

TESTIMONY BEFORE THE CITY COUNCIL OF NEW YORK ECONOMIC DEVELOPMENT COMMITTEE
NOVEMBER 14, 2007

Richard V. Imprescia
Executive Director Business Economic Development
Anchin Block & Anchin, LLP

Current NYS legislation provides for four types of businesses eligible for Regionally Significant Projects: (i) manufacturers creating 50+ jobs; (ii) agri-business, high-tech, or biotech businesses creating 20+ jobs and with \$10 million in investments; (iii) financial or insurance services or distribution centers creating 300 or more jobs; and (iv) clean energy research and development enterprises. We wish to discuss only the manufacturing criteria.

- NYC is traditionally a high cost location with other counties and states offering a lower-cost-of-operation. The Empire Zone Regionally Significant Project is a job-growth-retention program providing New York State incentives that can dramatically lower the cost-of-business by providing targeted incentives directly linked to significant job creation on a case-by-case basis.
- Recent zoning changes have made it even more difficult to find affordable manufacturing space in NYC. Dual zoning throughout the City may be providing housing, but it is removing space from areas that are not suffering from high vacancy rates. This tightens the market throughout the City and leaves manufacturers with higher demand and fewer choices.
- It is unrealistic to require manufacturers to only locate within an Empire Zone to receive zone benefits. Finding appropriate space may not be possible as these areas have expanded their capacity and no longer provide a low-cost zone for manufacturers to expand and create jobs.
- Zone benefits only require location within a zone, they do not require expansion of a business. Thus, if a business moves from outside a zone to inside a zone, it obtains benefits for any employees that move with the business even if the business does not add a single employee. Regionally Significant Projects require actual employment increases by the business and in significant amounts on a case-by-case basis.
- The Regionally Significant Project has already been promoted by various IBZ managers as part of their repertoire of programs to assist manufacturing businesses. Bimmy's LLC is the first such project. All zone coordinators will now need to alert interested businesses that the City has decided not to provide this benefit to manufacturers even though it does not cost the City money and even though it has been promoted. Failure to move forward in this area sends a negative message to manufacturing businesses, a group to which the New York City Council has traditionally been sympathetic.
- No cost of foregone revenues to the City of New York
- Expands direct and indirect jobs creation and retention Citywide while under the control of the local community and the NYC Council

Testimony before the Economic Development Committee

November 14, 2007

In Favor of Intro No. 626

Approving Bimmy's As a Regionally Significant Projects

Good Afternoon. My name is Adam Friedman and I am the Executive Director of the New York Industrial Retention Network, a citywide economic development organization that works with manufacturers to promote a diverse, sustainable economy and to provide employment opportunities for all New Yorkers. NYIRN appreciates this opportunity to support Intro No. 626 and the authorization of Bimmy's LLC as a Regionally-Significant Project.

Over the past ten years, Bimmy's has grown from a small Manhattan-based sandwich manufacturer to a 120-employee company making a broad variety of fresh prepared foods for

distribution to airports, corporate cafeterias and other prepared food vendors. Last year, Bimmy's was honored as one of NYIRN's Ten Under Ten, ten new manufacturing startups who illustrate the vitality of that sector and are committed to New York City.

Bimmy's has shown its commitment in several ways. Entry-level wages start at \$8 an hour and reach up to \$15 an hour for wage workers. The vast majority of its workforce is local residents and Bimmy's works with the Arbor program to recruit and train ex-offenders: Currently at least 15% of Bimmy's employees are from this group. Bimmy's has also invested heavily in the design and construction of its facility, receiving high praise from the Department of Health for its innovative food safety features.

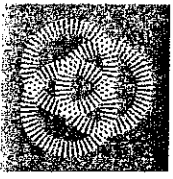
The Regionally-Significant Project status is needed in Bimmy's case to replicate the benefits of an Empire Zone because Bimmy's could not find space in a zone where vacancy rates are uniformly low, generally below 5%, and rents are

climbing to \$15-18/sf levels. This is not like upstate where rents are cheap and there is vacant space inside their zones. Denying a manufacturing company available state benefits because it is not in a zone would be bad policy for a variety of reasons: Only half the City's manufacturing jobs are located in the City's IBZs. Cutting off State benefits would discourage investment and undermine the competitiveness of companies accounting for half the city's manufacturing jobs. It would also send a very negative message to the companies that remain in mixed use neighborhoods that provide local jobs and are part of the character of their communities.

However, this is the first RSP in New York City and it does raise some legitimate policy questions. RSP benefits should not be awarded to retail or restaurants uses which make their locational decisions based on factors like pedestrian traffic. The Council and Administration should articulate criteria for the approval of RSPs, but that should not delay approval of Bimmy's


application which clearly has merit and is within the original intent of the program.

In closing, NYIRN fully supports the approval of Bimmy's as a Regionally Significant Project for the Jamaica Empire Zone and the continued use of the RSP program as part of economic development policy for New York City.



Greater Jamaica
Development
Corporation

90-04 161 Street
Jamaica, NY 11432
718 291-0282
Fax 718 658-1405

www.gjdc.org 

November 14, 2007

Testimony by Greater Jamaica Development Corporation to the New York City Council

In Re: Intro 626, Regionally Significant Projects and Empire Zones

Good day Mr. Chairman, committee members and council staff. I am Richard Werber, Director of the Business Services Group at Greater Jamaica Development Corporation (GJDC).

Thank you for this opportunity to speak with you about Bimmy's LLC's application for designation as a regionally significant project under the New York State Empire Zone program. GJDC is the local administrator for the Jamaica Empire Zone. We are the closest Empire Zone to the applicant's business premises and are therefore responsible for assisting Bimmy's to apply for approval as a regionally significant project; for confirming and presenting the facts supporting their application to the Jamaica Empire Zone Administrative Board; and for providing to the Administrative Board an opinion regarding approval.

We recommended to the Jamaica Zone Administrative Board that Bimmy's LLC be deemed eligible as a regionally significant manufacturing project. We are pleased that the Board supported that designation per their resolution dated December 15, 2006.

GJDC's recommendation to the Board was made primarily for two reasons. First, the company had a plan for business growth that could be expected to add no less than 50 and as many as 100 jobs over the next 5 years. This level of job growth meets the requirements of the New York State Empire Zones Act that "...a 'regionally significant project' shall mean: a manufacturer projecting the creation of fifty or more jobs...."

The second main reason, which is both more germane to the purpose of today's hearing and closer to the area of GJDC's administrative responsibility, is that Bimmy's LLC is a company that is aligned with the priorities of the South Jamaica Empire Zone.

Bimmy's LLC produces high end specialty gourmet sandwiches and related products. Airport terminals, including those at JFK, LaGuardia, Boston's Logan International, Philadelphia International and Dulles International in Washington, D.C., are all part of Bimmy's primary market. As stated in the Jamaica Empire Zone Economic Development

Policy in effect at the time of Bimmy's application, "The Board will target the following industries: clean, light, labor intensive manufacturing...activities, such as food and food related industries." The policy also targets "Air travel...and specialized businesses that support the airport infrastructure...." Clearly, Bimmy's LLC meets both of these important criteria.

Greater Jamaica Development Corporation, as part of its due diligence, also conducted a site visit to Bimmy's LLC's facilities. In addition to being a top-of-the-line production facility, we observed outstanding working conditions and workers who had been promoted from within.

The revised Empire Zone Development Plan, which was approved by the Jamaica Zone Administrative Board at their meeting of March 22, 2007, raised the level of importance of manufacturing operations such as Bimmy's from a "targeted industry" to a "strategic industry" with the following statement:

"Manufacturers are an at-risk sector due to property values, energy costs and other factors. Yet manufacturers pay good wages and have a high multiplier effect in creating additional jobs outside a business's walls. They will therefore be considered a Strategic Industry...."

Bimmy's LLC has consistently expressed their desire — and the high value it places — on its current workforce. But the costs of doing business at its current location — primarily lease rates and comparative transportation costs to its northeast customers — are far higher than could be obtained out-of-state.

Therefore, Greater Jamaica Development Corporation, as the local Empire Zone administrator, respectfully asks the members of the Council to approve Introduction 626, which will grant Bimmy's LLC status as a regionally significant project. Empire Zone certification will make the company's expansion at its present location economically viable and the company's growth can continue to positively impact the economic development of Queens, of the City of New York and the Empire State.

Thank you for your time and attention.



Good Jobs New York

11 Park Place, #701

New York, NY 10007

tel. 212.721.7996 fax 212.721.5415

www.goodjobsny.org gjny@goodjobsfirst.org

Testimony of Good Jobs New York

Bettina Damiani

November 14, 2007

Before the New York City Council
Committee on Economic Development

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Re: Intro 626 and Regionally Specific Projects

Good afternoon Chairman White and committee members. My name is Bettina Damiani, and I direct Good Jobs New York, a project of Good Jobs First (GJF) and the Fiscal Policy Institute (FPI). FPI focuses on tax, budget, and economic policy issues in New York State; Good Jobs First, based in Washington, DC is a national resource center promoting accountability in economic development and smart growth for working families.

Thank you for inviting me to testify regarding a proposal to amend the boundaries of the South Jamaica Empire Zone to designate Bimmy's LLC a food manufacturing firm in Long Island City a Regionally Significant Project (RSP) so it may be eligible for Empire Zone benefits. This would be the first RSP in New York City.

As far as we can tell, Bimmy's fits the profile of a firm that should benefit from the original intent of the Empire Zones program. Our colleagues at the New York Industrial Retention Network boast of the company's rapid expansion, job creation for local residents and its substantial efforts to hire ex-offenders. However, Good Jobs New York is greatly concerned that other firms that don't fit this business model will quickly line up for benefits.

It would be in the interest of the city for the council to consider legislation that would exclude financial and law firms as well as retail and restaurant operations from being eligible for benefits prior to designating any RSP's. Then, it can consider legislation on behalf of manufacturing firms like Bimmy's.

Our concern is not unfounded. The Empire Zones program has gone astray – far astray – from one created to target benefits in areas of extreme poverty and high unemployment. The program has been found by former New York State Comptroller Hevesi, New York State Assembly Member Richard Brodsky and the Fiscal Policy Institute<sup>1</sup> to be a flawed program that unnecessarily subsidizes businesses and rewards firms in the absence of job creation.



Consider: NRG Energy, a New Jersey-based company that runs electric plants in upstate New York, which received \$21 million in tax breaks for creating half a job.<sup>2</sup> Then there's American Landmark Properties, an Illinois Real Estate Group that is eligible for \$1.3 million a year in Empire Zone benefits for five Syracuse office buildings, despite having only 3.75 employees.<sup>3</sup> Corning Inc. laid off about 3,000 employees in 2001, but qualified for tax breaks worth about \$5 million a year by creating a new real estate division.<sup>4</sup>

Albany has finally started to take notice of this run away program. In late July of this year, State economic development officials issued warning letters to about 3,000 (about 30 percent of all) EZ companies, citing shortfalls on thousands of jobs and billions of dollars in capital investment.<sup>5</sup>

Also in July a report prepared by management consultant firm A.T. Kearny for the Empire State Development Corporation claimed:

“[Empire Zones are....] perhaps the best example of good economic development intentions gone wrong. Its original mission has been morphed by political patronage, legislative revision and commercial manipulation, effectively repositioning it from a program primarily helping distressed communities to one routinely offering tax relief for ongoing businesses.”<sup>6</sup>

Good Jobs New York urges you to consider the unintended consequences of opening up a new subsidy to New York City firms. Regionally Significant Projects are not limited to benefiting a manufacturing firm such as Bimmy's and can be used for financial institutions, high tech or bio tech firms. It would be unconscionable for a financial firm in the financial capital that is New York City to benefit from this subsidy.

Far too many of the city's economic development efforts, particularly at the city's Industrial Development Agency, focus their resources on large, profitable firms. The attached chart shows that in the IDA's 2005 annual report, 82% of the IDA's resources went to commercial firms, but only half of its projects were manufacturing.

The city council should take a leadership position to ensure any new RSP's will only benefit the strong, but challenged manufacturing industry before moving forward with Intro 626. This would help restore the original intent of the Empire Zones by creating an even-keeled program that rewards manufacturing firms that are committed to creating job opportunities for unemployed and underemployed New Yorkers.

Thank you for consideration of our testimony.

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<sup>1</sup> “New York's Empire Zone, Trude Renwick, Senior Economist, Fiscal Policy Institute, September, 2007. [http://www.fiscalpolicy.org/publications2007/Renwick\\_NewYorksEmpireZoneProgramSept07.pdf](http://www.fiscalpolicy.org/publications2007/Renwick_NewYorksEmpireZoneProgramSept07.pdf)

<sup>2</sup> “Money for Nothing.” Mike McAndrew. *Syracuse Post-Standard*, September 17, 2006

<sup>3</sup> “Hire a Janitor or Two and Receive... Towering Tax Breaks.” Mike McAndrew and Michelle Breidenbach. *Syracuse Post-Standard*, April 29, 2007

<sup>4</sup> “No Breaks for Shirt-Changers.” Mike McAndrew, *Syracuse Post-Standard*. May 9, 2007.

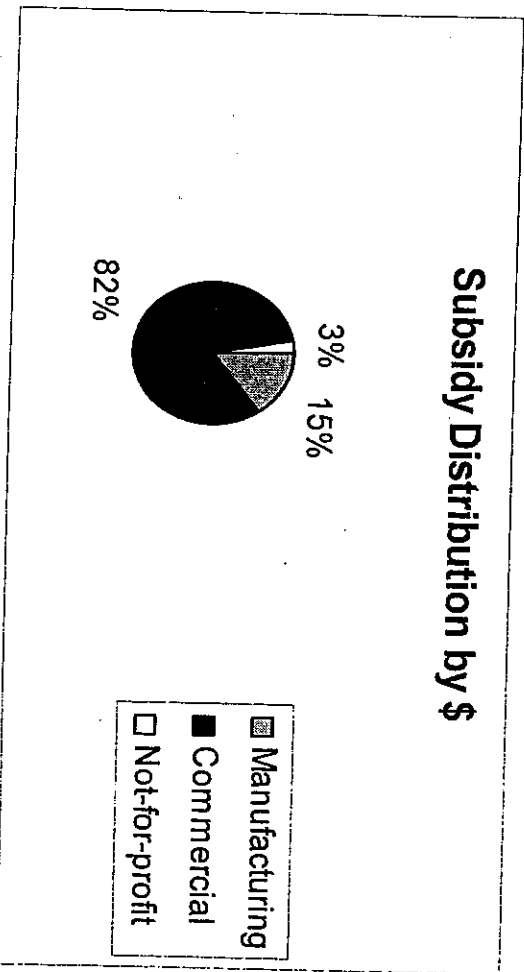
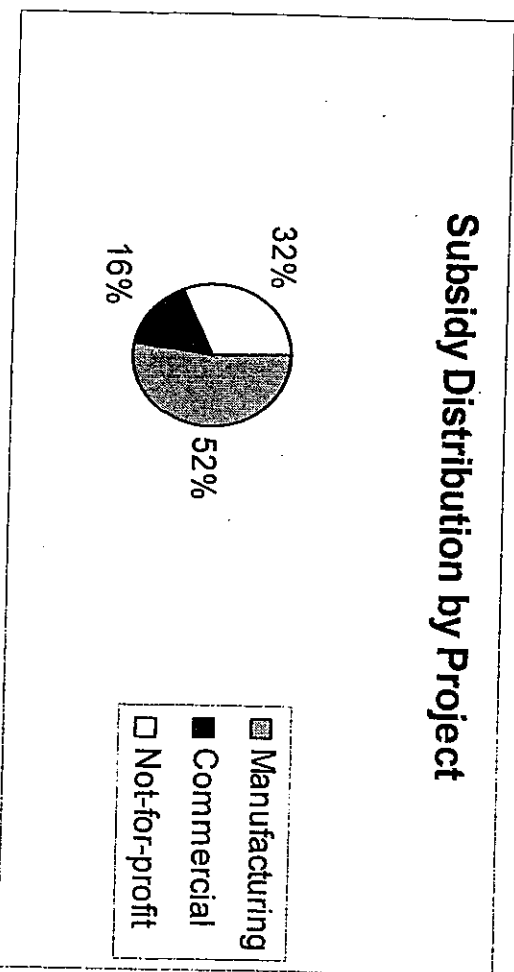
<sup>5</sup> “State Warns Companies in Tax Deals.” Nicholas Confessore and Danny Hakim. *New York Times*. July 31, 2007.

<sup>6</sup> Delivering on the Promise of New York State A Strategy for Economic Growth & Revitalization. Prepared for Empire State Development by A.T. Kearney

# Who gets a break?

The City makes far more industrial deals than commercial retention deals...

...but commercial firms receive most of the benefits.



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July 31, 2007

## State Warns Companies in Tax Deals

By NICHOLAS CONFESSORE and DANNY HAKIM

ALBANY, July 30 — Officials alerted about 3,000 companies on Monday that they could lose the tax breaks they received under the state's enterprise zone program because they had failed to create jobs or invest in their areas as promised.

Warning letters sent to the companies reflected the first significant auditing and enforcement effort in the two-decade history of the program, the Empire Zones. During that period, the program has transformed from an effort aimed at pockets of extreme urban poverty to an all-purpose business program offering tax breaks to companies statewide, costing taxpayers \$3 billion since 2000 alone.

Nearly 10,000 businesses are certified to participate in the program, according to officials at the Empire State Development Corporation, the public benefit corporation that oversees the program. Three thousand of those businesses were issued letters indicating that they had met less than 60 percent of their job creation or investment goals. The companies on the list ranged from large corporations like Wal-Mart Stores and Lowe's to small businesses like Zaro's Bake Shop on Bruckner Boulevard in the Bronx and Jamaica Donuts in Queens.

The letters came just two weeks after a report issued by the consulting firm A. T. Kearney concluded that the Empire Zone program had been "morphed by political patronage, legislative revision and commercial manipulation" and required extensive reform.

Documents provided by state officials indicated that the businesses in question, which represent only those companies with the program's very worst record of job and investment creation, may have fallen short cumulatively by thousands of jobs and billions of dollars in investment.

The letters were based on an audit of the 2005 annual business reports submitted to state officials by companies participating in the program. Officials said they would wait until later this year, when they would be able to track the companies' progress with the reports for 2006, to determine whether any of the companies had come closer to their job or investment goals.

"We're going to look at 2006. We hope that they've made progress," said A. J. Carter, the spokesman for the development corporation. "And then we want to talk with them, and work with them. Then we will make an assessment of what to do."

Mr. Carter said the development corporation had the power to try to make companies repay tax breaks as well as to disqualify companies from the program in the future. But he emphasized that officials would make no determinations about any individual companies until they had examined the 2006 business reports.

The documents provided Monday did not make clear when various businesses were granted Empire Zone status or over how many years they had failed to meet their promised goals. Nor did they detail the total

dollar amount of tax credits received by each company. Mr. Carter said he was not able to provide further details.

Some companies, according to the documents, fell well behind their investment targets.

Harlem River Yard Ventures, a private development company that is leasing about 100 acres in the South Bronx from the state, for example, committed to invest some \$650 million but so far has invested only \$19.7 million, according to the records. The company also fell far short of its job creation goals.

Companies controlled by Robert Congel, a Syracuse developer, also figured prominently in the records, which showed they were falling short of their investment goals by hundreds of millions of dollars. Mr. Congel, who has long had plans to build an upstate supermall, has been a high-profile political donor, most recently to Gov. Eliot Spitzer.

The documents show Wal-Mart as far short of its projected investment of \$45 million, having invested only \$3.2 million. Lowe's projected a \$9 million investment, but has put up only \$700,000 so far, according to the development corporation's report. The documents did not make clear which store locations of the two chains were included in the program.

The tax packages provided through the program vary from business to business, but can include wage tax credits, investment tax credits, sales tax refunds, and various property tax credits.

The findings came as little surprise to the program's critics. Since their inception in 1986, the zones have had, at best, a limited record of success. Yet with every ostensible effort to overhaul the program, it seemed to sprout new loopholes and evolve further from its original mission.

"The program is corrupt and ineffective," said Richard L. Brodsky, a Westchester County assemblyman who has called for it to be temporarily shut down. Mr. Brodsky's colleagues in the State Legislature have not greeted his proposal enthusiastically, given the vast number of companies benefiting from Empire Zone tax credits all across the state. Where once the program had only 10 zones, all in decaying urban neighborhoods with high rates of unemployment and little prospect of private investment, today there are 82, including at least one in all but three counties in the state. Some have been drawn with boundaries around properties occupied by a single business.

A 2004 audit by the state comptroller of three New York City zones found that administrators had routinely failed to analyze whether the tax credits provided under the program were cost effective, or whether the businesses receiving them had supplied accurate information to state officials.

Last year, an investigation by The Post-Standard of Syracuse found that hundreds of participating companies had engaged in so-called shirt-changing, in which they reincorporated themselves or shifted assets to make themselves appear as new businesses, thus qualifying for the benefits given to companies relocating to Empire Zones. During hearings this year, Mr. Brodsky estimated that, over all, the program had created 40,000 to 45,000 full-time jobs since its inception, a number he described as startlingly low given the cost and lost tax revenue.

"This is a program that socialists would be embarrassed about," he said.

TESTIMONY BEFORE THE CITY COUNCIL OF NEW YORK ECONOMIC DEVELOPMENT  
COMMITTEE  
NOVEMBER 14, 2007

*Afternoon*  
Good ~~morning~~. My name is Elliot Fread, and I am the founder and President of Bimmy's LLC, a sandwich maker based in Long Island City. I am here today to speak in favor of Intro. No. 626 that would help make Bimmy's the first regionally significant project in New York City.

First of all, there are a number of people I would like to thank, as this has been a long process. First of all, I would like to thank the Committee Chair for convening the hearing on short notice. I would also like to thank Council Member Leroy Comrie who has been supportive of the project from the very beginning and who expedited its sponsorship by the Jamaica Zone Board. The Chair and Council Member Comrie as well as Council Member Gennaro all represent part of the Jamaica Empire Zone and their support in this area is appreciated. I would also like to thank Council Member Eric Gioia from my district for his support and also the staff of the Speaker's Office and this Committee who have been so helpful.

I would like to also thank the Mayor's Office, in particular the Office of Industrial and Manufacturing Businesses and its former director Carl Hum and current staff member Lee Miller. I would also like to thank the Economic Development Corporation and the Department of Small Business Services.

Now, I would like to say something about Bimmy's. Bimmy's makes gourmet sandwiches and sells them to various users. Our primary clients are the airline industry and if you travel, you may see our product in the airports. A few years ago, our company employed 16 people and we have now grown to over 120 employees. We have gone from servicing a single city, New York, to servicing airports in Washington, Philadelphia, and Newark. And we hope to expand further. Our success within the City has been recognized by various groups such as the New York Industrial Retention Network, commonly referred to as NYIRN.

As part of our increase, we have tried hard to stay in New York City. Originally, our plant was in Chelsea, but our facility was too small. We expanded into a new facility in Long Island City, but competitively, we face high real estate costs, high transportation costs, and other issues. Bimmy's has considered locating a new facility along the I-95 corridor which would allow us to more easily service our out-of-state clientele as we expand. But thankfully, the State and the City came up with this program that will allow us to continue to expand within the City.

Bimmy's is also proud of the way we operate our business. In addition to using high quality products, we also have been cited by government agencies as an example of how to operate a clean facility. Other companies are often referred to us by these agencies so that they can view an example of how to operate a kitchen facility in a clean, safe manner.

On another front, Bimmy's believes in giving people a second chance. Eighteen (18) employees are from populations that are considered difficult to employee, such as former homeless people, drug addicts and parolees. These employees are given a second-chance, and not only are they hired, but they have the chance for advancement. Two of these employees are, in fact, managers within the business. And Bimmy's will continue with these employment practices.

Moreover, our success has allowed us to work with our employees to improve their pay, and with the additional aid that we hope to receive by being designated a regionally significant project, Bimmy's intends to expand its programs for its employees.

Finally, while some have questioned the nature of zone benefits because some businesses have applied and received zone benefits have not kept their promises, the Council should understand that to qualify this program, Bimmy's will need to add at least fifty (50) employees. Thus, any concerns about Bimmy's receipt of benefits under the Regionally Significant Project program but not keeping its promises, should be alleviated by the fact that our company's failure to meet the threshold will lead to a denial of benefits by the State, which is also the provider of the benefits. The City itself does not suffer any financial loss by designating an entity as a regionally significant project.

Bimmy's is committed to increasing employment, meeting its obligations and continuing to produce a high quality product that everyone can enjoy.

Once again, Bimmy's would like to thank the Council and the Mayor's Office for its support and we look forward to being in the City for many years. And I thank you for this opportunity to testify.

**TESTIMONY OF**

**THE MAYOR'S OFFICE OF INDUSTRIAL AND MANUFACTURING  
BUSINESSES**

**BEFORE**

**THE COMMITTEE ON ECONOMIC DEVELOPMENT**

**OF**

**THE NEW YORK CITY COUNCIL**

**NOVEMBER 14, 2007**

Good afternoon Chairman White and members of the Committee on Economic Development. My name is Lee Miller and I direct the NYC Empire Zones Program with the Mayor's Office of Industrial and Manufacturing Businesses. I am joined by Larry Scott-Blackmon, Chief of Staff and Deputy Commissioner for Intergovernmental Affairs with the Department of Small Business Services. I am pleased to testify before you today in regard to Intro 626, which would authorization the designation of Bimmy's LLC as a Regionally Significant Project.

As many of you know, the Empire Zones Program was created by the New York State Legislature in 1986 to stimulate private investment and job creation through a variety of State tax incentives, including wage tax credits, investment tax credits and real property tax credits. Our NYC businesses have benefited greatly from this program, collecting on average \$50 million in State tax benefits each year.

The State Legislature adopted legislation in April 2005, which extended the Empire Zones Program until June 30<sup>th</sup>, 2011 and, among other changes, created a provision allowing for Regionally Significant Project designation. This designation allows local businesses outside the distinct geographic boundaries of an Empire Zone to tap into valuable State tax credits.

To ensure that the Regionally Significant Project designation is used prudently, the State Legislature has created an authorization process that involves the State, the local legislature, Zone Administrative boards, and an environmental review process.

Moreover, to qualify for this designation, the business must be either:

- 1) A manufacturer creating 50 or more full-time jobs;
- 2) An agribusiness, high-tech or bio-tech company creating 20 jobs and making an investment of \$10 million;
- 3) A financial, insurance or distribution entity creating 300 or more jobs; or
- 4) A clean energy research and development enterprise.

Additionally, there is an "other" category referenced in the General Municipal Law that has yet to be fully defined by the Empire State Development Corporation.

Over 90 Regionally Significant Projects have been designated throughout the State. The bill before us today, would authorize an application for Bimmy's LLC as the first Regionally Significant Project in New York City. The South Jamaica Empire Zone Administrative Board, at the request of Council member Comrie and with the support of Council member Gioia passed a resolution to pursue this project in December, 2006.

Bimmy's is a Long Island City-based food manufacturer, specializing in high end gourmet sandwiches. They are a major food supplier for both JFK and LaGuardia airports, as well as other retail outlets such as the Staten Island Ferry. With designation, Bimmy's projects the creation of 100 new, full time jobs and significant investments in production equipment. And with designation, this business will continue to support our



City's manufacturing job base. These are the types of tools that help our City's manufacturers to operate competitively.

I understand that you will be hearing testimony from Bimmy's LLC this afternoon. You will hear how important businesses like Bimmy's are to our economy and how the Regionally Significant Project designation can help them grow.

Thank you again for the opportunity to appear before you today. I'd be happy to address any questions you may have.