

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON ENVIRONMENTAL PROTECTION

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April 24, 2017

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HELD AT: Committee Room - City Hall

B E F O R E: COSTA G. CONSTANTINIDES
Chairperson

COUNCIL MEMBERS: Stephen T. Levin
Rory I. Lancman
Donovan J. Richards
Eric A. Ulrich

A P P E A R A N C E S (CONTINUED)

John Lee, Deputy Director
Green Buildings and Energy Efficiency
Mayor's Office of Sustainability, MOS

Suzanne DeRoche, Deputy Director
Infrastructure Policy
Mayor's Office of Recovery and Resilience, ORR

Geraldine Kelpin, Director
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Iyad Kheirbek, Director
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Eric Goldstein
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Adriana Espinoza, Manager of NYC Program
New York League of Conservation Voters

Beryl Thurman, Executive Director & President
North Shore Waterfront Conservancy
Staten Island, New York

Andrew Rigie, Executive Director
New York City Hospitality Alliance
Also Appearing for: Greg Hunt, Owner Café Talullah

Lewis Bailey
We Act for Environmental Justice

Amanda Gabai, Tax Attorney
Fuel Activist
Member of 350.org & Citizens Climate Lobby

Paula Spear
Member of 350.org

Bob Wyman
Upper Wet Side Resident

Rocco Lacertosa, CEO
New York Oil Heating Association

Demos Demopoulos, Secretary-Treasurer
Teamsters Local 553

2 [sound check, pause]

3 CHAIRPERSON CONSTANTINIDES: [gavel] Hi,
4 good afternoon. I am Costa Constantinides, Chair of
5 the Committee on Environmental Protection, and today
6 the Committee will hold a hearing on Intro 1465 and
7 Intro 1503-A both bills amending the Administrative
8 Code in relation to the use of fossil fuels in New
9 York City. I want to recognize my colleague and
10 member of the committee Donovan Richards from Queens
11 and also Council Member Ben Kallos who is joining us
12 today from Manhattan. So thank you Council Member
13 Kallos as well for being here today. Today, we hold
14 a hearing on Intro 1465 prohibiting the use of No. 4
15 oil after 2025 and Intro 1503, which would codify the
16 prohibition against the doors open on commercial
17 premises when air conditioning is on would not—as it
18 applies to restaurants. There are general two types
19 of fossil fuels used as sources of energy in New York
20 City: Natural gas and fuel oil. The most fuel oil
21 use in New York City is any of these three grades
22 either No. 6 oil, No. 4 oil, or ultra low sulfur—
23 sulfur diesel No. 2 or ULSD No. 2 oil. We burn these
24 fuels to generate heat in buildings and steam
25 electricity in power plants. According to one

report, No. 4 oil that is used in the city is typically a mix of No. 6 and No. 2 oil in a 50/50 proportion. Like No. 6 and No. 2 oils, No. 4 is defined by the physical and performance specifications that it meets. No. 4 is used in large stationary engines, power plants and large building boiler. No. 4 oil when burned as heating fuel may contain several contaminants such as sulfur and nickel. No. 6 and No. 4 oil contains sulfur, nickel and other impurities and can be difficult to burn cleanly and completely. Combustion of these fuels emits unburned fuel in the form of soot, which spews out of exhaust stacks and chimneys or coats boiler and combusting equipment. Because of their sulfur content, burning No. 6 and No. 4 oils also releases significant quantities of particulate matter in the air. These fine particles become embedded in people's lungs that cannot be expectorated. In the city, fine particulate matter causes more than 2,000 deaths annually, 2,000 hospital admission for heart and lung conditions annually and approximately 238,000 and 84,000 annual emergency room visits for asthma in children and adults respectively. Emissions for heavy metal nickel are also significant

concern as it can increase risk of heart disease and other ailments. These pollutants impact most heavily on vulnerable populations like children, the elderly and people with pre-existing conditions. Switching from No. 4 oil to No. 2 oil eliminates the emission of harmful nickel. Additionally, the ULSD No. 2 oil contains only 15 parts per million of sulfur compared to 3,000 parts per million in No. 6 and No. 4 oils, and according to the city's Department of Environmental Protection once these dirtier fuel grades are completely phased out, it will reduce the number of fine particulate matter emitted from heating buildings by at least 63%. Buildings using heating fuel, natural gas, electricity, steam and biofuel are responsible for over 70% of the citywide emissions. Of total emissions from the building sector, residential buildings account for 48%, commercial buildings 29% and industrial and institutional buildings account for the remainder. Of the total emissions generated by buildings about 55% are due to on-site combustible natural gas and liquefied fuel to produce hot water, heat and cook. According to September 2106, the inventory of New York City's greenhouse gas emissions in 2015. In

2 calendar year 2015, buildings citywide consumer—this
3 is billion, right? So 1 billion, 90 million, 3001
4 thousand and 149 liters of No. 2 oil. I'm not going
5 to read all these millions, but it's—we're talking
6 about millions, 451 million liters of No. 4 oil and
7 54 liters—54 million liters of 6 oil. This
8 legislation, if enacted, would reduce No. 4 and No. 6
9 by over 506 million, 664 thousand, 544 million
10 liters. This is oh, wow, 133 million, 864 thousand,
11 675.525 gallons of oil. Each gallon of oil is
12 equivalent to .00875 tons of—of carbon CO² emissions.
13 The average car emits 4.7 metric tons of CO² each
14 year. So this is the equivalent of removing 249,183
15 cars per—per year from the road. I'm going to test
16 you all later on all these numbers. [laughs] That's
17 why Intro 645—1465 is an important step. Currently,
18 the New York City area is in violation or no
19 attainment with the Clean Air Act's Ozone Standard.
20 Low ozone level is produced in part from nitrogen
21 oxides emitted from various sources including from
22 boilers burning fuel oil. With Intros 1465 the City
23 could see up to a 20% drop in nox from these boilers.
24 Rates are of particulate matter, i.e., soot,
25 emissions will drop dramatically as well as No. 2 oil

emits 95% fuel particulates than No. 4 and No. 6. As New York City came—only came into compliance with the Particulate Matter Standard in the last few years, we are obliged to ensure that we do not backslide on our recent gains. In 2009, when the city largely eliminated the use of No. 6 oil, New York City Department of Health estimated it prevented as many as 1,000 deaths annually from asthma. This legislation, which eliminates the use of burning No. 4 oil in 2025 will also now save lives now being lost to asthma and prevent hospital emergency room visits dues to heart and lung disease. Intro 1503 would effectively create an exemption to the requirement that stores keep their exterior doors and windows open while an air conditioner is operating in relation to restaurants. The exemption that—that connect in-door seating areas where food and beverages are served outside this bill would take effect immediately upon enactment. This bill in no way weakens the requirement that retail stores keep their doors closed when their air conditioning is on, but supports our local restaurants that have spent tens of thousands of dollars to—to—prior to this law being enacted to have that interaction with the

2 outside. Both laws seek to unnecessary—to reduce
3 unnecessary air pollution while equitably protection
4 all New Yorkers. With that, I will turn it over to
5 Council Member Kallos for a brief statement.

6 COUNCIL MEMBER KALLOS: Thank you, Chair
7 Costa, for your leadership on the Environmental
8 Committee and all that you're doing. As Council
9 Member for the Upper East Side I can't look anywhere
10 in my district without seeing the smoke stacks from
11 the two Con-Ed plants and Ravenswood immediately
12 adjacent to my district and your district. I applaud
13 and extend my support for Introduction 1465, which
14 makes a faster timetable because we should not be
15 tolerating another 13 years of No. 4 heating oil in
16 our city, and over this past week I opened the Daily
17 News for a report from DOHMH that was saying that the
18 air quality is getting better except in my district,
19 and we can't get better air quality in the East Side
20 unless we can get the dirty 4 oil out. So I just
21 want to commend you, and thank you for this hearing
22 and for your leadership on this topic and thank you.

23 CHAIRPERSON CONSTANTINIDES: Thank you,
24 Council Member Kallos for your support and—and for
25 being here today. Thank you. Next up, I'll hear

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2 from the Administration and—and their testimony. If
3 you would please be sworn? [pause]

4 LEGAL COUNSEL: Can you please raise--can
5 you please raise your right hand? Do you wear or
6 affirm to tell the truth the whole truth and nothing
7 but the truth today?

8 DEPUTY DIRECTOR LEE: [off mic] Yes.
9 [background noise, pause] Good afternoon, Chair
10 Constantinides and members of the committee. I am
11 John Lee, Deputy Director for Green Buildings and
12 Energy Efficiency in the Mayor's Office of
13 Sustainability or MOS. Thank you for this
14 opportunity to address Introduction 1465 and
15 Introduction 1503-A and to speak about the use of
16 fuel oil No. 4 and No. 6 in the city and the de
17 Blasio Administration's effort to improve air quality
18 in New York City. I'm joined here today by my
19 colleagues to my left Suzanne DeRoche, Deputy
20 Director of Infrastructure Policy in the Mayor's
21 Office of Recovery and Resilience, ORR. To my right,
22 Geraldine Kelpin, Director of Air and Noise Policy
23 and Enforcement of the Department of Environmental
24 Protection, DEP, and to my far left Iyad Kheirbek,

25

2 Director of Air Quality Program at the New York City
3 Department of Health and Mental Hygiene, DOHMH.

4 Introduction 1465 would require the phase
5 out of fuel oil grade No. 4 in boilers by October 1,
6 2025 instead of January 1, 2030 as the law currently
7 requires. We support the intent and objective of
8 this legislation as exemplified by the commitments
9 and progress that the city has made to address
10 climate change and air quality. While there is still
11 more work to be done, air quality our city has
12 improved greatly in the past several decades with
13 levels of harmful air pollutants in the past few
14 years well below concentrations of 10 years ago. Just
15 last the Health Department release the latest New
16 York City Community Air Survey, the NYCCAS, the
17 largest ongoing street level urban air monitoring
18 program of any U.S. city. The survey found that
19 between 2009 and 2015 the citywide annual outreach
20 concentration of fine particulate matter, PM 2.5
21 declined significantly by about 18%. The greatest
22 improvements in PM 2.5 levels over this time period
23 occurred in some of the previously most polluted
24 neighborhoods. A key factor in the reduction of fine
25 particulate matter in subsequent air quality

improvement has been the phase out of the use of the heaviest heating oils in buildings. In 2011, DEP issued regulations requiring residential and commercial buildings to convert from No. 6 and No. 4 heavy heating oils to cleaner fuels. The transition from No. 6 fuel was completed by June 30, 2015 with the amendment of the Air Code within the City's Administrative Code any use of No. 6 fuel oil must be ended by 2020 and any use of No. 4 fuel oil by January 1, 2030. To date, DEP has achieved 100% compliance with the phase out of Fuel Oil No. 6. More than 6,300 buildings have converted to cleaner fuels, many with assistance provided through the New York City Clean Heat Program. Approximately 75% of these buildings converted directly from No. 6 Fuel Oil No. 6 to natural gas or Fuel Oil No. 2. As a result of all fuel conversion since 2012, greenhouse gas or GHG emissions in New York City have decreased by 925,000 metric tons of carbon dioxide and equivalent annually, the equivalent of taking roughly 195,000 cars off the road. PM 2.5 emissions from buildings have also decreased by 510 tons, 510 tons an annual basis, preventing an estimated 110 premature deaths and 250 emergency room visits and

hospitalizations each year. This success was achieved with the help of the NYC Clean Heat Program and its successor the NYC Retrofit Accelerator. Neighborhoods with the highest density of boiler conversions such as Northern Manhattan and the Southern and the Western Bronx saw the greatest improvement in air quality with the greatest proportion of health benefits occurring in vulnerable high poverty areas. In May 2015, the City working with the Council—with the Council also enacted changes to the Air Pollution Control Code, Local Law No. 38. The law requires all permanent entities including in-city power plants using steam generating boilers for electricity generation to completely phase out the use of Fuel Oil No. 6 by 2020 and fuel No. 4 by 2030 thereby prohibiting any use of Fuel Oils No. 6 or No. 4 in the city. While all New Yorkers have a stake in improved air quality, there are disparities within the city in both exposures and pollution contributing to low health outcomes. DOHMH has clearly documented that adverse health outcomes resulting from poor air quality occur disproportionately in high poverty communities. Reducing pollution emissions from predominant sources

such as an earlier phase out of Fuel Oil No. 4 throughout the city will reduce these health disparities. To comply with existing 2011 BEP regulations on the use of Fuel Oil No. 6 or No. 4, the benefits of which were discussed previously, roughly 1,200 buildings converted from Fuel Oil No. 6 to No. 4. Another approximately 1,800 buildings were originally using the Fuel Oil No. 4 and thus have yet to make any conversions to date as the current affords until December 31, 2029 to eliminate the use of Fuel Oil No. 4. Therefore, the proposed legislation would impact about 3,000 buildings in New York City. In many cases, more significant expenditures are required to convert from Fuel Oil No. 6 and Fuel No. Oil—Fuel Oil No. 4 to Fuel Oil No. 2 or natural gas then just converting from Fuel Oil No. 6 to Fuel Oil No. 4. Fuel Oil No. 4 is cleaner than Fuel Oil No. 6 from an emissions perspective. Therefore, the overall incremental air pollution impact from converting from Fuel Oil No. 4 to No. 2, which many buildings did as part of the original mandate. Looking more closely at power plants, there are 24 in-city electric generating facilities containing 121 generating units with a combined

capacity of approximately 10,000 megawatts, enough to meet over 80% of the city's peak demand as required by the New York Independent System Operator or NYSO.

All in-city electric generating facilities rely on natural gas as their primary fuel. Two electric generating facilities currently use Fuel Oil No. 6 as backup fuel. Electric generating facilities are required to hold a new fuel Oil as a backup fuel.

The requirements to use fuel oil as backup is triggered when there is high electricity demand or constraints on natural gas supply coming into New York City otherwise known as "minimum oil burn rule."

Which is promulgated by the New York State reliability Council and enforced by the NYSO. In addition to the electric generating facilities, steam plants also use Fuel Oil No. 6. Three steam plants use it for back-up fuel and one steam plant uses Fuel Oil No. 6 as its primary fuel. In 2015 across the two generating-two electric generating facilities and four steam plants, approximately 21.5 million gallons of Fuel Oil No. 6 was consumed, accounting for 2.85% of the total energy generated on the BTU basis by these six facilities. These facilities are currently making investments to meet the requirements of the

existing mandate of Local Law No. 38 to-to phase out Fuel Oil No. 4 by 2030, and certain investments would have to be accelerated in order to meet an earlier Fuel Oil No. 4 phase out in 2025. The cost to the power plants and residential and commercial buildings will need to be evaluated in an environment assessment statement of EAS. This assessment must take into account not only the environment benefits of the proposed action, but the economic impacts. Depending on the economic and environmental impacts of this legislation, it is possible a significant impact may be found that could impede the implementation of this regulation. As a result, the de Blasio Administration suggests including a target waiver provision to address unique situations based on a set of comprehensive criteria. In addition to giving flexibility where achieving the same sorts of outcome, the Administration would recommend allowing Fuel Oil No. 4 to be used until 2030 in cases where the equivalent fuel oil will meet Fuel Oil No. 2 emission standards. In summary, the Administration's analysis shows that assuming Fuel Oil No. 4 is phased out by 2025 rather than 2030, the estimated incremental reduction in different emissions due to a

1 five-year acceleration across these-across buildings
2 and the six electric generating facilities and steam
3 plants would be approximately 1.7 million tons of GHG
4 emissions with buildings accounting for 99% of this
5 benefit. Approximately 750 tons of PM 2.5 with
6 buildings accounting for 87% of this benefit, and
7 over 7,000 tons of Oxides of Nitrogen and 7,500 tons
8 of Sulfur Dioxide with 85% of this benefit coming
9 from buildings. For electric generating facilities
10 and steam plants, these numbers do not assume
11 emissions controls and DEC permit limits on emissions
12 to the actual reductions for oxides and nitrogen will
13 be lower. From a public health outcomes perspective,
14 the accelerated legislation will prevent 150
15 premature deaths and 300 emergency room and
16 hospitalizations attributable PM 2.5 over the five
17 years.

18
19 Please allow me to speak briefly about
20 Introduction 1503-A. MOS applauds Chairman
21 Constantinides and the Council for their leadership
22 and partnership in working with the Mayor on
23 addressing the important effort to increase citywide
24 energy conservation, sustainability, and resiliency
25 through Local Law 92 of 2015, which required all

stores to keep their doors and windows shut while an air conditioner or central cooling system is operating. As we testified to in 2015, business that leave their doors with air conditioners running during summer months waste energy, threaten the reliability and affordability of our energy supply and generate unnecessary greenhouse gas emissions. A store with open doors pumping cool air onto the sidewalk is one of the most conspicuous wastes of energy in New York City. MOS' analysis of Local Law 87 Energy Audit Data showed that 10 to 20% of energy use and greenhouse gas emissions from large buildings are from cooling in commercial spaces. A significant amount of GHG emissions in New York City are generated by heating and cooling systems, which themselves are also often outdate. For example, when a business leaves its doors open with the cooling system running, large amounts of cool air escape the building forcing the cooling system to expend more energy to maintain the lower temperature. This expenditure of more energy increases emissions, which in turn contributes to pollution and climate change. While the emission reductions stemming from Local Law 92 will help the city reach its 80 x 50 greenhouse

gas emissions reduction goal, it also has helped to deliver an important message about energy conversation. It is wasteful energy practice to run air conditioners with open doors, which places an economic burden on the rest of New York City rate payers. Furthermore, during the summer store air conditioners often operate while windows are open, which not only increase emissions but also increases the financial cost to the businesses. We acknowledge that energy conservation measures like Local Law 92 require a change or long-held business habits, many of which business owners deem crucial to attracting customers. At the same time we are proud that our broader business community has helped support our overall goals of keeping the city cleaner and greener for everyone. We continue to have various agencies that are ready and willing to help businesses through any transitions they need to make in order to comply with their broader conservation goals. Fore example the Department of Consumer Affairs launched a "shut the front door campaign" to coordinate public education and outreach letting store owners know that they must shut their doors while air conditioners or central cooling systems are on. As members of the

2 committee are aware, the current law includes an
3 exemption for restaurants with doors full length
4 windows that must remain open so that sidewalk cafes
5 can be services. The relatively small number of
6 licensed cafes in new York city was a small enough
7 figure compared to the total number of brick and
8 mortar businesses in our city to justify this
9 exemption. In addition, the current law includes an
10 exemption for windows that are actively being used to
11 serve food or beverages to an outdoor space.

12 We would also like to briefly note that
13 if Local Law 92 of 2015 is to be amended, the
14 Administration would like to highlight for the
15 Council an apparent tracking error that made it a
16 violation of the law for chain stores who failed to
17 comply with the requirement that they post a 311
18 complaint sign on the front doors or fail to provide
19 a penalty for this violation. We believe this an
20 error that needs to be corrected.

21 Introduction 1503-A proposed to
22 effectively exempt all restaurants from this air
23 conditioner law by changing the current exemption for
24 doors that are adjacent to "outdoor space or outdoor
25 seating areas" to any restaurant door that is

2 adjacent to simply the "outside." The bill also adds
3 an exemption for windows that "adjoin indoor seating
4 areas where food or beverages are served and link
5 such areas to the outside" resulting in a proposed
6 exemption for virtually all restaurant windows and
7 doors. The proposed changes are broad and could
8 undercut our combined success with an air conditioner
9 law that includes common sense exemptions that we
10 have already deliberated. The bottom line is that
11 one of the easiest ways in which businesses in our
12 city can curb their demand for energy is by keeping
13 their doors and windows closed while air conditioners
14 are running. The Council and the Administration have
15 made it a priority to protect the city's environment
16 and help with these harmful greenhouse gases, and we
17 will work to ensure that our efforts remain effective
18 and strong. We look forward to hearing from members
19 of the public regarding this bill, and we will be
20 happy to further discuss this proposal with the
21 Council to see if a very limited adjustment is
22 warranted and can be done in such a way that does not
23 undermine the current law. The Mayor and the City
24 are committed to inclusive climate action and
25 progress on air quality for all New Yorkers. This

2 means continuing to drive down GHG emissions and
3 improve on air quality citywide to alleviate
4 disparities across communities especially for
5 vulnerable populations. The steps the city has taken
6 to date will improve overall air quality, facilitate
7 the retirement of older less efficient building
8 boilers and power plants while preserving the
9 reliability of the electric system. Equally
10 importantly these efforts will also continue to move
11 us toward our One NYC goal of having the cleanest air
12 of any major city in the country. Thank you for the
13 opportunity to testify. We share your goals to
14 reduce citywide greenhouse gas emissions, to protect
15 and improve air quality in New York City and to
16 benefit all New Yorkers' health and prosperity.
17 We're happy to answer any questions that you may have
18 at this time.

19 CHAIRPERSON CONSTANTINIDES: Thank you
20 for your testimony. [applause/cheers] So-so guys,
21 I'm—I'm going to do an editorial [laughs]. So when we
22 want to clap during the Council we kind of do this.
23 So clapping, no booing. I appreciate the—the
24 enthusiasm about the environment. I share your
25 enthusiasm. So let's just—let's kind of like root

2 them on that way. [laughs] Awesome. Alright, I just
3 wan to recognize my colleague from Queens, a member
4 of the committee Rory Lancman has joined us as well.
5 So, as I said before, thank you for your testimony.
6 So how many buildings are currently using the No. 4
7 Oil, and what is the total volume of No. 4 in these
8 buildings currently?

9 DEPUTY DIRECTOR LEE: Currently, we have
10 roughly 3,000 buildings, you know, in New York City
11 still using Fuel Oil No. 4. I will have to get back
12 to you with the specific number of the actual volume
13 as consumed in the past years by these 3,000
14 buildings.

15 CHAIRPERSON CONSTANTINIDES: And of the
16 city's power plants, how many are currently still
17 burning No. 6 Oil so they're--they're currently
18 looking to make the transition by 2020 to No. 4.

19 SUZANNE DEROCHE: Yeah, so there are two
20 power plants and there are four steam plants.

21 CHAIRPERSON CONSTANTINIDES: So two power
22 plant and four steam plants.

23 SUZANNE DEROCHE: Yes.

24 CHAIRPERSON CONSTANTINIDES: I know two
25 of them that are located Western Queens. [laughs] I

2 know that they burned three million gallons last
3 year, and one burned 9 million gallons. So they
4 burned 12 million gallons before that. So we have 27
5 million gallons of No. 6 Oil being burned in-in our
6 back yard. As we discussed in November, these aren't
7 new numbers. We had talked about at our last hearing
8 whether hastening a phase out of No. 4 Oil was a good
9 idea, and we said you should propose legislation for
10 that. So here we are today. [laughs.] But so, but-
11 so just the two power plants and four steam plants.
12 Do you know how much oil? You said 21 million
13 gallons last year citywide?

14 SUZANNE DEROCHE: Yes.

15 CHAIRPERSON CONSTANTINIDES: Okay, we
16 talk about No. 6 Oil-No. 4 Oil itself, what's the
17 proportion for No. 2 Oil and No. 6 Oil combined to
18 make 4?

19 SUZANNE DEROCHE: It's about 50/50. As
20 you said your testimony. I believe I have the exact
21 numbers here. Gerry, Gerry, do you have them?

22 DEPUTY DIRECTOR LEE: 42. Just a second.

23 GERALDINE KELPIN: So just one of the
24 things that Council passed in 2010 was to actually
25 lower the sulfur content in No. 4 to 1,500. So in

2 order to get that number, it's roughly—in some cases
3 it's 50/50 and sometimes it's 60/40, 60% No. 2.

4 CHAIRPERSON CONSTANTINIDES: So when 2
5 Oil gets—when 4 Oil is phased out, and we're hoping
6 to do it a little bit quicker, and it's replaced by
7 No. 2 Oil or some other way, what is the reduced
8 particulate matter of sulfur oxide that you would see
9 or nitrous oxide? You talked a little about in your
10 testimony. Can you sort of go back to that?

11 DEPUTY DIRECTOR LEE: The—between the
12 power plants and the electric generating facilities
13 we are looking at a reduction of 7,205 tons of nox
14 and 7,400 tons of sulfur oxide.

15 CHAIRPERSON CONSTANTINIDES: These are
16 numbers that are not only in combatting climate
17 change, but better for public health, right? We're
18 talking about people—residents being able to breathe
19 easier, which is part of our mandate, right?

20 DEPUTY DIRECTOR LEE: Yes, this would
21 result in a reduction of greenhouse gas emissions and
22 particulate matters.

23 CHAIRPERSON CONSTANTINIDES: Alright.
24 Some of this—not only are we doing this I mean in my
25 mind for the greenhouse gas emission reductions, but

2 when I see the asthma rates in-in many communities
3 going through the roof, I know that we have
4 improvements on air quality, and we should be
5 commended for that, but there's still so much more to
6 be done. I see kids at the doctors, lines of-of--
7 you've heard me tell the story, but I will continue
8 to tell it until it's no longer true--lines of
9 nebulizers in the winter and kids going there to get
10 their--their Albuterol, and-and some days when it's
11 worse, right, it's not only a-a health--they're losing
12 days of school, and on top of that, it's an economic
13 burden to those families and it's disproportionately
14 shared by communities of color and-- low-income
15 communities. We have to make hard choices on
16 medications. So doing and making this phase out is
17 a-a good public policy based on not only greenhouse
18 gas emissions or 80 x 50, but the public health of
19 making sure that we don't have additional generations
20 of kids with asthma, right?

21 DEPUTY DIRECTOR LEE: Yes. We do have an
22 ID public health benefit and the property manager
23 (sic) benefit that would come from an earlier phase
24 out.

2 CHAIRPERSON CONSTANTINIDES: And just as
3 we look at costs, right, I mean the—the power
4 companies have sort of made this our costs. What is—
5 what is the cost difference by them going to—of the
6 hastened quickening, the hastened phase out?

7 SUZANNE DEROUCHE: So the cost of the fuel
8 or the cost to the gen?

9 CHAIRPERSON CONSTANTINIDES: The cost of
10 generation, generating plants.

11 SUZANNE DEROUCHE: So it will vary
12 depending on the power plant. So there can be
13 capital costs, and there can also be maintenance
14 operation costs. We do not have numbers from just
15 individual power plants. You know, they—they can
16 testify on that, too.

17 CHAIRPERSON CONSTANTINIDES: But they are
18 going to have to do this anyway by 2030, correct?

19 SUZANNE DEROUCHE: Correct.

20 CHAIRPERSON CONSTANTINIDES: So we're not
21 asking them to do something that they weren't already
22 intending to do, or just telling them they have to do
23 it a little bit quicker?

24 SUZANNE DEROUCHE: On an accelerated
25 schedule, yes.

2 CHAIRPERSON CONSTANTINIDES: Alright, and
3 as far as buildings, do we know what that cost
4 potential is to building—the building owners?

5 DEPUTY DIRECTOR LEE: We did speak to the
6 average cost of necessary equipment change that would
7 have to happen. So there's a wide degree of
8 variance. So it could be anywhere from \$75,000 up to
9 in some cases a million dollars depending on the
10 scope of work that's involved. So now, it's—the
11 issue is not necessarily so much about the—in costs,
12 but there's the expectation that building owners and
13 the power plants would have to bear some costs of
14 doing their conversion by 2030 that the portion that
15 the administration is requesting for their analysis
16 on, and that we have to be particularly sensitive to
17 the—the timing of it. That the building community
18 and the power plants are have a certain expectation
19 it will phase out 2030, and we—the fund the
20 necessarily capital planning towards that. There is
21 a—a cost that comes with reconsidering one's
22 financial and capital planning timelines.

23 CHAIRPERSON CONSTANTINIDES: So we have
24 to be cognizant of that. Yes, that's what we—it's
25 something I'm cognizant of as well. I that that

2 there's--there's conversation that has to be had on
3 the costs, but I thin that the air quality benefits
4 that we've talked about are ones that we should
5 pursue, correct?

6 DEPUTY DIRECTOR LEE: We should always be
7 pursuing what we can for improving air quality and
8 greenhouse gas emissions. At the same time, we also
9 must be sensitive to the costs born by more tight
10 space. (sic)

11 CHAIRPERSON CONSTANTINIDES: Alright, so
12 it's--it's a tough balance, but I look forward to
13 continuing to work with on that. I will--I see that
14 Steve Levin from--our Council Member from Brooklyn has
15 joined us as well. Questions from anyone?

16 FEMALE SPEAKER: No.

17 CHAIRPERSON CONSTANTINIDES: No. I think
18 that they're good. So, on that note, I will think
19 you--this--this panel for your testimony and look
20 forward to working in partnership with you moving
21 forward.

22 DEPUTY DIRECTOR LEE: Likewise. Than
23 you, Council Member.

24 CHAIRPERSON CONSTANTINIDES: Thank you.

25 SUZANNE DEROCHE: Thank you. [pause]

1 COMMITTEE ON ENVIRONMENTAL PROTECTION 30

2 CHAIRPERSON CONSTANTINIDES: Next up I'd
3 like to call Eric Goldstein from the National
4 Resources Defense Council; and Adriana Espinoza from
5 the New York League of Conservation Voters; Annie
6 Brown from the Environmental Defense Fund, and Beryl
7 Thurman from the North Shore Waterfront Conservancy
8 in Staten Island. [background comments, pause]

9 LEGAL COUNSEL: Can you please raise your
10 right hands. Do you swear or affirm to tell the
11 truth, the whole truth and nothing but the truth
12 today?

13 PANEL MEMBERS: [off mic] I do.

14 CHAIRPERSON CONSTANTINIDES: Eric, good
15 to see you, my friend. These guys are going first.
16 (sic)

17 ERIC GOLDSTEIN: Thank you, Mr. Chairman.
18 Good afternoon Chairman Constantinides, members of
19 the Committee, Council Member Matteo I see there. My
20 name is Eric Goldstein with the Natural Resources
21 Defense Council. NRDC is pleased to be here today to
22 testify regarding Intro 1465, which is a simple and
23 straightforward bill that would prohibit the burning
24 of dirty Fuel No. 4 in all buildings as of October 1,
25 2025. NRDC strongly supports this legislation. New

1 York City, as you know, is the nation's most
2 populated urban area, and we've had over the decades
3 some of the worst air pollution. Things got so bad
4 in the 1960s that a task force created by then Mayor
5 John Lindsay concluded that New York City was pumping
6 more poisons into the air than any other city in the
7 nation, and shortly thereafter the Council began to
8 take action. In 1966 and in 1971, the Council passed
9 legislation to reduce the sulfur content in home
10 heating oil, and in coal which was still allowable at
11 that time. This was the beginning of what was a 50-
12 year effort by the Council to provide clean air for
13 New York City residents, and over the decades it's
14 been the New York City Council that has provided the
15 leadership in advancing more than a dozen major
16 pieces of clean air legislation. The legislation
17 before the committee today is a—is another step in
18 right direction that fits squarely into this pattern
19 to compel polluters to end harmful practices that are
20 endangering the health of city residents. In New
21 York City buildings are a primary source of localized
22 air pollution and global warming emissions, and to
23 address that problem, Local Law 43 of 2010 began the
24 process of cleaning up the dirty oil that some of our
25

1 city buildings were continuing to burn. According to
2 the city, more than 75% of the buildings that were
3 using the dirtiest fuel oil have since converted to
4 ultra low sulfur No. 2 Oil or to natural gas.

5 Unfortunately, a very small number of buildings,
6 which represent that one percent of all city
7 buildings are continuing to burn Oil No. 4, which as
8 you stated earlier today, is really a combination
9 dirty No. 6 and cleaner No. 2. The New York City
10 Health Department recently released a community air
11 survey of neighborhood air quality, and it concluded
12 that while levels of PM10, Nitrogen Oxides and sulfur
13 oxide were declining in the city, higher levels of
14 these pollutants were measured at sites with the
15 greatest concentration of boilers using No. 4 and No.
16 6 oils. Not surprising. It's important also to
17 emphasize that air pollution is a localized problem
18 in New York City even though our overall air quality
19 has been improved and considerably, if you happen to
20 live in a-adjacent to aa building that's burning No.
21 4 heating oil, I t's quite possible that you are
22 getting higher levels of particulate pollution and
23 other pollutants into your window and that your
24 family is breathing that dirtier air. It shouldn't
25

2 be a major problem for building owners to comply with
3 the proposed legislation. As I indicated, the vast
4 number of buildings already have converted to cleaner
5 No. 2 Oil or to natural gas, and the evidence clearly
6 demonstrates that buildings that have converted to
7 cleaner fuels are finding shorter payback periods to
8 amortize their costs, reduce maintenance expenses,
9 and they will actually be saving money for their
10 owners and tenants in relatively short periods of
11 time. One example is the building Chelsea Gardens,
12 which is a six-story 151-unit building here in
13 Manhattan. Building managers there converted the No.
14 6 boiler, upgraded the heating, installed new
15 boilers, as well as lighting and water saving
16 measures. They achieved the 60% energy reduction
17 almost \$200,000 in energy savings in the first year,
18 and their projected payback period is 3.3 years. In
19 other words, after 3-1/2 years, all of the money they
20 spent for the conversions will have been recouped
21 and they will be saving money every year thereafter.
22 Finally, the timing for the proposed No. 4 phase out
23 in the legislation before us today is still quite
24 generous. Local Law 43 of 2010 contains a 2030 date
25 for the demise of No. 4 Oil in New York City. That's

2 both too long from an environmental health
3 standpoint, and unnecessary from an economic
4 perspective. Why should New Yorkers who happen to
5 live buildings that are burning dirty No. 4 heating
6 oil have to wait another 13 years for clean air? The
7 proposed legislation provides another seven years for
8 this small number of building owners who still
9 haven't made the switch, and it's more than enough
10 time. Converting the small number of No. 4 Oil
11 buildings will greatly reduce neighborhood pollution,
12 curb global warming emissions, and improve public
13 health. Such a move would also support Mayor de
14 Blasio's One New York City objective and be
15 consistent with the New York City Council's long
16 history of combatting air contamination. Thank you
17 for advancing this important initiative.

18 CHAIRPERSON CONSTANTINIDES: Thank you.

19 I appreciate your testimony. Next up.

20 Hello. Thank you Council Members for
21 having me today. My name is Annie Brown and I'm a
22 Clean Energy Project Manager for the Environmental
23 Defense Fund in our New York Clean Energy Program. I
24 respectfully submit the following testimony regarding
25 Intro No. 1465, a Local Law to accelerate the

2 timeline to phase out the use of No. 4 heating oil.

3 Environmental Defense Fund or EDS is a not-for-

4 profit, non-partisan international environmental

5 organization, and we are headquartered in New York

6 City. With other two million members, more than

7 35,000 of which are in New York—are New York City

8 residents, we work to advance market based policy to

9 address the world's greatest environmental problems.

10 In 2011, the Council too the first step towards

11 cleaner air by regulating the phase out of No. 6 and

12 No. 4 heating oils by 2015 and 2030 respectively.

13 This in addition to NYC Clean Heat Program, which EDS

14 managed in partnership with the Mayor's Office of

15 Sustainability set the city on the path to

16 dramatically cleaner air. When used in buildings,

17 No. 6 and No. 4 heating oils both emit harmful

18 pollutants such as fine particulate matter also known

19 as PM 2.5, sulfur dioxide, nickel and more. When

20 inhaled, these substances can become lodged in

21 people's lungs, creating or worsening cardiovascular

22 and respiratory conditions. As you've heard now

23 several times, No. 4 Oil is a blend of No. 6 Oil and

24 the much cleaner No. 2 Oil, and while it is less

25 polluting than No. 6 Oil, it still does emit harmful-

1 harmful toxins. The young, elderly and those with
2 existing respiratory and cardiovascular ailments,
3 myself included, are most at risk and have the most
4 to gain from the city's improvements in air quality.
5 Since the launch of the NYC Clean Heat Program in
6 2012, over 6,000 buildings have made the switch to
7 cleaner fuels and particulate matter contamination
8 from those buildings has dropped by 65%. In February
9 2016, Mayor de Blasio cited the decreased use of
10 these heating oils as preventing 210 premature deaths
11 and 540 hospitalizations each year. Buildings can
12 lead the way in making our communities healthier and
13 there are resources to help them do so. The NYC
14 Retrofit Accelerator a city program built off of the
15 foundation of the NYC Clean Heat Program with the
16 goal of helping buildings to improve their energy use
17 offers free assistance to buildings handling heating
18 oil conversions. EDF supports this—excuse me. EDF
19 supports moving up the timelines to phase out No.
20 heat—No. 4 heating oil from 2030 to 2025. In doing
21 this, the Council will ensure that New Yorkers'
22 public health and quality of life improves more
23 quickly, and the community throughout the five
24 boroughs will continue to thrive. Thank you.
25

2 CHAIRPERSON CONSTANTINIDES: Thank you.

3 Good afternoon. My name is Adriana
4 Espinoza. I'm the Manager of the New York City
5 Program at the New York League of Conservation
6 Voters. NYLCD represents over 28,000 members in New
7 York City and we're committed to advancing a
8 sustainability agenda that will make our people,
9 neighborhoods and economy healthier and more
10 resilient. I'd like to thank Chair Constantinides
11 and all members of the Committee on Environmental
12 Protection for the opportunity to testify here
13 regarding the burning of No. 4 heating oil in New
14 York City. New York LCV is committed to preserving
15 healthy air quality in NYC, and would like to offer
16 support for Intro 1465, which will speed up the phase
17 out of No. 4 heating oil to October 1, 2025. This
18 proposal can help to drastically improve our air
19 quality. Today, our city's air is cleaner than it
20 has been in over 50 years, but we all know that there
21 is still work to do as air pollution is still causing
22 an estimated 6% of deaths in New York City every
23 year. A large portion of this pollution comes from
24 the burning of dirty heating oils in our buildings.
25 Although No. 6 home heating oil was phased out—phased

1 out of 6,000 buildings by the end of 2015 as part of
2 the Clean Health Program, other buildings around the
3 city are still burning No. 4 Oil, which release large
4 volumes of fine particulate matter into the air.

5 Additionally, No. 4 heating oil combustion
6 disproportionately occurs in neighborhoods of lower
7 socio-economic status. Therefore, contributing to
8 environmental justice in New York City. The
9 emissions released from burning No. 4 heating oil are
10 correlated with higher frequencies of cardiovascular
11 disease, respiratory illness such as asthma and
12 bronchitis and even death. Particulate matter,
13 nitrous oxides and sulfur dioxide are emissions from
14 burning No. 4, which when—when inhaled can cause
15 respiratory illness and dysfunction. According to
16 the Environmental Defense Fund, replacing No. 4 with
17 No. 2 cuts particulate matter emissions by 90%,
18 nitrous oxide emissions by 10% and sulfur dioxide
19 emissions by 68%. The current schedule for phasing
20 out No. 4 heating oil, January of 2030, is not
21 aggressive enough. Pushing the deadline ahead to
22 2025 is a step the city can take to accelerate
23 meeting the air quality goals sought out in One—One
24 NYC. Just this five-year difference would mean
25

2 hundreds of deaths and thousands of emergency room
3 visits averted. I'd like to thank the City Council
4 for support on environmental health issues of our—the
5 concern to our members and look forward to continuing
6 this work in the future. Thank you for your time.

7 CHAIRPERSON CONSTANTINIDES: Thank you.

8 BERYL THURMAN: Good afternoon. My name
9 is Beryl Thurman. I'm the Executive Director and
10 President of the North Shore Waterfront Conservancy
11 of Staten Island, New York, and I'd like to thank you
12 for having me here today. On behalf of the North
13 Shore Waterfront Conservancy of Staten Island, we are
14 in favor of the action being taken to phase out the
15 use of Fuel Oil No. 4, and to have the various
16 buildings and power plants transition to Fuel Oil No.
17 2. Staten Island has horrible air—air quality
18 because we are in the cross hairs of winds that
19 contain pollution from as far away as Ohio and we sit
20 next to New Jersey's industrial waterfront with its
21 refineries and power plants. We have a high number
22 of people that have asthma and our people are prone
23 stress related diseases. Even though using No. 2
24 Fuel Oil is better in terms of reducing pollution and
25 particulates into the air, it is still nowhere near

2 where we need to be in eliminating our use of fossil
3 fuels. We understand that the next goal is for New
4 York City to transition to natural gas, but once
5 again, natural gas is still a fossil fuel, and it is
6 essential that if we're going to keep up and with any
7 hope counter the effects of climate change and
8 provide our people with a better, cleaner, safer,
9 healthier environment to which to live in, we're
10 going to have to increase our efforts at establishing
11 sustainable greener energy alternatives that make
12 sense especially with the awareness that we now face
13 an environment clock that is ticking down. Our
14 planet like our crumbling infrastructure can no
15 longer sustain the kind of let them eat cake
16 lifestyle that we chosen to live. We're moving away,
17 we're moving way too slow for all the—the needs to
18 get done. Therefore, we urge New York City Council
19 to expedite moving New York City into a more
20 sustainable and greener energy solution as other
21 cities have already done or in the process of doing.
22 Thank you.

23 CHAIRPERSON CONSTANTINIDES: I want—I
24 want to thank each and every one of you for your
25 strong advocacy on the environment, and I—I just—I

2 know from the siting of the power plants and the
3 burning of—of the oils in our community in Western
4 Queens we see in Zip Codes 101, 102 and 106 higher
5 than average in the Borough of Queens both ER visits
6 and hospitalizations, and that's not just in one
7 segment of the population. That's across the board,
8 and those are serious numbers. I know that that is—
9 those numbers are duplicated in the South Bronx and
10 Southeast Queens, and so we know we have to do
11 better. S o I want to thank you for your continued
12 advocacy on the People to Save New York and for a
13 cleaner environment and looking forward to working
14 with you guys on making this city a little bit
15 greener. S o we will be calling upon you. And just
16 the—the Clean—the Clean Air Petition that myself and
17 our—my colleague Ritchie Torres has put forth as
18 almost 5,000 signatories already, and on the way to
19 get many more. S o this has become a grassroots issue
20 for many residents who recognize that they want
21 cleaner air and less fossil fuels. S o, thank you for
22 that.

23 ERIC GOLDSTEIN: Thank you, Mr. Chairman.

24 [pause]

25

2 CHAIRPERSON CONSTANTINIDES: So next up
3 we have Rob Bookman for Small Business; New York—
4 Andrew Rigie from the New York City Hospitality
5 Alliance; Greg Hunt from Café Talullah. Yes and
6 Michael Jacobs.

7 LEGAL COUNSEL: [off mic] On 1503.

8 CHAIRPERSON CONSTANTINIDES: On—on Bills
9 1503. We're taking a quick break from 1465 for a
10 moment. [pause]

11 MALE SPEAKER: Two of the restaurateurs
12 had to leave. We have their testimony and we'll just
13 summarize for you after ours. Do you want to start,
14 Andrew?

15 ANDREW RIGIE: Yes.

16 LEGAL COUNSEL: Can you please raise your
17 right hands. Do you wear or affirm to tell the truth
18 the whole truth and nothing but the truth today?

19 MALE SPEAKER: I do.

20 ANDREW RIGIE. I do.

21 LEGAL COUNSEL: Thank you.

22 ANDREW RIGIE: Good afternoon. My name
23 is Andrew Rigie. I am the Executive Director of the
24 New York City Hospitality Alliance. We are a trade
25 association that represents thousands of eating and

2 drinking establishments throughout the five boroughs,
3 many of which or some of which would be impacted by
4 Introduction 1503. First we want to thank the
5 Council Member for this bill as well as those
6 supporters. We urge the Council to pass it and for
7 the Mayor to sign it into law immediately before what
8 will happen is small business owners, workers will
9 both take a financial hit as well as people who love
10 to go dine out at restaurants and enjoy the open air
11 will have an experience that is not as excellent as
12 it can be. As way of background, back in 2015 an
13 amendment was made to environmental law that
14 prohibits retail businesses from keeping their doors
15 open while the air conditioning is on. Basically,
16 the amendment added the word window, and fortunately
17 (sic) the law could now be interpreted for the first
18 time to include restaurants that are constructed with
19 open storefronts, which is clearly an unintended
20 consequence of the bill. That's why 1503 has been
21 introduced. It's a sensible small business
22 restaurant worker and restaurant going friendly
23 amendment that will correct this. It is needed
24 because as I said, the law can now be interpreted to
25 require businesses with enclosed sidewalk cafes,

2 which are actually required by law to have operable
3 windows to stay closed while the air conditioning is
4 on. It would also prohibit with French doors or the
5 like from keeping the air—the windows open while the
6 air conditioning is on. Such windows and doors are
7 built out and designed by restaurants often at a
8 significant cost to their business. Their future
9 provides diners with that desire for semi Al Fresco
10 dining experience during the spring and summer
11 months, and it also adds charm and character to our
12 city's streets especially to our small businesses
13 that everyday you hear people talking about wanting
14 to save. Now, we've also spoken with our members.
15 They will operate restaurants that would be
16 prohibited from keeping their doors and windows open
17 due to the current law, and they would tell us and
18 they have told us over and over again that if this
19 amendment is not passed, it will result in a
20 reduction of employees, and a reduction of—a
21 reduction of those employees' working hours because
22 the open air is obviously a huge draw. People want
23 to sit out in the spring and the summer at a
24 restaurant and feel that nice breeze and have that
25 great experience while they're having a nice meal or

1 cocktail, and we don't believe this law was intended
2 for such businesses. They're clearly not trying to
3 air condition the street to draw, you know, guests in
4 on a hot day. This is really part and parcel to
5 their business. They've been constructed this way
6 for the purpose of people enjoying their dining
7 experience. I should also note that this is a very
8 limited number of businesses, and whatever the
9 environmental impact is, I think we need to put it in
10 perspective. By not passing this amendment the loss
11 of hours to workers, the potential loss of jobs, and
12 the loss of revenue to the business as a whole and
13 the diminished dining experience for guests. And
14 again it's a limited, limited exemption. My—our
15 counsel out of Brooklyn will speak to this
16 momentarily, but the reality is the warm weather is
17 upon us, and we need to pass this bill as soon as
18 possible. So I want to thank you for that, and
19 because our colleagues, the restaurateurs had to
20 leave, I just want to read briefly a paragraph from
21 Greg Hunt—Greg Hunt who is the owner of Café Talullah
22 from his testimony. He says, "The restaurant I own,
23 Café Talullah opened in 2013. After three years of
24 slow business during the summer, last year we
25

2 installed new doors that opened onto the street. Our
3 business increased overnight by almost 20%. As a
4 result, we hired five additional people, two waiters,
5 one runner, a cook and a bartender to handle the
6 increased volume. If we have to close our doors and
7 turn off our air conditioning, we will have to lay
8 off all five employees. Multiply this by the other
9 restaurants with sidewalk cafes and it will result in
10 the loss of many more jobs. I strongly support the
11 environment as do so many other restaurateurs who
12 source locally, use sustainably compostable products,
13 and again, this is really about being business
14 friendly, helping businesses and the environmental
15 impact. I'm sure this amendment would be very
16 limited in scope. Thank you.

17 CHAIRPERSON CONSTANTINIDES: Thank you.

18 ROBERT BOOKMAN: Good afternoon. My name
19 is Robert Bookman and I'm Counsel to the New York
20 City Hospitality Alliance, and I've represented
21 literally thousands of small businesses and
22 restaurants in the 30 some odd years since I've been
23 in private practice since I left city government.
24 And again, I want to thank you for this amendment.
25 Mr. Council Member, as you recall, we supported the

1 original bill, which was a common sense approach to
2 having retail businesses, which were just keeping
3 their doors open in the warm weather for no other
4 reason than to, you know, track customers coming-
5 coming in. It wasn't part of the-of the business
6 ambiance. When the amendment in 2015 was proposed it
7 was to add chain stores, increase the fines. We had
8 no opposition then either. After the hearing this
9 paragraph about windows was added, which caused a lot
10 of confusion as to whether it would apply to a
11 limited number of restaurants out there in the city
12 that don't have sidewalk cafes because we always-we
13 always excluded them, and DEP agrees they should be
14 excluded. They repeated that in their testimony
15 today. But the language was such that it was
16 confusing that now for the first time it could
17 include-it could include hundreds if not maybe a
18 thousand, which is still only about 10% of the
19 restaurants out there who cannot have sidewalk cafes
20 because they're not zoned for it or the sidewalks are
21 too narrow. So they opened their businesses at
22 considerable cost and expense, and got approvals from
23 their city to build what is commonly known as French
24 doors or French windows to create that semi-Al Fresco
25

1 dining experience in your neighborhood. They're in
2 most neighborhoods. The overwhelming majority of
3 restaurants, however, are not impacted by the
4 legislation because they have fixed, you know,
5 storefronts. They have fixed plate glass windows and
6 it's not an issue, but for that handful, you know, of
7 restaurants for the first time we sat down with the
8 Administration. We all discussed this. They were
9 not clear frankly, and I don't think anybody had a
10 lot of desire to go against and start issuing
11 violations to this small group of restaurants, and as
12 DEP said today we have to be sensitive to costs to
13 mom and pop businesses. This is a significant hit on
14 mom and pop businesses if they have to close these
15 very expensive storefronts which they created with
16 city approvals, and is very part and parcel of the
17 ambiance of the business. It's not just to attract
18 some, you know, put a speaker out there for an
19 electronic store to attract some people in. You
20 know, it is their business effectively. Let me just
21 read a paragraph from one of our colleagues who had
22 to leave who operates, you know, the Smith
23 Restaurants He says the Smith currently operates in
24 four locations in Manhattan, and we employ over 800
25

2 workers whose income depends on the success of our
3 restaurants. An important and vital component to our
4 brand and design are the operable doors and windows
5 that make up our storefronts. We have constructed
6 the storefront design at our restaurants at
7 substantial cost. The ability to open them during
8 periods of nice weather is crucial and critical to
9 our success and the experience of our guests. It
10 represents a material part of our ambiance of our
11 restaurant allowing for a semi-Al Fresco dining
12 experience. This feature attracts guests and helps
13 generate revenue for us, which in turn allows us to
14 increase staffing resulting in more New York City
15 jobs during the summer months. The Smith is simply
16 not the same brand without this element. So, you
17 know, we, you know, appreciate the—the amendment. We
18 do not believe there is any measurable or discernible
19 impact on the environment. To go back to what the
20 original intent of the original law was to exempt
21 these restaurants that are built in such a way who—
22 who opened the restaurants in good faith with city
23 approvals in that way. We did not hear anything from
24 DEP with any data concerning any measurable impact on
25 the environment, and we think in the balancing that's

2 required by their words, the balance here goes to the
3 mom and pop business who opened with city approvals
4 this way.

5 CHAIRPERSON CONSTANTINIDES: So about how
6 many establishments are currently in sort of this-
7 this weird spot?

8 ROBERT BOOKMAN: You know, there is no
9 data because they don't have licenses, but we're es-
10 we estimated from our anecdotal data and our surveys
11 that we're talking about 10% perhaps at most of the
12 places that are license by the Department of Health
13 as-as food service establishments.

14 CHAIRPERSON CONSTANTINIDES: Is it mostly
15 small restaurants, neighborhood mom and pop
16 restaurants.

17 ROBERT BOOKMAN: It's mostly small
18 neighborhood mom and pop.

19 CHAIRPERSON CONSTANTINIDES: These aren't
20 the big chain guys?

21 ROBERT BOOKMAN: No, not at all.

22 CHAIRPERSON CONSTANTINIDES: When you
23 think of those big chains, they don't have operable
24 windows.

25 ROBERT BOOKMAN: That's right.

2 CHAIRPERSON CONSTANTINIDES: You know
3 it's not part of the experience.

4 ROBERT BOOKMAN: Fast food doesn't have
5 it. You know, they all have plate glass windows.
6 We're not talking about allowing those places to keep
7 their doors open. No, they're doors will have to be
8 closed as well.

9 CHAIRPERSON CONSTANTINIDES: So we're
10 talking about neighborhood restaurants, people who
11 live in the community who employ residents in the
12 community.

13 ROBERT BOOKMAN: And if you were to walk
14 through every single council member's district I'm sure
15 you'd, you know, find a few, a limited number that
16 have it, and if all of a sudden they had to be closed
17 off to the open air, everyone would probably go oh,
18 and would not be happy about it. Why are we doing it?
19 And—and, you'd probably notice in the warm weather
20 those are the seats that first row inside the
21 restaurant, those are the ones that get filled first.

22 ANDREW RIGIE: And it's also zoning.
23 There are just some restaurants that are not actually
24 zoned for sidewalk cafes, but they may be able to
25 have the open storefront. So it's basically a

2 compromise there, and as Mr. Bookman just said, those
3 are the seats that fill first.

4 CHAIRPERSON CONSTANTINIDES: And—and how
5 many restaurants have been receiving violations,
6 right, based on this sort of ambiguity as well.

7 ANDREW RIGIE: Well, they will I imagine
8 could begin because the laws recently, you know,
9 taken effect with the fines will take effect. That's
10 why the urgency in this. Because of the weather
11 outside is to get this passed into law so business
12 owners aren't in a situation where they need to
13 violate the law to keep people employed, and keep
14 their business open or, you know, be shut off and,
15 you know, lose business.

16 ROBERT BOOKMAN: This season would be the
17 season where Consumer Affairs would start issuing
18 fines. So it's—it's—it's an urgent bill.

19 CHAIRPERSON CONSTANTINIDES: I—I hear
20 you. No, I mean I have restaurants in my district
21 that are unable to pout a sidewalk café on 31st
22 Street that are affected by this law and—and have
23 spoken to me, and I appreciate your testimony as we
24 move forward.

2 ROBERT BOOKMAN: It's particularly unfair
3 to retroactively apply something like this. It's
4 just-essentially what you're doing. Zoning, for
5 example, as analogy is never retroactively implied-
6 applied. There's always, you know, a continuation of
7 people who opened the business in good faith in
8 compliance with that law, filed with the Building
9 Department, got their approvals. This is really
10 pulling the rug out of a lot a lot of mom and pop
11 businesses.

12 CHAIRPERSON CONSTANTINIDES: No, I think
13 the Mayor and I have a shared goal of reducing
14 emissions and that's why this--

15 ROBERT BOOKMAN: [interposing] We're with
16 you on that.

17 CHAIRPERSON CONSTANTINIDES: --law was
18 passed and I appreciate their strong commitment to
19 reducing greenhouse gases. There was a reason we
20 exempted sidewalk cafes.

21 ROBERT BOOKMAN: Yes, in the first right.

22 CHAIRPERSON CONSTANTINIDES: Because we
23 felt that those businesses that interacted with the
24 outside world should as part of their business model.

2 That's why we built that exemption into this loan. I
3 think this--this fits you from here.

4 ANDREW RIGIE: And I'm confident those
5 business that are impacted by this, that want to keep
6 their windows open, or their doors open are very
7 environmentally friendly. It's become such a core
8 pillar in the restaurant industry to be a good
9 steward of the environment.

10 ROBERT BOOKMAN: And we worked
11 extensively with the DEP on all of the air quality
12 issues on the new laws that are going into effect
13 concerning, you know, cooking of the meat and
14 reducing those because those, you know, most
15 restaurants did that on open flame. We worked with
16 them on the, you know, on reducing, you know, any new
17 installations for coal and wood fired, you know,
18 ovens, pizza ovens. So we are at the forefront with--
19 with--with you folks and DEP on the hospitality
20 industry being environmentally friendly. This is
21 just I think a quirk that no one anticipated that
22 needs to be corrected.

23 CHAIRPERSON CONSTANTINIDES: Well, I-I
24 definitely appreciate your advocacy and--and you're
25 being here today to testify.

2 ROBERT BOOKMAN: Absolutely.

3 CHAIRPERSON CONSTANTINIDES: So thank
4 you.

5 ANDREW RIGIE: Thank you.

6 ROBERT BOOKMAN: Thank you, Council
7 Member.

8 CHAIRPERSON CONSTANTINIDES: Thank you
9 both, and so next up we have Lewis Bailey from We Act
10 for Environmental Justice; Amanda Gabai for 350.org
11 and Citizens Climate Lobby; Bob Wyman and Paula
12 Sphere. [pause]

13 LEGAL COUNSEL: Would you please raise
14 your right hands. Do you wear or affirm to tell the
15 truth the whole truth and nothing but the truth
16 today?

17 PANEL MEMBERS: Yes.

18 CHAIRPERSON CONSTANTINIDES: Lewis, if
19 you can begin.

20 LEWIS BAILEY: Yes, good afternoon.
21 Thank you, Council Member Constantinides and the
22 members of the committee. On behalf of We Act for
23 Environmental Justice, I just want to thank you for
24 allowing us to testify to day. We Act is a 29-year-

25

2 old organization that represents 600,000 members of
3 Northern Manhattan residents in the community.

4 CHAIRPERSON CONSTANTINIDES: I want to
5 know.

6 LEWIS BAILEY: I want to start off by
7 saying if you remember 4 Oil typically consists of
8 No. 6 otherwise known as residual fuel it is
9 essentially bi-product of oil distillation process
10 that makes 50/50 with No. 2 Oil. Fuel Oil No. 2
11 distilled to be cleaner with a much lower sulfur and
12 heavy metals content. The continued burning of No. 4
13 Oil in New York City buildings represents an ongoing
14 hazard to New York City residents and lays a
15 disproportionate burden upon the city's most
16 vulnerable residents. Environmental health hazards
17 caused by burning fossil fuels disproportionately
18 affects low-income communities and communities of
19 color. Burning No. 4 Oil releases particulate matter
20 into the air, coats boilers and infiltrates indoor
21 environment, which can trigger and exasperate asthma
22 and other respiratory conditions. On a whole, New
23 York City residents are twice as likely to require
24 hospitalization from asthma symptoms that other
25 residents in the U.S. at large. Moreover, in 2000

1 children 0 to 4 years of age from low-income areas
2 were more than four times likely to be hospitalized
3 for asthma than children from high income areas.
4 This fundamental inequity is perpetuated in part by
5 our acceptance of burning dirtier fuels to heat our
6 homes and places of work. Phasing out No. 6 Oil has
7 already provided health benefits to residents and the
8 corresponding reduction in the emissions is a
9 positive step in New York City's effort to combat
10 climate change. Phasing out No. 4 Oil by 2025 will
11 hasten positive safety and health outcome for New
12 York City's most vulnerable population. Fuel Oil No.
13 2 is significantly cleaner. Once these dirty air
14 fuel grades are completely phased out, it will reduce
15 the amount of fine particulate matter emitted from
16 heating buildings by at least 63%. This impact,
17 which is a significant one and necessary for
18 sustainable positive outcomes and low-income and
19 communities of color. We Act for Environmental
20 Justice supports the bill in phasing out Fuel Oil No.
21 4 in 20—by 2025.

23 CHAIRPERSON CONSTANTINIDES: Thank you
24 very much.

2 AMANDA GABAI: Hello there City Council.
3 Thank you for letting us be here. My name is Amanda
4 Gabai, and by-by day I am a corporate tax attorney
5 for a large financial institution, but in my spare
6 time I am a fuel activist, and I am here right now
7 with 350.org and with Citizens Climate Lobby also
8 known as the rowdy people in the second row. And we
9 are entirely sensing run organizations, citizen
10 membership organizations. We are not paid to be
11 here. We are all busy people with day jobs, with
12 kids with full-time school schedules and we snuck
13 away from our normal daily obligations to be here
14 because we learned in November 2016 that when
15 citizens don't show up, bad things happen. So we are
16 showing up, and we are here to say that we ware in
17 support of this bill. We love what you're doing, and
18 it-it matters to us. We care about this issue, and
19 it is important to us as New Yorkers. I'm also here
20 personally as someone with adult onset asthma. I
21 moved to New York City ten years ago in 2007. I
22 developed asthma three years later in 2010. I am
23 currently on eight different asthma medications. If
24 I did not have excellent health insurance from my
25 employer, my medical bills would be a fortunate. And

1 I have been one of those people in line waiting for
2 my Albuterol and Nebulizer treatment. It is not fun
3 and being—not being able to breathe is not fun, and I
4 personally would really love to be able to breathe a
5 little easier. I hope that I'm already breathing a
6 little easier after you guys phased out Oil No. 6 in
7 2015. We really salute you for your leadership
8 there, and since we no longer have much hope of
9 action taking place on the—the national level, we
10 really think that it's up to cities to show
11 leadership, and we've been really proud that--what
12 the Bloomberg Administration did in the past, and
13 what the de Blasio Administration is doing now. We
14 fully support your goal of 80% reduction in emissions
15 by 2050, and the faster that you can phase out this
16 fuel oil, I think the better that New York City
17 residents will be breathing. I know that there have
18 been statements opposing this bill based on the cost,
19 but my understanding based on Environmental Defense
20 Fund's research on the groupie is that many—many
21 buildings have been able to recoup those costs in
22 around three years. Also, my understanding is that
23 phasing out both Oil No. 4 and No. 6 together can
24 save over \$700 million per year in health costs. So
25

2 some costs now definitely that happens, but you got
3 to put in the money now to make it a better city for
4 the future, make us breather easier for the future,
5 and help us reach our environmental goals. So, thank
6 you for your leadership and we're here supporting
7 you, and please pass this bill, and we'll show our
8 continued support at the--the next election.

9 CHAIRPERSON CONSTANTINIDES: Thank you
10 very much for your testimony, and as my Legislative
11 Director has held up his asthma problem, he agrees
12 with you. [laughs] Next up.

13 PAULA SPEAER: [off mic]

14 CHAIRPERSON CONSTANTINIDES: Can you
15 speak into the microphone? Thank you so much.

16 PAULA SPEAR: I'm Paula Spear. I live in
17 Bay Ridge, Brooklyn, and I am a member of 350.org. I
18 put myself down, but the only reason I knew about
19 this is because of 350.org's asking me to come here,
20 and I have been interested in the issue of global
21 warming as it was known years ago and now climate
22 change, but most of my adult life I haven't been here
23 because these things are set at 1 o'clock and 6:00
24 p.m. and there's a patchwork quilt of schedules, and
25 we in the public just don't know about them. But

1 when you see one of us showing up for something like
2 this it stands for a lot of people. There was
3 someone in my lobby I passed on my way out in a
4 rather conservative area who expressed concern about
5 climate change on my way out. We stand for a lot of
6 people, and I do support this--this introduction of
7 1465. I--my building is a co-op building and we are
8 one of the ways that converted before 2015. I don't
9 remember there being much controversy about it,
10 although I wasn't involved in the board. It may have
11 been because the economies of the fuel standards were
12 different then, and the economy--the economics worked
13 so that we were recouping it aster. I don't know how
14 that works out today, but as Mr. Goldstein said, and
15 we've heard from other people, they seem to be
16 recouping it in about three years. So hopefully, you
17 won't have a--a problem with people not being able to
18 pay for it. But as was mentioned by Ms. Brown from
19 EDF, you do have the New York City Retrofit Program.
20 I did look on that website briefly before I came
21 here, and you can't get specifics directly there
22 about how much there is. But I hope that that
23 program has enough funding and enough clout that you
24 can keep this retro--this--this conversion expense from
25

2 falling mainly on the backs of lower income and—and
3 middle-class families. But even if you can't make
4 this perfect, and it obviously is not perfect because
5 you're exempting this for steam plants and the power
6 plants that we heard about earlier. You have to make
7 compromise. Listening to this, we appreciate how
8 much work you have to do to balance all of the
9 different interests, and I support what you're doing
10 even when you must make compromises. As one of the
11 other ladies said, yes, the natural gas that we've
12 all converted to is still a fossil fuel. We need to
13 move fast, but you're helping us move in that
14 direction, and I—I really appreciate that you're
15 doing that. So and also thank you for showing up for
16 the Earth Day Rally on Saturday, and we were able to
17 hear what you heard—what you said in the back even
18 without a microphone. So we appreciate it.

19 CHAIRPERSON CONSTANTINIDES: Thank you,
20 thank you.

21 BOB WYMAN: My name is Bob Wyman. I'm a
22 resident of the Upper West Side, and it's—I must
23 admit it's a little frustrating testifying here
24 because you guys have heard me testify about No. 6 so
25 often in the past [laughter] and I usually learn

2 from—from you when you give your opening
3 presentation, but let me—let me just stress once
4 again and, of course, we are talking about No. 6 even
5 though it's—the text in the bill says No. 4 because
6 No. 6 is just diluted--No. 4 is just diluted No. 6.
7 It's still residual fuel oil. It's a very different
8 kind of fuel than No. 2. But let's just focus on the
9 important thing. What we're talking about here again
10 under the current law, the 3,000 buildings, which are
11 about .3% of the buildings in the city, because you
12 must remember we have about a million buildings in
13 the city. Three thousand buildings is not very many
14 buildings, a tiny percentage. That .3% of—of the
15 buildings in the city is going to between now and
16 2030 kill somewhere between 400 and 500 people
17 because of the pollution that they are emitting.
18 That's what it means—that's what premature mortality
19 means. It's—it's going to be about 400 to 500 people
20 premature mortality as a result of letting these
21 3,000 buildings continue to burn No. 4. What we're
22 asking by moving the date from 2030 to 2050 is that
23 they reduce their body count by about 150 lives. And
24 I'm sorry to speak about it in such harsh terms, but
25 that is the reality here. We know that from the

2 tremendous number of lives that were saved from—from
3 getting rid of the No. 6. Okay, this—but certainly
4 the No. 4 is more diluted. It doesn't kill as many
5 people, but it still kills a tremendous number of
6 people. We're asking for a body count reduction of
7 150. We're allowing them because of the cost to them
8 to—to still kill somewhere between 250 and 300 people
9 between now and—and 2025. The cost issue comes up
10 constantly, and I'd like to point out that the
11 estimate that was given before it was like anywhere
12 between \$75,000 and a million dollars to—to convert
13 the buildings. It's important to understand that
14 the—that it's only a million dollars if you convert
15 to natural gas. If you convert from No. 4 to No. 2,
16 the only thing you have to do is—you don't even have
17 to replace your burner because virtually every burner
18 that's used in this city and city records show this
19 can use—can burn either No. 4 or No. 2. The only
20 thing you have to do is clean your—your—your oil
21 tank. Yes, that will cost you \$20, \$30,000 to do
22 that, but that's all. Okay. The idea that anybody
23 would spend a million would only be the case if, in
24 fact, they were converting from No. 4 to natural gas,
25 and that isn't necessary. If somebody wants to do

2 that, that's fine, but that's their choice. We can
3 get rid of the No. 4 by converting to No. 2 at-at
4 much lower costs. One thing I'd like to just say in
5 closing and that is that my personal hope is that
6 this is a beginning of a long series of leg-bits of
7 legislation. We need in terms of our city government
8 to be able to tell the people in the fossil fuel
9 company when we will be sun setting the various
10 additional fuels. There should be a date known today
11 when we can tell people that the end of your ability
12 to build new buildings with No. 2 Oil in fact, what
13 is that date? Will it be 2030? Will it be 2040?
14 Will it be 2045? It has to be sometime between 2050
15 or we cannot meet our city's 20 x 50-sorry-80 x 50
16 goal. It simply cannot be done. We cannot meet the
17 the-the goals if we continue to build-building-create
18 new buildings that fueled by fossil fuels. The same
19 thing with natural gas. Natural gas maybe is a-is a
20 bridge fuel at the moment, but it's important that we
21 set now decades before the eventual sunset for
22 natural gas that we set the date because natural gas
23 expansions like the one that's going on right now in
24 our city from Con Ed it takes 30 to 40 years to pay
25 off those expansions, the capital costs. The natural

2 gas industry needs to know 30 to 40 years in advance
3 when they will no longer be able to expand the amount
4 of heating and the amount of natural gas that they
5 distribute within the city. So I hope—we've already
6 banned coal for heating. We've gotten rid of much of
7 the No. 6. We now have the diluted No. 6 and No. 4.
8 Let's get rid of that, but let's also think about
9 future restrictions on new construction, and sunsets
10 for all of the fossil fuels in the most rational
11 manner as we can so that we provide industry and
12 investors with the—with the knowledge of when they—
13 basically how much time they have left to—to get—to
14 pay back the investments they're going to make in
15 these—these dirty fuels over time. Anyway, thank you
16 and my apologies for—I think I did go over even
17 though the timer wasn't on.

18 CHAIRPERSON CONSTANTINIDES: It's okay.

19 I appreciate all of your testimonies and as an
20 activist myself I—I definitely appreciate you taking
21 the time out of your schedules to have your voice
22 heard, and as you said before, if you don't show up,
23 bad things happen. SO, we need to all show up. So,
24 I was proud to be there on Saturday for the Earth Day
25 Rally. I was proud to be holding our own Earth Day

2 Rally in—in Astoria on Friday as we stand up for our
3 environment and looking forward to partnering with
4 each and everyone of you as we look to move this
5 legislation forward, and many piece of legislation
6 forward. Our city needs to become more renewable
7 whether that's wind, whether that's solar,
8 geothermal. We are partnering with the
9 Administration to do many things, and looking forward
10 to just widening that partnership, and getting our
11 city to be greener and more sustainable, and it comes
12 (sic) really would be holding accountable. So I say
13 thank you to that, and with that I'll—I'll turn it
14 over to my colleague Helen Rosenthal from Manhattan
15 who wanted to make a statement.

16 COUNCIL MEMBER ROSENTHAL: Thank you so
17 much Chair, and thank you all for coming out to
18 testify. I do just want to give a shout-out to Bob
19 Wyman who is a constituent in my district, and
20 possibly the smartest man on the planet when it comes
21 to environmental issues, and seriously I'm listening
22 to your testimony. It's very thoughtful advice. I
23 think it should dovetail with divesting from—with the
24 city's divestment from fossil fuels. I would just
25 take it that one step further, but such a, you know,

2 really thoughtful ideas, and I always your coming
3 these hearing, testifying and sharing with the public
4 your insights about the environment, and what we
5 could be doing better. Thank you so much.

6 CHAIRPERSON CONSTANTINIDES: Thank you
7 all. Next up we have Rocco Lacertosa from the New
8 York Oil Association and Demos Demopoulos from
9 Teamsters Local 553. [pause] [background comments]

10 LEGAL COUNSEL: Can you pleas raise your
11 right hands? Do you swear or affirm to tell the
12 truth the whole truth and nothing but the truth
13 today?

14 ROCCO LACERTOSA: I do.

15 DEMOS DEMOPOULOS: I know he will.

16 ROCCO LACERTOSA: Is that on? Alright, is
17 it on?

18 DEMOS DEMOPOULOS: It is. Okay. Good
19 afternoon Council Members.

20 ROCCO LACERTOSA: My name is Rocco
21 Lacertosa and I serve as the CEO of the New York Oil
22 Heating Association, a 75-year-old trade association
23 whose members are largely made up of family-owned
24 heating oil distributors and terminal operators
25 located throughout New York City. We are proud to be

1 a unionized industry that has provided quality good
2 paying jobs and pensions to tens of thousands of
3 working families in Brooklyn, Queens, the Bronx,
4 Manhattan and Staten Island. Thank you for the
5 opportunity to testify today. NYOHA is pleased to
6 support Intro 1465, which would expedite the phase
7 out of No. 4 Fuel Oil from the current deadline of
8 January 1, 2030 to October 1 of 2025. NYOHA has a
9 strong track record of achieving key environmental
10 initiatives. Over the last ten years we have
11 enthusiastically support a variety of city and state
12 measures that have made New York City's heating oil
13 the cleanest heating oil in the United States, vastly
14 improving air quality for New Yorkers and reducing
15 our carbon footprints. NYOHA-NYOHA and its members
16 are enthusiastic for the state measures that require
17 ultra-low sulfur heating oil, as well as New York
18 City rules and legislation that have already
19 eliminated the No. 6 heating oil, and significantly
20 reduced the sulfur levels of No. 4 heating oil, which
21 is in the process of being phased out altogether.
22 The heating oil industry has evolved, and has made
23 significant innovations in this sector to meet
24 increasing consumer demand for cleaner fuels. For
25

1 example, NYOHA has been at the industry for-forefront
2 of distributing and promoting bio-heat. Heating oil
3 blended with renewable biodiesel that can be made
4 from used cooking oil, soy oil, and other sustainable
5 feed stocks. We worked closely with-closely with the
6 Council and the Bloomberg Administration to implement
7 the pioneering B2 Heating Oil Standard put in place
8 in 2012, and last year we vocally supported a bill to
9 increase New York's Biodiesel blend to 5%, B5 next
10 and scaled up to 20% B20 over the course of the next
11 two decades. We are committed to continued
12 improvements in the sustainability of heating oil.
13 That is why NYOHA supports the accelerated phase out
14 of No. 4 Fuel Oil by 2025. As an industry, we have
15 diversified our renewable energy openings-offerings
16 among heating oil products, and we support the
17 timeline suggested in this legislation. Thank you.

18
19 CHAIRPERSON CONSTANTINIDES: Thank you.

20 [pause] Demos.

21 DEMOS DEMOPOULOS: Thank you Committee
22 Chair Constantinides, and Council Member Linda
23 Rosenthal. Oh, she left? I'm sorry.

24 COUNCIL MEMBER ROSENTHAL: [off mic] No,
25 I'm here.

2 DEMOS DEMOPOULOS: Oh, hello. [laughs]

3 Thank you for the opportunity to speak before your
4 committee today and to the Council—and for sponsoring
5 this important legislation. I'm Demos Demopoulos,
6 Secretary-Treasurer, Teamsters Local 553. Our union
7 represents workers in New York City's heating oil
8 industry. This is an industry that creates middle-
9 class jobs for New York Families with solid incomes,
10 healthcare and pensions. We are proud of the work we
11 do. We keep millions of New Yorkers warm every
12 winter at home, at work and at school, but we also
13 care about the environment and clean air. New York
14 City should be doing everything possible to reduce
15 pollution and protect our climate and public health.
16 For that reason Local 553 supports Intro 1465 and the
17 phase out of 4 fuel-fuel oil, No. 4 Fuel Oil. We
18 need transition to cleaner forms of heating oil,
19 whether cleaner grades or bio-fuels. This is
20 legislation is an important step. Our union knows
21 that we can have both good jobs and safe environment.
22 It will accept nothing else. I just want to add
23 something, if I may, Mr. Chairman--

24 CHAIRPERSON CONSTANTINIDES: [interposing]

25 Absolutely.

2 DEMOS DEMOPOULOS: --on what one of the
3 gentlemen said about even going further and phasing
4 out the 4 Oil. Again, we've always supported--

5 CHAIRPERSON CONSTANTINIDES: Uh-huh.

6 DEMOS DEMOPOULOS: --as Rocco had
7 mentioned at the city and the state level on the
8 reduction of sulfur in the--in the heating oil in
9 order to prolong this industry. Coal was mentioned.
10 My Local is the oldest Teamster Local in New York and
11 we delivered coal by horse and wagon. We moved all
12 the way to heating oil, but what a lot of the public
13 doesn't know is that jet fuel and No. 2 Oil is the
14 same exact thing. There's no difference whatsoever,
15 and I wonder if there's going to be a phase out of
16 jet fuel. I'm sure there isn't, but 2 Oil is clean,
17 and getting cleaner all the time, and in the
18 preservation of my industry, which you know, covers
19 many areas, but--

20 CHAIRPERSON CONSTANTINIDES:

21 [interposing] Uh-huh.

22 DEMOS DEMOPOULOS: --primarily the heating
23 oil industry is where we came from. I do disagree on
24 the gentleman's comments about the 2 Oil, but we're
25 on the same page with everything else. Thank you.

2 CHAIRPERSON CONSTANTINIDES: Well, I
3 definitely appreciate both of your testimonies and as
4 we look to--how easy is it to get No. 4? I mean is
5 No. 4 something that is in great supply right now, or
6 is--is it becoming--because of the phase out, is it
7 become more boutique and--and--

8 ROCCO LACERTOSA: No, there's--there's
9 still enough No. 4 oil around.

10 CHAIRPERSON CONSTANTINIDES: Okay,
11 Alright, and---and it is a 50--it's a 50/50 split
12 right?

13 ROCCO LACERTOSA: It's actually 53/47.
14 53 2 Oil and--and 47% No. 6 Oil.

15 CHAIRPERSON CONSTANTINIDES: Got you,
16 and--and do you guys sell to a lot of power plants in
17 our communities?

18 ROCCO LACERTOSA: I don't know. I'm sure
19 some of our members might sell to some of the power
20 plants if possible.

21 DEMOS DEMOPOULOS: Probably because of the
22 volume--

23 ROCCO LACERTOSA: Right.

24 DEMOS DEMOPOULOS: --and you get it
25 directly.

2 CHAIRPERSON CONSTANTINIDES: And we can
3 definitely get that--that same No. 2 Oil--

4 DEMOS DEMOPOULOS: Yeah.

5 CHAIRPERSON CONSTANTINIDES: --to the
6 power plants as needed.

7 DEMOS DEMOPOULOS: Something just popped
8 into my mind also, and unless Rocco knows, but maybe
9 even contact Senator Schumer because he was always
10 very involved in that. There's a strategic oil
11 reserve--

12 CHAIRPERSON CONSTANTINIDES: Uh-huh.

13 DEMOS DEMOPOULOS: --and I don't know what
14 grade oil they have.

15 CHAIRPERSON CONSTANTINIDES: That's an
16 interesting plan.

17 DEMOS DEMOPOULOS: Yeah, that's--that's
18 something that just popped into my head. Maybe you
19 check on that, too.

20 CHAIRPERSON CONSTANTINIDES: I definitely
21 appreciate, you know, your continuing leadership in
22 being green both on behalf of your members and the,
23 you know, union men and women of this city, and--and
24 the--the men and women who deliver our home heating
25 oil every day. So we definitely appreciate this

2 support of these bills, and as we did biofuels, we've
3 done low sulfur, we've done a lot of really good
4 things together and look forward to years of doing a
5 lot of more good things together--

6 DEMOS DEMOPOULOS: Absolutely.

7 CHAIRPERSON CONSTANTINIDES: --in
8 partnership.

9 ROCCO LACERTOSA: And my compliments on
10 your good work.

11 CHAIRPERSON CONSTANTINIDES: And thank
12 you both.

13 ROCCO LACERTOSA: And we strive to
14 sustain this industry and make--make it a cleaner--make
15 cleaner fuel and clean up the environment.

16 CHAIRPERSON CONSTANTINIDES: Yeah, I-I
17 appreciate that. Thank you.

18 DEMOS DEMOPOULOS: Thank you.

19 CHAIRPERSON CONSTANTINIDES: Thank you
20 both very, very much. I appreciate it.

21 DEMOS DEMOPOULOS: Thank you.

22 CHAIRPERSON CONSTANTINIDES:

23 DEMOS DEMOPOULOS: A business and--and
24 it's--it's not--they're not separate or we can do both.

25 ROCCO LACERTOSA: Thank you.

2 CHAIRPERSON CONSTANTINIDES: Thank you.

3 Next up we'll have Steven Levy from Sprague. [pause]

4 Steve, always good to see you, Sir.

5 STEVEN LEVY: Thank you, Mr. Chairman.

6 LEGAL COUNSEL: Hi, Steve, can you please
7 raise your right hand. Can you please raise--can you
8 please raise your right hand? Do you swear or affirm
9 to tell the truth the whole truth and nothing but the
10 truth today?

11 STEVEN LEVY: Yes, I do. Thank you. My
12 name is Steven Levy. I'm a--

13 SERGEANT-AT-ARMS: Turn your mic on.

14 STEVEN LEVY: My name is Steven Levy. I
15 am Managing Director of Sprague Operating Resources,
16 LLC. Mr. Chairman and staff and Helen who's speaking
17 in the back, thank you very much for the opportunity
18 to--to be here today. Founded in 1870 as the Charles
19 H. Sprague Company, Sprague is one of the largest
20 independent wholesale suppliers of energy and
21 materials handling services in the Northeastern
22 United States. In addition to owning the largest
23 fuel storage terminal in the City of New York,
24 Sprague owns and operates 20 plus fuel storage
25 terminals, leases tanks and maintains throughput

positions at multiple third-part terminals in new York. Sprague supplied terminals provide critical heating, transportation, and power generation fuels to city and state agencies, utilities and public and private entities. Sprague supplies heating oil to wholesalers as well as a diversified customer base of commercial and residential buildings ranging from small structures to large high-rise buildings. Over the years Sprague has worked closely with the City Council and City Hall to achieve clean air and sustainability goals from reducing harmful emissions in the rebuilding of the World Trade Center to the One NYC goal of achieving the cleanest air of any large U.S. City by 2030. In fact, much of the city's clean air progress would not have been possible without Sprague's pioneering and commercialization of ultra-low sulfur diesel fuel to reduce emissions and allow for equipment best available emission technology as well as Sprague's leadership role with biodiesel and other innovative programs and services implemented by DCAS. Sprague has been a consistent long-time advocate for cleaner low-carbon renewable fuels. The recent result of these initiatives— initiatives is apparent in the April 20, 2017

1 announcement by the New York City Health Department
2 and I quote by Daniel Zarilli, New York City's Senior
3 Director of Climate Policy and Programs and Chief
4 Resilience Officer, "Even as the federal government
5 attempts to weaken critical environmental protection
6 standards, New York City is successfully
7 demonstrating how local action can protect the health
8 of all New Yorkers." Also quoting today, "We are
9 exciting to announce that our air is the cleanest it
10 has been since monitoring began, and that our One NYC
11 efforts to reduce emissions and improve air quality
12 are working as we continue to build a more
13 sustainable and equitable city." This accomplishment
14 is a direct result of your lead, Mr. Chair, and your
15 predecessor and this committee's excellent work and
16 all the stakeholders in this room including your
17 staff. We look forward to continuing these efforts.
18 When the city passed legislation to eliminate the use
19 of No. 6 Oil and phase out the use of No. 4 in 2030,
20 Sprague and others including building owners invested
21 money and made business decisions based upon the
22 understanding that the use of No. 4 in New York City
23 will be permitted until the year 2030. Indeed,
24 Sprague it—Sprague itself has spent considerable
25

1 money upgrading its fuel terminal in the Port Morris
2 section of the Bronx to ensure our ability to
3 continue supplying No. 4 Oil through 2030, money we
4 might not have invested at all had we known the
5 return on that investment would be curtailed by a
6 period of five years. Changing the No. 4 Oil phase
7 out date after the money has been spent and business
8 decisions have been made and implemented would damage
9 the Council's credibility, and make property owners
10 and fuel suppliers reluctant to invest resources to
11 comply with rules that may be changed arbitrarily in
12 the future. Changing the No. 4 phase out date would
13 be arbitrary. The existing legislation was the
14 result of a protracted process that exhaustively
15 examined the data and encompassed the input from all
16 stakeholders. The current rule was adopted in 2011
17 and the use of No. 6 was eliminated in 2015 only two
18 years ago. The Department of Health's April 20,
19 2017 announcement proves that the current rule has
20 worked as expected to reduce levels of harmful sulfur
21 dioxide. Nothing has happened since the original
22 rule making that warrants a shorter phase out window
23 than No. 4. If as the Department of Health reports
24 there has been an 84% reduction in sulfur dioxide
25

2 emissions, it is doubtful that any additional
3 incremental reduction would justify the adverse
4 financial effects on building owners particularly
5 individuals and families who own one or a few smaller
6 apartment buildings. Furthermore, and importantly,
7 emission reductions will continue to occur as
8 property owners integrate more efficient technology
9 equipment and software, convert to cleaner fuel such
10 as natural gas, and transition to higher biodiesel
11 blends including B5 this October and B10 in 2025. I
12 might also note as it was stated prior--previously
13 that the blend of No. 4 consists of as much as 58 to
14 60% No. 2 versus 40 to 42% of No. 6. In conclusion,
15 we support and maintain the current legislation,
16 which in 2030 phases out the use of No. 4 and oppose
17 any--any shortening of that phase out period. And I--
18 and we do not sell to any of those six bad ones.

19 CHAIRPERSON CONSTANTINIDES: Steve, I
20 definitely appreciate your testimony as always--

21 STEVEN LEVY: Thank you.

22 CHAIRPERSON CONSTANTINIDES: --and we've
23 talked about this, and we'll continue to talk about
24 this as we move forward. So I definitely appreciate

2 your partnership as you noted on all of the good
3 things we've done together.

4 STEVEN LEVY: We—we have and I thank you,
5 and—and it's a little different for me. As you know,
6 and--

7 CHAIRPERSON CONSTANTINIDES: [interposing]
8 Yes.

9 STEVEN LEVY: --and your staff knows I
10 lived out 13 sets of bills and legislation. This is
11 number 14, which I guess this is one that, you know,
12 we'd like to see revisited. So thank you.

13 CHAIRPERSON CONSTANTINIDES: Thank you,
14 Steve. Alright, next up we have Gus Sanoulis from
15 Con Edison. [pause]

16 LEGAL COUNSEL: Can you please raise your
17 right hand? Do you swear or affirm to tell the truth
18 the whole truth and nothing but the truth today?

19 CONSTANTINE SANOULIS: I do. Good
20 afternoon. Thank you Chair Constantinides and
21 members of the committee for the opportunity to
22 appear today. My name is Constantine Sanoulis and I
23 am the Vice President of Steam Operations at Con
24 Edison. I'm submitting comments today on Council
25 Bill 1465, which would require the phase out of No. 4

2 Fuel Oil by October 2025. My comments today are
3 focused on the financial and operational
4 considerations this legislation would have on Con
5 Ed's steam and electrical generating facilities in
6 New York City. On the current law, Con Edison made
7 plans to phase out the use of No. 6 Oil by 2020, and
8 No. 4 fuel oil by 2030. If the legislation being
9 considered today becomes law, we would accelerate
10 phasing out No. 4 Fuel Oil by 2025 and replacing it
11 with No. 2 Fuel Oil. Con Edison is committed to
12 reducing our carbon footprint while providing our
13 customers with safe and robust-reliable energy
14 service. As a company, we reduced our carbon
15 footprint by 48% from 2005 to 2015. In recent years
16 Con Edison added natural gas capability to its
17 generating facilities to significantly reduce
18 reliance on fuel oil. Fuel oil is primarily used as
19 the back-up supply to natural gas, which allows Con
20 Edison to produce reliable service--to provide
21 reliable service to our customers. While Con Edison
22 divest most of its in-city electric generating
23 facilities in 1999, the company continues to own
24 steam generating plants, some which also produce
25 electricity. These serve the largest district steam

2 system in the country. The steam system has
3 approximately 1,650 customer accounts in Manhattan,
4 and is used for space heating, hot water, air
5 conditioning and various other process such as
6 sterilizing hospital and medical equipment. The
7 steam system provides significant environmental
8 benefits by reducing the need for on-site boilers at
9 customers' premises. Steam is also used for cooling
10 systems and buildings offset-offsetting nearly 290
11 megawatts of electric demand. Steam customers
12 includes hospitals, schools, fire houses, NYCHA
13 developments and buildings such as the Empire State
14 Building. Over half of the steam produced for our
15 system is co-generated. This means that we're able
16 to produce both steam and electric using the same
17 amount of fuel. This is good for environment and
18 good for the steam customers. Con Edison has already
19 made significant investments to add gas firing
20 capability at the 74th Street and 59th Street
21 Generating Station. This enables these stations to
22 use natural gas as the primary supply of the fuel oil
23 as a backup. The Dual fuel capability is
24 particularly important for maintaining reliability
25 and moderating price impacts during periods of high

2 demand for natural gas. This expansion of the use of
3 natural gas has served to reduce carbon dioxide
4 emissions substantially along with saving our
5 customers money. In 2016, the two stations combined
6 saw an almost 37% reduction in CO² emissions compared
7 to the 2008-9 average. In 2016, Con Edison steam
8 system achieved its lowest levels of fuel oil burned
9 relying on natural gas with 98% of its supply.

10 During the course of the fuel transition, we will be—
11 we will be modifying equipment such as burners, pumps
12 and tanks to convert to this lighter fuel oil. The
13 total cost to convert from No. 6 to No. 4 is
14 approximately \$1 million. The cost to convert from
15 No. 4 to No. 2 is much higher because of the amount
16 of work and equipment involved. The conversion costs
17 from No. 4 to No. 2—from No. 4 to No. 2 Oil, are—are
18 projected to be in the tens of millions of dollars.
19 The accelerated conversion from No. 4 Oil to No. 2
20 could also impact supply costs for both electric and
21 steam customers if No. 2 Oil remains more expensive.
22 This commodity cost increase will be directly passed
23 along to customers as all—as are all current
24 commodity costs or credits. The magnitude of any
25 potential change in costs will depend on fuel market

1 prices at the time of the conversion. The proposed
2 bill may also impact the other electric generators in
3 the city that are currently burning No. 6 and No. 4
4 Oil as a backup. Just as fuel diversity is necessary
5 for the steam system, fuel diversity is also
6 necessary for the electrical system's reliability as
7 well. The impacted generators have approximately 30%
8 of the in-city-in-city generation capacity.
9 Therefore, the acceleration of No. 4 Fuel phase-out
10 should take into account any comments from affected
11 generators that indicate a potential impact on
12 reliability. As a gas provide, Con Edison has
13 already worked with over 5,000 buildings in
14 Manhattan, the Bronx and parts of Queens to convert
15 from oil to clean and natural gas over the past
16 several years. We will continue maintain expand that
17 effort as more buildings that are still on No. 4 Fuel
18 Oil seek to comply with the new deadline. Buildings
19 currently using No. 4 Oil, which are in the proximity
20 of the steam system also have the option of
21 converting to steam for their energy needs. Con
22 Edison will work with any building that wishes to
23 investigate steam as a potential heating and cooling
24 alternative. In summary, Con Edison is prepared to
25

2 meet the requirements of Council Bill 1465 and will
3 comply with the proposed acceleration of the phase-
4 out of No. 4 Fuel Oil. Thank you for this
5 opportunity to speak here today.

6 CHAIRPERSON CONSTANTINIDES: And thank
7 you for our testimony. How much No. 4 Oil do your
8 facilities burn every year?

9 CONSTANTINE SANOULIS: We burn
10 approximately on average for the last three years
11 about--No. 6 Oil--

12 CHAIRPERSON CONSTANTINIDES: Yeah, yeah,
13 uh-huh.

14 CONSTANTINE SANOULIS: --about 12 million
15 gallons on average.

16 CHAIRPERSON CONSTANTINIDES: 12 million
17 gallons per year?

18 CONSTANTINE SANOULIS: Per year.

19 CHAIRPERSON CONSTANTINIDES: Per year and
20 what equipment would your facilities need to adjust
21 or replace clean in order to get to the phase-out to
22 go from 6 to 2?

23 CONSTANTINE SANOULIS: To go from 6 to 2,
24 we would need--

2 CHAIRPERSON CONSTANTINIDES:

3 [interposing] Right. So, let's talk about 6 to 4 and
4 then we'll talk about 4 to 2, alright?

5 CONSTANTINE SANOULIS: Okay, 6 to 4 would
6 be a lot of burning type modifications that have to
7 be made, tuning on the boilers. Of course, the
8 procurement of the fuel, and mostly tuning and
9 controls adjustments. That's why it's only a million
10 dollars in--in new costs. The bigger impact is time.
11 It--it takes quite a bit of time to do each one of
12 these boilers individually, and that's why we will do
13 it--

14 CHAIRPERSON CONSTANTINIDES:

15 [interposing] How long is that to do each boiler?

16 CONSTANTINE SANOULIS: We would say over
17 the next couple of years we can get it done.

18 CHAIRPERSON CONSTANTINIDES: [coughs] Are
19 there currently--[laughs]. I's say a little bit more
20 fine tuned than that sort of timeframe or what does
21 it take for a boiler to do or sort of walk me through
22 that.

23 CONSTANTINE SANOULIS: Each--each boiler
24 would go through a whole sequence of testing of
25 bringing the boiler up to full level--

2 CHAIRPERSON CONSTANTINIDES: Uh-huh.

3 CONSTANTINE SANOULIS: --and down to
4 minimal, tuning those controls for each one, testing
5 the burner tips that you put in to make sure that you
6 have flame stability, and you can ensure the
7 reliability of each of the boilers. And once you've
8 gone through that sequence of testing, you do
9 emissions testing to make sure that what you expect
10 is what--what you got.

11 CHAIRPERSON CONSTANTINIDES: Yeah, uh-
12 huh.

13 CONSTANTINE SANOULIS: Also that you-
14 you're within the environmental emissions regulations
15 and then you'd be completed, but that's one and we
16 have approximately 30 boilers that we have to do with
17 throughout the system.

18 CHAIRPERSON CONSTANTINIDES: Okay, and to
19 go from 4 to 2?

20 CONSTANTINE SANOULIS: To go from 4 to 2
21 is much more extensive. It would require the tanks
22 themselves, which are significant in size to be
23 emptied, cleaned from the No. 6 Oil, which is a heavy
24 residual oil. The tanks will have to be relined,
25 inspected, relined. Then the pumps would have to be

2 upgraded to handle No. 4 in lieu of No. 2. The
3 piping has to be upgraded, and all the things that we
4 did to convert to No. 4 would have to be done for No.
5 2, and also the fire protection systems would have to
6 be upgraded for No. 2 because it's a--it's a lighter
7 oil.

8 CHAIRPERSON CONSTANTINIDES: And is there
9 a cost on that that you foresee?

10 CONSTANTINE SANOULIS: That one we see in
11 the tens of millions of dollars. I mean, we don't
12 have a finite number yet. We're looking at it to see
13 what that total cost would be, but we're projecting
14 some, you know.

15 CHAIRPERSON CONSTANTINIDES: \$10 million
16 that's--that's for the 2030 phase-out or that's
17 something with the hastening of it?

18 CONSTANTINE SANOULIS: No, when I say
19 tens of millions, we'll probably be--

20 CHAIRPERSON CONSTANTINIDES:
21 [interposing] Oh, tens of millions.

22 CONSTANTINE SANOULIS: --in the \$50 to
23 \$60 million range.

24 CHAIRPERSON CONSTANTINIDES: Okay.

2 CONSTANTINE SANOULIS: But that's an
3 estimate at this point.

4 CHAIRPERSON CONSTANTINIDES: But that's
5 the number that you're going to have to spend by
6 2030, correct?

7 CONSTANTINE SANOULIS: That would—that
8 would be, yes, correct.

9 CHAIRPERSON CONSTANTINIDES: So that's
10 happening regardless?

11 CONSTANTINE SANOULIS: That's happening
12 irrespective, correct.

13 CHAIRPERSON CONSTANTINIDES: Is there a
14 cost that's added by accelerating?

15 CONSTANTINE SANOULIS: Not directly no.

16 CHAIRPERSON CONSTANTINIDES: So there's
17 no direct—so whether you just do it in 2025 or 2030
18 there is no difference in cost?

19 CONSTANTINE SANOULIS: The cost to the
20 customer will be—will come earlier.

21 CHAIRPERSON CONSTANTINIDES: Will come
22 earlier?

23 CONSTANTINE SANOULIS: Right. The cost
24 of the conversion is going to be the same.

2 CHAIRPERSON CONSTANTINIDES: Okay.

3 Alright, I thank you for your testimony and look
4 forward to working with you on this.

5 CONSTANTINE SANOULIS: Thank you.

6 CHAIRPERSON CONSTANTINIDES: Alright, is
7 there anyone else at this time who wishes to give
8 testimony? Alright, not seeing anyone, I definitely
9 want to thank everyone who testified today. We want
10 to thank my colleagues, Ritchie Torres who is the
11 prime sponsor of Intro 1465. He's looking forward to
12 moving a good conversation forward on this particular
13 bill as well as 1503. So I thank everyone who is
14 here today to testify adding your voice to move our
15 city into a greener and more sustainable model. I
16 want to thank the Mayor's Office as well for their
17 good works and, of course, our staff Samara Swanston,
18 our great staff attorney and Bill Murray our Policy
19 Analyst both who do great, great work, and Nick
20 Lozowski and John Benjamin from my team, and with
21 that, I will gavel closed this committee on
22 Environmental Protection. [gavel]

23

24

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date May 3, 2017