there is a mounting utility debt crisis and more than 400,000 Con Edison customers have, on average, over \$2,000 of utility debt as of February 2022.<sup>7</sup>

For these reasons, energy affordability must be central to the implementation of Local Law 97. There have been attempts to allow penalties and costs to be passed on to residential tenants - that is unacceptable. One of the most practical ways to bolster energy affordability is with energy efficiency. We need to ensure that low-income and communities of color, especially, have energy-efficient buildings that keep their costs low and their families healthy.

**3) The Council and Administration should work together to engage affordable housing buildings that are currently exempt from Local Law 97 requirements and create a fund to help those buildings decarbonize.**

It is imperative that we find a solution to engage affordable housing, which is often exempt from the same mandates as market rate housing, thereby leaving the most vulnerable and marginalized folks in our communities behind once again.

One solution that we believe would provide a significant impact to our low-income and communities of color is an Affordable Building Fund. There are many ways to structure such a fund, but the core pieces are as follows: the fund should generate capital from some diversion of existing penalties or through the development of an alternative compliance mechanism, leverage State and Federal funding, and subsidize the cost of decarbonization, energy efficiency, and beneficial electrification measures in affordable housing, including NYCHA.

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<sup>5</sup> See [https://www.aceee.org/sites/default/files/pdfs/aceee-01\\_energy\\_burden\\_-\\_new\\_york\\_city.pdf](https://www.aceee.org/sites/default/files/pdfs/aceee-01_energy_burden_-_new_york_city.pdf).

<sup>6</sup> *Ibid.*

<sup>7</sup> See <https://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterSeq=1331&MNO=91-M-0744>.



**4) There needs to be adequate funding in the FY 2023 New York City budget for increased staff at DOB's Office of Building Energy and Emissions Performance (OBEEP).**

None of this work can be done without the dedicated and talented staff at OBEEP, who are responsible for "overseeing implementation of building energy and emissions performance laws and policies for existing buildings, new construction and major renovations" among other tasks.

We are asking for 15-20 additional staff in OBEEP in order to realize the goals of LL97.

**5) The Council should fund a major public education program through the NYC Accelerator to strengthen public knowledge and awareness of the City's climate policies, and the intersection of air pollution, health, and infrastructure.**

The most effective watchdogs are often those who are on the ground and closest to the work. Tenants should know and understand the requirements set forth in Local Law 97 and can act as on-the-ground enforcement to ensure that building owners are meeting their requirements. This can only happen if the public is aware of the responsibilities of their landlords and the methods of recourse available to them. Additionally, educating the public on the intersection of climate, health and infrastructure leads to more informed and conscious consumers, who in turn can be better stewards of the environment themselves.

We are so grateful for the Council's leadership on climate and building emissions. Our environmental justice communities thank you for standing up for our health and equal protection.

Thank you again for the opportunity to testify today. I am looking forward to working with both of you, Chair Gennaro and Chair Sanchez, the Environmental Protection, and Housing Building Committees on Local Law 97 implementation. Thank you for your time.

**Jasmine Graham**

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April 13, 2022

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*Executive Director*

Peggy M. Shepard

**Testimony of Lonnie J. Portis, Environmental Policy and Advocacy  
Coordinator at WE ACT for Environmental Justice**

**To the New York City Council Committee on Environmental  
Protection & Committee on Housing and Buildings**

**Regarding Local Law 97 Implementation**

Dear Committee Chair James Gennaro and the Committee on  
Environmental Protection and Chair Pierina Ana Sanchez and the  
Committee on Housing and Buildings:

I am Lonnie J. Portis the Environmental Policy and Advocacy Coordinator  
here at WE ACT for Environmental Justice. I want to first take the  
opportunity to thank both Chair Gennaro and Chair Sanchez for holding  
what climate advocates feel is one of the most important hearings The  
Council will hold this session.

WE ACT, an organization based in Harlem, has been fighting  
environmental racism at the city, state, and federal levels for more than 30  
years. WE ACT is testifying on the need to invest in the City's future by  
funding environmental and climate policies and programs.

We are in the midst of a worsening climate crisis and the City must do  
everything it can to reduce emissions, decarbonize our buildings, remediate  
environmental health hazards and more; all with environmental and climate  
justice as the foundation of this work. This Council has the rare  
opportunity to make this budget as climate forward as possible which will  
take bold, necessary investments.

The passage of the landmark Climate Mobilization Act in 2019, was a  
significant step in the right direction to reduce NYC's greenhouse gas  
emissions. Buildings across New York city contribute to [over 70% of the  
city's GreenHouse Gas emissions](#). Local Law 97 of 2019 (LL97) requires  
building owners to meet emission reduction targets by optimizing building  
energy systems to make them more efficient. This year we are fighting for  
funding to ensure that we make significant progress in implementing LL97  
equitably, as written, and create thousands of good green jobs here in New  
York City.





**There needs to be adequate funding in the FY 2023 New York City budget for increased staff at DOB's Office of Building Energy and Emissions Performance (OBEEP) which is responsible for "Overseeing implementation of building energy and emissions performance laws and policies for existing buildings, new construction and major renovations" among other tasks.**

The first compliance deadline for building owners is coming up in 2024, which leaves the city less than two years to ensure that the numerous technical details required for the implementation of the law are worked out. Staffed at the current capacity of six, this will not be sufficient going forward as there is much to do in order to work with the Advisory Board on recommendations and finalize numerous technical details to ensure the effective compliance of thousands of buildings.

I do want to acknowledge that in the *New York City Council's Response To The Fiscal 2023 Preliminary Budget And Fiscal 2022 Preliminary Mayor's Management Report*, The Council asked for \$450,000 for six additional OBEEP positions for LL97 implementation. While this is great awareness of a clear need, there needs to be more positions dedicated to this work given the number of buildings that will need to comply and the importance of meeting the law's mandates.

**WE ACT is recommending that ten to fifteen additional OBEEP positions be created solely for LL97 implementation to support analyses, rulemaking, compliance, enforcement and outreach.**

**In addition, The Council should fund a major public education program through the NYC Accelerator to strengthen public knowledge and awareness of the City's climate policies, and the intersection of air pollution, health, and infrastructure.**

The most effective watchdogs are often those who are on the ground and closest to the work. Tenants should know and understand the requirements set forth in LL97 and can act as on-the-ground enforcement to ensure that building owners are meeting their requirements. This can only happen if the public is aware of the responsibilities of their landlords and the methods of recourse available to them. Additionally, educating the public on the intersection of climate, health and infrastructure leads to more informed and conscious consumers, who in turn can be better stewards of the environment themselves.

Again, thank you for the opportunity to testify today. I am looking forward to working with Chair Gennaro and Chair Sanchez, the Environmental





Protection, and Housing Building Committees on Local Law 97 implementation. Thank you for your time.

**Lonnie J. Portis**

Environmental Policy and Advocacy Coordinator

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## Local Law 97

### Oversight Hearing > Georgi Testimony

4/13/2022

Good afternoon, my name is Georgi Page and I'm a Senior organizer for 350Brooklyn's City Action committee. We are an environmental organization with 1000s of members in Brooklyn that works locally to counter the global climate crisis.

Thank you Chairs Gennaro and Sanchez for convening this very important oversight hearing today so that together we can ensure that Mayor Adams' policies - and more specifically the adopted budget - reflect the law that we passed and help us to meet our CRITICAL emissions targets.

You all seem like very nice people...but I am here today in part because I once worked closely with real estate companies as an employee of a design firm. I was tasked with screening developers from all over the world who wanted to work with our firm. This role was actually kind of fun...until a developer wouldn't take 'no' for an answer and actually threatened us with the fabrication of a negative review of our firm by an esteemed architecture critic, unless we would take a meeting with them.

So let's be real, this is largely the culture that we're talking about: a group of people who are used to controlling lives, laws and compliance to serve their bottom line - but who we cannot simply trust to do the right thing. Therefore WE must do the right thing. We cannot afford to let anyone off the hook - building owners MUST meet the critical targets that have been so thoughtfully established. We don't have the option of letting them increase global warming *and possibly ending the planet* when we have provided ample resources. As a reminder we are working backwards from climate collapse: extreme weather events, wildfires and tornadoes that are devastating entire towns and communities.

So, I am deeply concerned about the lack of *seriousness* that the Adams administration - via its draft budget - seems to be showing about the implementation and enforcement of Local Law 97 and the concomitant lack of transparency about staffing - data we need during this budget season! They seem to think that reducing staffing in the most critical offices and pandering to the real estate industry with easily circumvented penalties will help us keep our title as the 'city of dreams'. It will not. With rates of asthma that are twice the national average, and what seems like a building explosion or catastrophic fire every year - we are becoming the city of nightmares. And these nightmares are the most real for the most vulnerable: frontline communities and recent immigrants - our tired, our poor 'our huddled masses yearning to breathe free.' People are dying, they are not just numbers in a spreadsheet or data points. And while they may not be YOUR niece or nephew, or your auntie, their lives matter, their ability to achieve in school and reach their goals matter, especially in a city like New York.

Mayor Adams should take note: voters in the state, at least, DO seem to be taking global warming seriously - on November 2nd, 2021 we approved a constitutional amendment making clean air, water and a healthful environment a human right. We are here today to protect that right - but we really shouldn't have to. Local Law 97 is a law, and our right to clean air is now a part of the state's constitution.

So why was this hearing necessary?! It seems that building owners have a hard time accepting imminent global warming and climate collapse as motivation - it's just way too big and abstract. We as a city need to demand that developers accept the big picture - as indeed the Empire State Building did, some 10 years ago. By implementing some simple solutions such as adding a film to its windows, this iconic building - symbol of New York City's aspiration - has reduced its energy usage by 40% and saved \$4 million per year, defraying the cost implementation and at this point making additional profits.

So, while I appreciate the tolerance and patience for building owners who for their own reasons do not meet the targets, we need to focus more of our sympathy on people with no resources, not just folks with every resource. We need to build on case studies like the Empire State Building and begin to walk the talk of our landmark legislation.

In order for citizens to hold this administration accountable we need to know **AS SOON AS POSSIBLE**:

- 1) A full accounting: How much money has been spent to date and where?
- 2) What is being done in terms of **ACTIVE** education and outreach to building owners? I am talking about phone calls and workshops, expos - not just producing documents, reports and guidelines. And we need adequate OBEEP staff to support this.
  - a) So **HOW MANY** staff are currently focused on education and outreach?
  - b) **HOW MANY** staff will be needed to do the kind of qualitative outreach and technical consulting required.

As citizens we know that we cannot afford to **NOT** meet our climate goals, so we demand that you give us the tools to do so.

Thank you.

**Testimony to the Committee on Environmental Protection, New York City Council- Local Law 97 Oversight Hearings. Mr James Gennaro, Chairman, Wednesday April 13<sup>th</sup>, 2022.**

### **Implementation of Local Law 97**

My name is Margaret Perkins and I am submitting this testimony to the Committee on Environmental Protection on behalf of the local climate group, 350NYC.org. My testimony focuses on the city's responsibility to guarantee the rapid, full implementation and enforcement of the landmark Buildings Emissions Bill, Local Law 97. LL97 represented a huge breakthrough in the fight for NYC to reduce its carbon emissions. In 2022, with only 2 years until the first benchmark assessment, there is little time we can lose in the roll-out and monitoring of compliance with the law.

It is estimated that 25% of the large buildings in NYC (about 8,000), covered by LL97, must to perform retrofits such that they comply with the 2024 emissions benchmark (Urban Green Council). About 70% of these buildings are residential, typically large multifamily dwellings.

**We know the identity of these buildings.** A quick search of the LL84 Database for 2020 identifies the name, owner and address of the buildings that are currently at risk for emitting more greenhouse gases per sq ft than the limit set for 2024.

[Energy and Water Data Disclosure for Local Law 84 2021 \(Data for Calendar Year 2020\) | NYC Open Data \(cityofnewyork.us\)](#)

Have the owners of buildings with emissions higher than 2024 limits been notified? How many have been directed to the Retrofit Accelerator for information in hiring contractors to do the necessary work and for PACE financing and other avenues for financing?

Clearly, we must have adequate funding in the FY 2023 New York City budget for increased staff at DOB's Office of Building Energy and Emissions Performance (OBEEP) to ensure buildings are aware of their penalties under LL97 and be given technical assistance to comply.

The city must have a robust system in place to do outreach to the building owners so that they are aware of the law, and their compliance obligations. Sending brochures is not sufficient.

Finally, the upgrading of the LL84 database that focuses on the delinquent buildings is warranted. Buildings are self-reporting their energy use and spot audits should be more extensive to ensure the validity of the data entered.

Efforts to slow and reverse the drivers of Climate change know no parallel in human experience. Once the atmospheric changes caused by greenhouse gases are set in motion, they will be destructive and irreversible. NYC must step up to its climate responsibilities, and rapid and verifiable implementation of LL97 is pivotal to that responsibility.

Thank you,  
Margaret Perkins,  
Steering Committee 350NYC  
180 West End Ave, 27F,  
New York, NY 10023  
meperkins@nyc.rr.com

New York City Council Hearing on LL 97, April 13, 2022, 10:30; Virtual Room 3

Thank you for this opportunity to present views on Local Law 97. My Name is Catherine Skopic. I am a member of several Environmental Groups, have attended 3 United Nations Global Conferences: the 20th Anniversary of the First Global Climate Conference in Rio de Janeiro in 2012; COP 14 in Lima, Peru in 2014, and COP 21 in Paris, France, 2015.

This does not make me an expert, but anyone who has read the IPCC report, pays attention to climate in our country and around the world knows we are in a climate emergency - CODE RED!

We must eliminate fossil fuels and methane. In New York City, this means retrofitting our thousands of buildings - our largest polluting sector - to make them energy efficient.

Local Law 97 seeks to do just this. I support its passage.

The immense scope of meeting this goal is both a challenge and an opportunity. It's a challenge simply because of the number of buildings that must be retrofitted, their age, the extensiveness of retrofits that must be made and the impact of the necessary construction. It is an opportunity because of the thousands of jobs that will be created, the stimulus to our economy and the improved health and well-being of our citizens that will be realized when the job is done, especially for our environmental justice communities that have for decades have suffered so many negative impacts from polluting gas plants, factories, incinerators, excessive traffic and coal plants.

No REC's - Renewable Energy Credits from Tier 4 into Zone J - New York City - the energy efficiency of buildings must be accomplished!

We need sufficient funding in the budget to provide the additional personal, experts and staff that will be needed to provide the necessary services to communities, building owners, suppliers, and everyone that will be needed to fulfill these goals and the New York State law set forth in the CLCPA - Community Leader and Climate Protection Act.

Thank you, Catherine Skopic

**Delia Kulukundis**

2728 Thomson Avenue, Unit 445  
Long Island City, NY 11101  
dkulukundis@gmail.com

April 16, 2022

**James Gennaro**

Chair, Committee on Environmental Protection  
New York City Council

Re: Implementing and enforcing Local Law 97 by encouraging electrification

Dear Councilmember Gennaro,

I am writing to urge the City Council to fully fund the implementation and enforcement of New York City's nation-leading climate law, Local Law 97. The Office of Building Energy and Emissions Performance (OBEEP) within the Department of Buildings (DOB) must be fully staffed and funded in the FY 2023 New York City budget.

I live in a luxury building which received a "D" rating on its energy audit, and all units in my building have gas stoves. Residents like me who would like to replace their gas stoves with induction models were prohibited from doing so because our building has a single gas meter for all of the units. We need enforcement of Local Law 97 to ensure that we can make the upgrades that improve our health, since indoor stoves are associated with a 42% increased risk of childhood asthma.<sup>1</sup> The cost is not a problem for the owners of the units in my building, but we need the "stick" to compel our Board and management company do the right thing.

My building is a small example of a larger issue: the current use of fossil fuels in buildings, and the immediate need to electrify everything and run it on renewable energy. I urge you to ensure that the rulemaking for Local Law 97's implementation prioritizes the elimination of fossil fuels in favor of clean efficient electric alternatives for heating and cooking. Making retrofits to eliminate fossil fuels may increase the use of electricity - and that's ok! We should reward buildings that fully decommission their fossil-fuel-burning appliances (oil or gas) and disconnect themselves from the gas system. We should also reward buildings for making themselves into grid assets by participating in demand-response programs<sup>2</sup>.

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<sup>1</sup> Meta-analysis of the effects of indoor nitrogen dioxide and gas cooking on asthma and wheeze in children, *International Journal of Epidemiology*, Volume 42, Issue 6, December 2013, Pages 1724–1737  
<https://academic.oup.com/ije/article/42/6/1724/737113?login=false>

<sup>2</sup>

<https://www.energy.gov/oe/activities/technology-development/grid-modernization-and-smart-grid/demand-response>

It is essential that the City Council fully fund the Department of Buildings to ensure that the rulemaking is done carefully now, to prioritize getting buildings off of fossil fuels, and to make sure that the law is fully enforced - our climate and our health depend on it.

Sincerely,  
Delia Kulukundis

Ed Yaker  
Orloff Avenue  
Bronx, NY 10463

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Testimony to the Environmental Protection Committee and the Committee on Housing & Buildings

Commenting on Local Law 97 Oversight

By Ed Yaker

April 13, 2022

For identification purposes, I am Chair of the Coordinating Council of Cooperatives of Greater New York (CCC), Board Member and Treasurer of Amalgamated Houses in the Bronx, the oldest limited equity housing cooperative in the nation, and I am honored to serve on the Multi-Family Working Group, assisting the Advisory Board in its work on Local Law 97.

Given that identification, these comments are my own alone. Please don't hold the organizations responsible for my comments.

The CCC grew out of the United Housing Foundation which created more units of affordable cooperative housing than any non-government entity in the country. Today we are a mix of government supervised and market rate co-ops that are home to more than 20,000 New York City households. About two thirds of our co-op homes are still in limited equity, affordable apartments. Over the years our members have been leaders in energy efficiency and environmentally conscious management. We want to see LL 97 succeed.

I was born and raised at Amalgamated Houses, and have served on its board for more than forty years. Our earliest building was built in 1927, but we have a mix of buildings of different ages and construction types. Our "newest" opened in 1968 and 1970. I know the problems and costs of maintaining buildings as they age, and I know first-hand the pain of standing in front of my neighbors and having to say, "We need a carrying charge increase, we need more money from you in order to maintain our cooperative."

I am honored and proud to serve on the Multi-Family Working Group. I am impressed with the intelligence, knowledge and dedication of the members of the Advisory Board that I have met, and the members of the Working Group that I serve with. I am especially impressed with the members of DoB Office of Building Energy & Emissions Performance. I acknowledge that I have had frustrations over the years with several government agencies, including DoB. The staff of OBEEP "exceeds expectations" and gives government a good name!

With that background, here are my comments:

1. Provide OBEEP the staffing and funds they need to do the job on LL97. I know the tasks the law asks of OBEEP, and I know what we on the Working Group add to their load, all



in the interests of reducing emissions in a fair and equitable manner. They need the resources to do what our City asks of them.

2. Find ways to reduce the cost of other mandates the City imposes on building owners. Local Law mandates, especially Local Law 11 (FISP) has been the greatest driver of carrying charge increases for my co-op over the last ten or fifteen years. Here is one example of an unnecessary cost our buildings bear. One of our buildings has facades facing three different streets. If there is one safety problem on one façade, we must pay for shedding on all facades of the entire building, until DoB signs off on the entire building as safe. I could go on and cite other examples, but money spent wastefully makes it harder to pay for emissions reducing measures. No one wants to see anyone harmed by a brick falling from a building, but the fact is more people die of climate related problems such as asthma or heat stroke than falling bricks. But climate related illness does not make the same headlines.
3. The Alternate Pathway may help buildings with limited financial resources, but does little to really reduce emissions. Provide funding for more effective measures or expand the alternative measures to be more effective.
4. I know it is challenging, but figure out how to get reduced emissions from single family homeowners. On a per unit basis they are probably less efficient than multi-family buildings, and I know from what I hear from cooperators throughout the city, the resentment of “letting them do nothing” reduces support for what is asked of those who must comply.
5. With all due respect for PACE, it is not good enough. Rates are too high. The energy conservation measures approved have been vetted by groups such as NYSERDA and the money will be collected through property tax, so there is no risk. Buildings can do more with 4% money than 7% money. If the City Council lacks the ability and authority to provide cheaper money, become lobbyists for it with your state and federal counterparts.
6. Look for ways to reduce regulatory burdens. The more hoops building owners have to jump through, the less will get done.

I appreciate the work being done by the City Council and everyone else on the Climate Mobilization Act. We need to keep this moving forward, while maintaining the affordability of affordable housing.

**Testimony to the Environmental Protection Committee and the  
Committee on Housing & Buildings  
Commenting on Local Law 97 Oversight  
by Gregory Carlson  
April 13, 2022**

**Let me introduce myself, I am the Chair of the National Association of Housing Cooperatives (NAHC); Executive Directors of the Federation of New York Housing Cooperative and Condominiums (FNYHC); Treasurer of the Council of New York Cooperatives and Condominiums (CNYC) and Cooperative Board President of Fairview Owners Corp, a 424-unit cooperative in Forest Hills, Queens. In fact, before the redistricting in the 2010's Council Member Gennaro was Fairview City Council Representative. (Jim glad to have you back where you belong) As far as Energy-efficiency, the Fairview was ahead of the time when New York City on the outset of banning number 6 oil. The building got governmental rebates and energy reduction which made a million-dollar elevator upgrade of the building's elevator system. With Local Law 97 looming the Fairview Cooperative Board was making long term plans for compliance with the law. Then, September 1<sup>st</sup> happens, and Hurricane Ida rushed down to Fairview with twenty million dollars' worth of damage two hundred and fifty garage resident lost their automobiles and we had a loss of life. Since we lost all the energy saving equipment, so the Fairview was forced to accelerate our Local Law 97 plans. The Fairview is working with NYC Accelerator program and recently filmed Fairview for the "Earth Day" spots and visual. On April 22<sup>nd</sup> (Earth Day) Mayor Adams is scheduled to make an appearance at Fairview (so yes Jim I am still around).**

**I will not repeat what was already said in oral and written testimony, but I want to agree with those from the President's Council of Cooperators and Condominiums (PCCC) which have indicated that garden style complexes (scattered sites) offer a significant barrier for compliance, especially that they have many plant equipment areas. There are many rental buildings in this category, Fairview neighbor is a rental complex with similar characteristics as the PCCC testified. I**

**am looking forward to Mr. Gennaro's offer of a sit down with various parties.**

**I too am a proud member of the Multi-Family Working Group, advising the Local Law 97 Advisory Board. This group did try to address the above paragraph issue call the campus style category. Mostly it was complex that generated their own electricity. The Department of Building does a great job to direct and keep the group in focus. For the almost two years on the Working Group, I have learned all the new technology and have been applying that with Fairview's energy consultants. (Knowledge is a powerful tool).**

**What is needed to keep housing affordable is funding. Just as J-51 helped keep the housing stock livable, we need the same for Local Law 97 (I call it an E-51). You can not force building owners in compliance by mandates, but you may induce them by incentives. In conjunction with incentives funding is need for the Building's Department increase to help building owners to comply and implement compliance.**

**Lastly, I like what I see in the financing aspects of the PACE program and the Fairview is examining the program. No cooperative has a application for the program due to a barrier that no one can answer. Cand the PACE program interest be passed through to the Cooperative shareholders. The Accelerator Team is still looking into this important matter. In my opinion, one need an IRS support letter.**

**Thank you for this opportunity to share my view and thank you to Jim for his shout out of me!**

Hello. My name is Iram Amin, and I live in Bensonhurst, Brooklyn. Thank you for organizing this public hearing. I feel empowered today to be able to voice my opinion on this very important cutting-edge law. I have been an environmental enthusiast since 2013 when I first heard of the word “sustainability”. I have a bachelor’s degree in Environmental Studies and Sociology from St. Lawrence University. My educational background and personal experiences compel me in wanting to see environmental laws being implemented and enforced and Local Law 97 is one of them! The fact that large buildings contribute to 70% of the city’s greenhouse gas emissions is a huge eye opener for me. We must set this record right. There needs to be adequate funding in the 2023 New York City budget for increased staff at DOB’s Office of Building Energy and Emissions Performance because a few staff members won’t be enough to make the necessary energy efficiency upgrades. The first compliance deadline for building owners is coming up in 2024, which leaves the city less than two years to ensure that the numerous technical details required for the implementation of the law are worked out. And lastly, this bill is even more crucial for environmental justice communities who are disproportionately impacted by climate change, whether it is the urban heat island effect or frequent and extreme natural disasters. I am speaking on behalf of these communities as it is a matter of life and death for so many living people in these environmental justice communities and Local Law 97 will ensure immediate health benefits for those people. Therefore, I want to see full implementation and enforcement of Local Law 97, meaning that the penalties on the developers are fair, they should not be weakened, and they must be enforced! This is better and sustainable for everyone involved! Thank you again for this opportunity to testify today.

I'm a Brooklyn homeowner who has worked as a manager in low income housing, first at HPD and later in a nonprofit. So I've seen efficiency first hand and I know both sides, how we waste huge amounts and how we can close up the gaps in our buildings. I believe Local Law 97 is our city's best path to a rapid reduction in carbon emissions. Yes, we can wait for building owners to get around to fixing things up, but that can't possibly happen in time unless we have the mandates pushing us.

I urge the City to increase the staffing at the Office of Building Energy and Efficiency Performance, because the job needs to be done right in order to create detailed guidance for owners, then spread the word, and bring about widespread cooperation in our real estate community. Once the largest buildings are able to meet the lower emissions standards, our smaller homes must be shown how they can also reduce carbon emissions.

Most important, we have to create the incentives for electrification which will reduce the burdens in environmental justice neighborhoods.

**Joanne Boger**

My name is Marc Schmied. I am a long time Brooklyn resident concerned about climate change and my country, state and city's slow response to the most important threat of our time. There are so many reasons why we need LL97 to be enforced now that I hardly know where to begin.

Since over 70% of New York City's greenhouse gas emissions come from dirty buildings, it is imperative that we start bringing down our emissions in order to meet the levels outlined in LL97 - which is a LAW, not an option. Are we a society of laws and enforcement, or are we not?

Like many New Yorkers, I voted for Mayor Adams in the hopes that he would forge a more trusting relationship between the NYPD and the people of New York. Not enforcing our laws erodes trust in our mayor, our justice system, and the police.

After suffering through more than 2 years of the COVID 19 pandemic infecting our respiratory systems, it is terrifying that we are still breathing these levels of fossil fuel pollution and toxins. Enforcement of LL97 is a tool we already have at our disposal to improve the health of all breathing New Yorkers.

Local Law 97's first pollution limits, starting in 2024, are set at a high level. Only the most polluting buildings - about one fifth of large buildings - exceed these 2024-2029 thresholds. The law's 2030 limits are much tighter. Currently, about three-quarters of large buildings exceed the 2030 limit. Many large buildings will need substantial energy efficiency upgrades to reduce their pollution below the 2030 pollution caps.

Local Law 97 is currently on track to generate large-scale economic activity and jobs, including good, union jobs for low-income and communities of color; improve local air quality; and cut utility bills and operating costs.

I understand the real estate industry's right to do business and make profit, but with all due respect, I think they've been doing pretty well. Our city's air and our planet's health are not doing well, and that is a trade we should not be willing to make. I beg of you, let us begin a rigorous enforcement of LL97 and transition to sustainable energy and consumer practices as soon as humanly possible. Let New York be a part of the solution, not a continuing part of the PROBLEM.

Thank you.



April 13, 2022

**Testimony from Arcadia  
To the New York City Council Committees on Housing and Buildings & Environmental  
Protection on Local Law 97**

Community Solar as a Qualified Compliance Pathway for Buildings  
to Meet Local Law 97 Requirements

Speaker Adams, Chairs Sanchez and Gennaro, and members of the committees on Housing and Buildings and Environmental Protection, my name is Austin Perea and I am the New York Policy Manager at Arcadia, a climate tech company empowering energy innovators and consumers to fight the climate crisis.

Arcadia would like to commend the City Council and Mayor Adams for taking the steps necessary to fight climate change, reduce the City's dependence on fossil fuels, and improve air quality for all New Yorkers. As such, we also want to urge the Council and Mayor Adams to take further action that will provide more access to renewable energy, in particular community solar. This includes allowing residential and commercial customers to use community solar to meet the requirements of Local Law 97.

Below we provide an overview of Arcadia's extensive experience working in the renewable energy sector across the United States. We then provide a brief overview of community solar in New York and our recommendation that community solar be explicitly defined as a compliance path for meeting Local Law 97 obligations.

**Who is Arcadia?**

Arcadia is building the software necessary for all New Yorkers to realize the full benefits of clean energy. Arcadia's software makes it possible for energy technology providers to meaningfully engage with their customers and move clean energy forward by enabling simple user experiences that will save people money.

The first industry served at scale with Arcadia's software is community solar, where Arcadia manages subscribers across more than 700 MW of community solar capacity nationwide - making it the largest manager of residential community solar subscribers in the United States. In New York, Arcadia manages 300 MW of community solar subscriptions. For context, New York State just surpassed 1,000 MW of community solar projects in operation.

**Community solar is a key part of New York's energy portfolio**

Community solar is a Distributed Energy Resource (DER) program by which individuals, businesses, non-profits, governments and other energy consumers can realize the benefits of a solar energy project sited in their community. When a customer subscribes to a community solar project, the energy generated from the project is then credited to their electricity account via the



same mechanism that rooftop solar (or any on-site DER) uses to reduce a customer's electricity usage. In this respect, community solar and rooftop solar meet the same DER goals of sourcing electricity locally, increasing resiliency, and reducing reliance on the grid. This is particularly important for customers that may not be a good fit for rooftop solar, because of limited or unsuitable rooftop space.

In New York, community solar is formally known as "Community Distributed Generation," or CDG. A CDG project must be sited within the same utility territory as the customer, ensuring that emissions benefits are localized in nature. Therefore, any customer subscribed to a CDG project in NYC would be sourcing the credits from a project sited in NYC or Westchester County.

### **CDG should be a qualified compliance pathway for Local Law 97**

Many buildings in NYC are not a good fit for rooftop solar. The owners of these buildings need compliance pathways under Local Law 97.

Arcadia's recommendation is that buildings covered under Local Law 97 should be explicitly permitted to use CDG as a compliance pathway via either a credit or qualified deduction from reported annual buildings emissions. Given that CDG has exceedingly similar benefits to rooftop solar, Arcadia believes that CDG qualifies as a DER as defined in LL97 (below) and is therefore a suitable compliance pathway via an emission deduction through use of DERs:

"The term "a distributed energy resource" means a resource comprised of one or multiple units capable of generating or storing electricity, all at a single location that is directly or indirectly connected to an electric utility distribution system. The resource may serve all or part of the electric load of one or more customers at the same location, and it may simultaneously or alternatively transmit all or part of the electricity it generates or stores onto the electric distribution system for sale to or use by other customers at other locations." (LL97, pg 6)

That said, there remains ambiguity in other parts of LL97 as to whether CDG is explicitly permitted as a compliance pathway. In particular, § 28-320.3.6.3 could be interpreted to unintentionally disallow CDG, as the section defines a compliance deduction as follows: *"a deduction from the reported annual building emissions shall be authorized based upon the calculated output of a clean distributed energy resource located at, on, in, or directly connected to the building subject to the report."* (LL 97, pg 13). Given that CDG provides the benefits of clean energy, but is not sited on a customer's premises, the law as written creates ambiguity as to whether CDG would qualify as a compliance pathway.

Arcadia believes that all available solutions be explored as compliance pathways to meeting the ambition of Local Law 97. CDG presents an excellent opportunity for building owners to help

meet their compliance obligations while also supporting the City's objective of deploying more clean energy.

Indeed Chief Climate Officer Louise Yeung of the NYC Office of the Comptroller called for this in her [testimony](#). Specifically, she called on the City to, "allow owners to consider rooftop solar installations (including community solar) as effective strategies for compliance." We agree with the Chief Climate Officer's statement. Accordingly, Arcadia encourages the City Council and the Department of Buildings to act promptly to remove any ambiguity and clearly define CDG as a compliance pathway.

As the City Council, the Mayor's Office, Department of Buildings, and other interested stakeholders seek to create rules around CDG compliance, Arcadia is happy to leverage our industry experience in community solar to be a partner to the City.

We appreciate the opportunity to submit this testimony and welcome the opportunity to work with the City to find common sense ways to improve access to renewable community solar, lower utility bills and improve air quality. Please contact Austin Perea at [Austin.Perea@arcadia.com](mailto:Austin.Perea@arcadia.com) if you would like to discuss these matters further.

Sincerely,

Austin Perea  
Policy Manager  
Arcadia