

**TESTIMONY OF
TODD KUZNITZ, DIRECTOR OF ENFORCEMENT
NEW YORK CITY DEPARTMENT OF SANITATION**

**HEARING BEFORE THE NEW YORK CITY COUNCIL
COMMITTEE ON SANITATION AND SOLID WASTE MANAGEMENT
TUESDAY, APRIL 7, 2009 – 10:00 A.M.
250 BROADWAY, 14TH FLOOR HEARING ROOM**

Re: Intro No. 701-A: In relation to in relation to prohibiting obstructing signs on streets, median strips of a street, sidewalks, flagging and curbstone, whether or not abutting the offending property.

Good morning Chairman Felder and members of the Committee on Sanitation and Solid Waste Management. I am Todd Kuznitz, Director of Enforcement for the New York City Department of Sanitation. I am here with Andrea Ciccone, Director of Intergovernmental Affairs for the Department. We are here on behalf of Commissioner Doherty to testify on Intro No. 701-A under consideration by the Committee this morning and to answer your questions.

As proposed, Intro 701-A amends the current sidewalk obstruction provision under the City's Administrative Code. It creates a rebuttable presumption that the person whose name or other identifying information appears on a free-standing signboard that rests upon any street, median strip of a street, public sidewalk, flagging or curbstone, is responsible for the obstruction caused by such device. Under the current Code provision, the Department may only issue a summons to the person responsible for the premises outside where the signboard is placed. Intro 701-A also clarifies that free-standing signs include A-Frame signs, curb signs, sidewalk signs, free-standing message boards, menu boards, sandwich boards, pedestal signs, pole banners or signs, and tilt-and-roll signs. Additionally, this bill expands the prohibited area to include the "lateral lines of a roadway", which the Department interprets to include the center traffic malls and medians separating public thoroughfares on each side.

The Department supports the underlying intent of this bill. It would have the effect of protecting lawful business owners from individuals who indiscriminately place obstructive signboards on sidewalks in front of another person's business or premises for which they have no responsibility. The Department clearly recognizes that small neighborhood businesses are an integral part of the City's economy. Their ability to thrive and prosper is vital and necessary to this City's economic engine, and making New York City a friendly place to do business is a continuing goal of both the Mayor and the Speaker. This bill does not seek to increase fines or penalties, nor create a repeat offender violation schedule, nor anything that would negatively impact law-abiding small business owners. Rather, it would place responsibility on those unscrupulous individuals seeking to evade the sidewalk obstruction law by actually violating it upon someone else's premises for which they bear no legal responsibility.

As you know, the Department's primary mission is to ensure that New York City's streets, curb line areas and public sidewalks are clean, litter-free, and obstruction-free. It accomplishes this through its street cleaning program and ensuring compliance with the City's sanitation laws. Sandwich boards or A-Frames placed *anywhere* on the sidewalk is unlawful at all times and constitutes a "sidewalk obstruction" within the meaning of Section 16-118(2)(a) of the City's Administrative Code as determined by the New York City Environmental Control Board.

Pursuant to the Sanitation Commissioner's discretionary authority, it has been the Department's policy not to issue notices of violation to merchants who place their sandwich boards securely against their building. Where a signboard does not cause a potential sidewalk obstruction that impedes pedestrian flow, agents and uniformed field officers are instructed not to issue any summonses. The exception to this is when community boards, private civic and block associations, and interested parties request that the Department strictly enforce the City's sidewalk obstruction law under a zero tolerance policy. This request is often made in areas where the sidewalks are narrow. Over the last sixteen months, the Department has worked successfully with community boards in addressing and responding to their specific community-based concerns, and we will continue to do so.

In the last few years, we have observed a downward trend in the number of summonses issued for sidewalk obstructions. In Fiscal Year 2007, the Department issued a total of 22,572 sidewalk obstruction summonses citywide. In Fiscal Year 2008 the number of summonses dropped to 20,983. Currently in Fiscal Year 2009, for the period beginning July 1, 2008 through March 31, 2009, the Department has issued only 12,436 sidewalk obstruction summonses. With only three months remaining in this fiscal year we estimate roughly about a 40% drop in sidewalk obstruction summonses compared to the last two years.

While Intro 701-A covers only signboards, I want to clarify that these enforcement numbers cover all sidewalk obstruction violations such as produce and food displays, clothing racks, furniture, and other general vending merchandise unlawfully placed on sidewalks, including those areas specifically enumerated under Title 19 of the City's Administrative Code where outdoor vending is specifically prohibited. This downward trend in enforcement by the Department of Sanitation tells us that most businesses are fully aware of their legal responsibilities and take appropriate measures and pride in keeping their premises clean and free of obstructions. This is encouraging to the Department because it helps us to meet our core mission of maintaining public cleanliness.

Notwithstanding these efforts of law-abiding businesses, in an attempt to evade liability under the current sidewalk obstruction law there are unscrupulous individuals and businesses placing signboards in front of other competing business establishments or establishments that happen to be closed at the time. They also place signboards at other locations such as street corners, crosswalks, and areas extending into the curblines, and stake signs into the grassy areas of traffic malls and medians. These actions not only impede the safe flow of pedestrian traffic, but they also create a hazard to pedestrians; especially persons who are vision-impaired and persons pushing baby strollers or small grocery shopping carts. Signs that are staked into the

grassy areas of traffic medians are frequently left there by the person who staked the signs, which become exposed to wind and/or rain, fall down and create street litter.

To ensure that the responsible party properly receives a summons, Intro 701-A would appropriately assign liability to a party based on the information and details contained on the sign, rather than the geographic location of the sign. We recognize the bill's amendments are intended to enforce against persons who actually create the sidewalk obstruction, and NOT innocent law-abiding business owners and establishments.

Small business merchants play an essential role in achieving and maintaining clean communities. They are on the frontline of their communities and set a positive example for others in their areas. It has been our experience and observation that nearly all small businesses are knowledgeable of the sidewalk obstruction law -- enacted in 1955 -- as it relates to signboards. Once again, Intro No. 701-A only amends the existing sidewalk obstruction law by authorizing the issuance of summonses to the actual party responsible for the improper placement of a sidewalk sign, and not penalize a commercial establishment or residence on whose premises a signboard has been improperly placed. The intent of this bill is to promote a laudable goal by protecting law-abiding small business owners, and for this reason we support its intent.

We will now be happy to answer your questions.

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 701-A Res. No. _____

in favor in opposition

Date: 4/7/09

(PLEASE PRINT)

Name: Todd Kowitz

Address: _____

I represent: DSNY

Address: _____

▶ Please complete this card and return to the Sergeant-at-Arms ◀

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THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 701-A Res. No. _____

in favor in opposition

Date: 4/7/09

(PLEASE PRINT)

Name: Andrea Ciccare

Address: _____

I represent: DSNY

Address: _____

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**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 701-A Res. No. _____

in favor in opposition

Date: 7 April 2009

(PLEASE PRINT)

Name: Kenneth Paskin

Address: 1001 N. Fairfax St # 301 Alexandria, VA 22304

I represent: International Sign Association

Address: SCMP

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
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Appearance Card

I intend to appear and speak on Int. No. 701-A Res. No. _____

in favor in opposition

Date: 4/7/09

(PLEASE PRINT)

Name: SAUL SCHEINBACH

Address: 630 W. 246 St #1423

I represent: CB8

Address: _____

Please complete this card and return to the Sergeant-at-Arms