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COMMITTEE ON HOUSING AND BUILDINGS

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON HOUSING AND BUILDINGS

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January 27, 2020
Start: 10:16 a.m.
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HELD AT: Council Chambers - City Hall

B E F O R E: Robert E. Cornegy, Jr.,
Chairperson

COUNCIL MEMBERS:

Fernando Cabrera
Margaret S. Chin
Mark Gjonaj
Barry S. Grodenchik
Farah N. Louis
Bill Perkins
Carlina Rivera
Helen K. Rosenthal
Ritchie J. Torres

A P P E A R A N C E S

Melanie La Rocca
Commissioner of the New York City Department of
Buildings

Diana Cooper
Senior Vice President of Policy and Strategy at
PrecisionHawk

Bryan Lozano
Director of External Affairs at Tech:NYC

Brendan Schulman
Vice President of Policy and Legal Affairs for
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Andreas Benzing
Architect and President of New York Passive House

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Registered Architect in the tristate area and
Internationally Certified Passive House Designer
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Maureen Shea
Project Manager for ChoShields Studio

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Principal at ChoShields Studio

Todd Kimmel
Resident

Jay Murdoch
Owens Corning, Director of Industry Affairs

Stash Zakrewski
AIA

Marty Salzberg
IALD, ASHRAE

2 CHAIRPERSON CORNEGY: [GAVEL] Good morning. I'm
3 Council Member Robert Cornegy Jr., representative for
4 the vibrant communities of Bed Stuy and Northern
5 Crown Heights and I serve as the Chair of the
6 Committee on Housing and Buildings.

7 I'd like to take a moment this morning to reflect
8 on the life and career of basketball legend Kobe
9 Bryant. His sudden death serves as a reminder to
10 spend every moment of life living your purpose. I
11 also want to acknowledge the tragic death of his
12 daughter Gianna, just 13-years-old and the seven
13 others who perished.

14 He had an illustrious 20 year career with the
15 Lakers and became a worldwide sensation. Kobe had a
16 true love for everything basketball, giving
17 everything, he had to fulfill his passion. Working
18 through the hurt, the challenges, the rough games,
19 through the good and the bad, he stuck with his
20 passion and achieved rare greatness.

21 Yesterday I spent several hours on the phone with
22 my daughters, one of which is a volleyball player and
23 the other is a basketball player and the profound
24 effect it had on them really left me almost without
25 words and the only thing I could tell them was that

1
2 we have a responsibility to live each day like there
3 is no tomorrow and it's hard to tell a 13 year old
4 and a 19 year old, who see life in a particular way
5 that's their mandate. But that's what I felt like in
6 talking to them over the 15 times that I did and
7 although this is a hearing on Housing and Buildings,
8 I feel compelled just to give that bit of information
9 to everybody who's here, who's watching the hearing,
10 who will see the hearing taped. I think that we're
11 all stunned as a country because we believe that our
12 athletes and entertainers are infallible and that
13 these things couldn't be for them but when we look
14 back, we have to determine what impact they've had on
15 people's lives and what impact we have a
16 responsibility to have on people's lives. So,
17 blessings to his family and loved one in this
18 difficult moment. I pray that they find peace.

19 We're here today to discuss two important topics.
20 The first of which is building façade inspections.
21 Required by law since 1980, building façade
22 inspections are intended to ensure that building
23 façades are safe and secure. Reducing or eliminating
24 the risk of bricks and debris falling on the
25 pedestrians below. The Department of Buildings is

2 responsible with enforcing these requirements and
3 holding building owners accountable for making
4 necessary repairs. Unfortunately, accidents still
5 happen and the Council has been forced to revisit the
6 topic following terrible tragedies.

7 Local Law 10 of 1980, the first law requiring
8 building façade inspections passed following the
9 tragic death of Grace Gold, a Barnard College who was
10 killed by a piece of terracotta that fell from an
11 apartment building at 115th and Broadway. Then came
12 Local Law 11 of 1998, a current law which passed
13 after one incident during which bricks separated from
14 a façade on Madison Avenue and rained into the
15 streets below. And another during which a 16 year
16 old student was killed by a falling brick. There
17 have been many incidents related to defective façades
18 and a decision to hold this hearing today comes after
19 another horrible tragedy.

20 On December 17, 2019 Erica Tishman was walking
21 near a midtown office when she was struck and killed
22 by debris falling from a façade of a 17-story office
23 building at 729 7th Avenue. Alarminglly, in April
24 2019, the owner of the building had been fined by the
25 city because a portion of the building's façade was

2 at risk of falling. But they paid the fine and the
3 dangerous conditions remained.

4 We're here to discuss the city's processes for
5 ensuring that façades are safe and ways to improve
6 the enforcement of existing requirements. We'd also
7 like to discuss current and potential solutions, like
8 the role of the city's ever present scaffolding and
9 sidewalk sheds and whether new technology such as
10 drones could help to facilitate inspections and
11 repairs.

12 To that end, we'll also be hearing Intro. 1853, a
13 bill I sponsored that will require the Department of
14 Buildings to report on safety and feasibility of
15 permitting building façade inspections to be
16 conducted with the use of drone technology.

17 The second topic of this hearing is the update to
18 the city's Energy Conservation Code. Intro. 1816,
19 which I sponsored, is a bill revising the New York
20 City Energy Conservation Code to align it with
21 updates at the state level and changes to industry
22 standards. Note that the bill is over 100 pages, so
23 in the interest of conserving paper, the full text
24 has not been included in the Committee Report for
25

1 this hearing. If anyone would like to review the
2 full text, we have some copies available here.

3
4 I'd like to thank my fellow Committee Members
5 present today, which there are plenty of. Council
6 Member Louis, Council Member Chin, Council Member
7 Grodenchik, Council Member Perkins, Council Member
8 Powers, Council Member Cabrera, Council Member Kallos
9 and Council Member Rivera. I said that right, didn't
10 I. Yeah, thanks. Actually, that's the quickest I've
11 ever rattled off my colleagues names. I don't know
12 what that means this morning and at the conclusion of
13 my remarks, Ben Kallos will be offering an opening
14 statement.

15 I'd like to remind everyone who would like to
16 testify today to please fill out a card with the
17 Sergeant. We will be sticking to a two minute clock
18 for all public testimony. And now, we'll have Ben do
19 his opening remarks and then we'll administer the
20 oath.

21 BEN KALLOS: Good morning, I'm Council Member Ben
22 Kallos. I want to start with a thank you to Housing
23 and Buildings Chair Robert Cornegy, whose been
24 working with me on the issue of scaffolding and
25 sidewalk sheds since 2018 in particular, as the two

nerdiest council members, how we can use technology and innovation to solve this problem with the use of drone inspections.

While I've worked for years on a framework to legalize drone inspections, I think this study proposed by his introduction is a necessary first step that will help us get down this pathway.

As of this morning, there are 8,507 active sidewalk sheds entombing the City of New York as literally crumbles around us. That is over 300 miles, I believe 348 miles which incidentally is the distance from right here to the Canadian border.

Some of the sidewalk sheds are up for an average of 308 days, which is just under a year with one of the longest continuous sidewalk sheds getting ready for its bar mitzvah, as it just turned 13 and some sidewalk sheds, almost old enough to vote. And I do want to take a moment to thank our new Buildings Commissioner Melanie La Rocca for after working on this issue for my entire first time, we've really seen a lot of movement and attention from Department of Buildings doing a citywide inspection and really going after buildings, including bringing folks to criminal court, which was a necessary and huge first

1 step. And I'm just looking forward to the continued
2 collaboration and the energy that she has brought to
3 the role and I think one of the problems we're
4 dealing with, with the sidewalk sheds is when it
5 comes to city façades we are literally dealing with
6 19th Century laws, 19th Century inspections, where
7 people are literally looking at the sides of
8 buildings with binoculars, telescopes and even just
9 going down the side of a building, feeling their way
10 on it when we could be using new technology and
11 innovation like drones to inspect every single inch
12 of the building. Taking in high resolution and even
13 do things that we as human beings can't, like looking
14 at an infrared, looking at water permeation and
15 things that technology can bring to it and then, the
16 entire concept is that we could use a drone to
17 inspect an entire building, perhaps even in a day.
18 Where otherwise we might otherwise need to put up
19 sidewalk sheds and takes days, weeks or months.

21 I think it could be a huge gamechanger and allow
22 us to focus our effort on the specific places in the
23 building that need the repairs versus the current
24 process that just takes far too long.

2 I want to thank all the Committee Members and
3 hope for a quick, that this moves forward quickly.

4 Thank you.

5 CHAIRPERSON CORNEGY: So, before we administer
6 the oath. I want to join my colleague in commending
7 the new Commissioner on her willingness and
8 demonstrating the ability to work on safety issues
9 expediently on behalf of the city. That partnership
10 is essential in us getting what we need done. I also
11 want to mention that earlier in the press conference,
12 it was reference made to Galileo's use of the
13 telescope and I don't want to be disrespectful to
14 Galileo in this context. So, in true spirit of my
15 nerdiness, I did here that in your comments earlier
16 and don't disrespect Galileo every again.

17 COUNCIL CLERK: Could you please raise your right
18 hands. Do you affirm to tell the truth, the whole
19 truth and nothing but the truth in your testimony
20 before this committee and respond honestly to Council
21 Member questions?

22 PANEL: Yes.

23 COUNCIL CLERK: Great.

24 MELANIE LA ROCCA: Good morning Chair Cornegy and
25 members of the Committee on Housing and Buildings.

2 I'm Melanie La Rocca, Commissioner of the New York
3 City Department of Buildings. I'm joined today by
4 Gus Sirakis, the Department's First Deputy
5 Commissioner and Gina Bocra, the Department's Chief
6 Sustainability Officer.

7 Together, we are pleased to be here to offer
8 testimony in support of the revisions to the New York
9 City Energy Conservation Code and to discuss façade
10 inspections.

11 Before I discuss the Energy Code, I'd like to
12 thank you Chair Cornegy, along with all of the
13 members of the Committee for your partnership on the
14 revisions to the New York City Plumbing Code, which
15 were approved by the Council last month. As you all
16 know the Constructions Codes are the backbone of New
17 York City's built environment. They, coupled with
18 the New York City Zoning Resolution, which we are
19 responsible for interpreting and enforcing,
20 physically make New York City the place it is today.
21 The Construction Codes, including the Energy Code,
22 are revised periodically to ensure they are up to
23 date, that they reflect the advancements in
24 technology, as well as the latest safety standards
25 for building construction.

2 The recently adopted revisions to the New York
3 City Plumbing Code, are the first step as the
4 Department works to update the Construction Codes to
5 ensure the City's built environment with its more
6 than one million buildings and 45,000 active
7 construction sites, is as safe as it can be.

8 Today, the Committee has before it, Intro. Number
9 1816, which updates the Energy Code. In addition to
10 bringing the Energy Code up to date with the 2020 New
11 York State Energy Conservation Construction Code,
12 this bill aligns the Energy Code with the latest
13 version of the New York Stretch Code. This is a
14 model energy code developed by the New York State
15 Energy Research and Development Authority that
16 provides additional energy savings over New York
17 States Energy Code. Aligning with New York Stretch
18 Code brings us into compliance with Local Law 32 of
19 2018. Local Law 32 required the Department to submit
20 revisions to the Energy Code to the City Council that
21 align with the New York Stretch Code in the revision
22 cycle and the upcoming revision cycles.

23 New York City has had its own Energy Code since
24 2010. The Energy Code, like the balance of the
25 Constructions Codes, is periodically updated and was

1 last updated in 2016. It is imperative that the
2 Energy Code be updated periodically to ensure it's
3 more restrictive than the New York State Energy Code.
4 And yet, this is only one piece of work the
5 Department is doing to address greenhouse gas
6 emissions coming from buildings, our largest source
7 of emissions in New York City, which I will discuss
8 further momentarily.
9

10 The Energy Code revision process began in early
11 2018. It involved over 48 industry professionals and
12 stakeholders who volunteered their time to
13 participate in the process and who sat on either a
14 Residential Advisory Committee, or Commercial
15 Advisory Committee, and who participated in various
16 subcommittees along with 17 guest experts.

17 Advisory Committees are responsible for reviewing
18 all proposed amendments to the Energy Code and
19 providing comments or recommendations for additional
20 amendments to the Energy Code. Advisory Committee
21 members include registered design professionals
22 knowledgeable in energy efficiency, energy
23 conservation, building design and construction,
24 environmental advocates with expertise in energy
25 efficiency and conservation, as well as construction

2 and real estate professionals and representatives of
3 the labor organizations.

4 The proposed revisions to the Energy Code are
5 based on the 2020 New York State Energy Code, which
6 again, aligns with the 2018 International Energy
7 Conservation Code developed by the International Code
8 Council and with ASHRAE Standard 90.1. While the
9 proposed revisions use the 2020 New York State Energy
10 Code and the Stretch Code as a base, they also modify
11 or add new language to the Energy Code tailored to
12 the unique needs and characteristics of the City's
13 built environment.

14 Together, these changes will result in an average
15 annual energy savings of 13 percent for new
16 commercial buildings and an average annual energy
17 savings of 19 percent for new one and two family
18 homes as well as small apartment buildings. These
19 changes will bring the best in energy efficiency to
20 our building equipment and envelopes and will ensure
21 the city's buildings consume less energy as we work
22 towards achieving carbon neutrality.

23 In addition to proposing the most stringent
24 Energy Code in the City's history, the Department is
25 hard at work at implementing a number of laws aimed

2 at increasing the energy efficiency of our buildings.
3 This includes establishing an Office of Alternative
4 Energy, which will assist with the review and
5 approval of applications submitted to the Department
6 in connection with the alternative energy projects,
7 establishing an Office of Building Energy and
8 Emission Performance, which is tasked with overseeing
9 a program to regulate greenhouse gas emissions from
10 buildings exceeding 25,000 gross square feet, and
11 implementing laws that will require buildings to
12 cover their roofs in solar panels or green roofing
13 systems.

14 We will also begin seeing energy grades on our
15 buildings later this year, which will make energy
16 efficiency of our buildings transparent to all New
17 Yorkers.

18 Now, before I discuss façade inspections, I'd
19 like to take a moment to thank the Residential and
20 Commercial Advisory Committees and their members who
21 contributed their expertise and time to produce the
22 bill before the Committee today.

23 Now, turning to façade inspections. They are
24 required by Construction Codes to periodically
25 evaluate the condition of certain façades and to

2 ensure that façades are being maintained. In New
3 York City, all buildings greater than six stories,
4 which currently includes approximately 14,500
5 buildings, must have their exterior walls inspected
6 every five years. These inspections are performed by
7 a registered design professional with relevant
8 experience, referred to as Qualified Exterior Wall
9 Inspectors. These inspectors which are hired by
10 buildings owners, are responsible for submitting the
11 results of exterior wall inspections to the
12 Department.

13 As part of these inspections, buildings façades
14 are characterized as safe, which means a façade is in
15 good condition. Safe with the repair and maintenance
16 program, which means the façade is in good condition
17 but requires repair and maintenance during the next
18 five years to remain in such condition, or unsafe,
19 which means the façade presents conditions that must
20 be repaired within twelve months.

21 If the façade is unsafe, the Construction Codes
22 require owners immediately commence repairs to
23 address unsafe conditions or take steps to protect
24 pedestrians, which most commonly includes installing
25 a sidewalk shed.

2 The Department takes seriously its responsibility
3 to hold owners accountable for keeping their
4 buildings safe and code compliant and to enforce all
5 requirements that façades be maintained and that
6 certain façades be inspected periodically.

7 When the Department receives a façade report,
8 inspection report, that report is reviewed by a plan
9 examiner and rejected if determined to be inadequate.
10 A rejection could occur if the report omits any
11 required elements or is not detailed enough. Any
12 deficiencies identified in an inspection report must
13 be addressed and an amended inspection report must be
14 submitted to the Department. The Department also
15 performs audits, which include a physical visual
16 inspection by the Department, following the
17 submission of façade inspection reports to ensure
18 that conditions at the building are as described in
19 the report.

20 The Department issues violations to owners who do
21 not comply with the façade inspection requirements,
22 which includes failing to submit an inspection report
23 to the Department during a reporting cycle. In
24 addition, when an inspection report is not submitted
25 to the Department for a building, the Department will

1
2 conduct an inspection of that building to determine
3 if the façade presents any hazardous conditions and
4 issue any appropriate violations, which could include
5 violations for failure to maintain.

6 Additionally, the Department may order that
7 pedestrian protections be implemented at the building
8 if required to protect the public. The Department
9 also issues violations to owners who do not file
10 amended inspection reports following an inspection by
11 a QEWI that indicates a façade is unsafe. These
12 amended reports must be filed after repairs are made
13 to a building's façade to correct any unsafe
14 conditions.

15 The Department also performs compliant based
16 inspections on façades and takes enforcement action
17 where it determines an owner has failed to maintain a
18 building's exterior walls or that an owner has failed
19 to take steps to protect pedestrians.

20 Before I discuss additional steps, the Department
21 is taking in furtherance of façade safety, I would
22 like to acknowledge two recent tragic façade
23 incidences.

2 On December 17, 2019, there was a façade incident
3 in Manhattan that resulted in the death of a member
4 of the public, Erica Tishman.

5 On January 16, 2020, there was also a façade
6 incident in Queens that resulted in the death of a
7 member of the public, Xiang Ji. The families and
8 friends of Erica Tishman and Xiang Ji are in our
9 thoughts. No pedestrian should be at risk from
10 dangerous façade conditions.

11 I would like to remind owners that they are
12 responsible for maintaining their buildings in a safe
13 condition, which could prevent incidences like these
14 from occurring again in the future.

15 Now, while the recent incident in Queens is still
16 under investigation, I would like to provide
17 additional background on the incident that occurred
18 in Manhattan in December. This incident involved a
19 piece of falling façade off of a building where there
20 were no protections in place for pedestrians, even
21 though the Department had ordered that such
22 protections be implemented following an inspection
23 that occurred months earlier in April of that year.

24 The April inspection was an audit performed by
25 the Department after a façade inspection report was

1 submitted to the Department for the building. During
2 this inspection, the owner was ordered to make
3 repairs to the façade and to implement safety
4 measures in order to protect the public. A follow up
5 violation was issued to the owner of the building in
6 July of that year for failure to resolve the earlier
7 violation. The owner challenged our violations,
8 delayed their hearings at Oath and failed to
9 implement pedestrian protections as ordered.
10

11 Immediately following this incident, the
12 Department performed a sweep of 1,331 buildings.
13 These buildings were previously identified as
14 requiring repair work during required inspections.
15 Of these buildings, 220 lacked proper pedestrian
16 protection and received a violation requiring them to
17 implement protective measures.

18 To date, the owners of 68 of these buildings have
19 installed appropriate protective measures. The
20 Department has issued immediate Emergency
21 Declarations of the 152 buildings that have failed to
22 install protective measures, which means contractors
23 will be brought in to perform the work at the owners
24 expense.
25

2 Last month, the Department announced its doubling
3 our dedicated façade inspection team and enhancing
4 the façade inspection process. These actions will
5 hold owners accountable for both maintaining their
6 façades and keeping pedestrians safe. Doubling the
7 dedicated façade inspection team means that buildings
8 will be receiving additional proactive inspections
9 from the Department.

10 When the Department issues an immediately
11 hazardous violation for a façade condition, we will
12 be back out there in 60 days, and again 30 days after
13 that to determine whether proper pedestrian
14 protections are in place. Regular inspections will
15 continue after that point to make sure that the
16 required pedestrian protections are in place and that
17 any orders issued by the Department are being
18 complied with.

19 The Department has published for adoption its
20 amended rules that enhance requirements for periodic
21 exterior wall inspections and repairs performed by
22 property owners, an effort that has been underway for
23 months. The amended rule will be in effect next
24 month, ahead of the next façade inspection cycle, and
25 includes more hands on inspections of facades

1
2 fronting public right of ways, greatly increases
3 penalties for failing to file required façade
4 inspections reports and for failing to make repairs
5 to unsafe façade conditions, adds a new requirement
6 that owners post and maintain a building's façade
7 status in the lobby, in a manner similar to elevator
8 certificates and requires additional experience for
9 façade inspectors hired by property owners.

10 It is critical that buildings, including their
11 façades be maintained by owners. Adding more
12 dedicated staff to our façade inspection team, means
13 more inspections to hold owners accountable for the
14 conditions of their façades, not just for buildings
15 that must inspect their façades periodically, but
16 across the board.

17 For buildings that are subject to periodic façade
18 inspections starting next month, those inspections
19 will be required to be more thorough and penalties
20 for failing to file reports and failing to conduct
21 repairs will be stiffer. Safety is a priority for
22 this Department and the failure of building owners to
23 maintain their façades or to keep pedestrians safe is
24 not acceptable.

2 Thank you for holding this hearing on this
3 important issue. I look forward to continuing our
4 work together and finding ways to improve the work
5 the Department does on behalf of all New Yorkers. I
6 welcome any questions you may have.

7 CHAIRPERSON CORNEGY: Thank you Commissioner, I
8 have a few questions and then I have some colleagues
9 that have questions as well.

10 I'm going to begin just by asking simply, can you
11 walk us through the requirements of Local Law 11?

12 MELANIE LA ROCCA: Certainly. Every five years
13 each building six stories and above is required to
14 file a report to the Department. That report is
15 prepared by a qualified professional. As we call
16 them a Qualified Exterior Wall Inspector. That
17 report is to detail conditions of the façade where
18 conditions show maybe of concern.

19 So, the report is characterized in three
20 different ways. As I mentioned in my testimony,
21 safe, safe with repair and maintenance and unsafe.
22 Those three categories have different timelines if
23 you will for repair. Safe, being in good condition,
24 no work. Safe with repair and maintenance, meaning
25 that work is required within the five year cycle.

2 And unsafe, indicating that there are conditions on
3 the façade that require attention within the twelve
4 month period.

5 Building Construction Codes also require that for
6 buildings identified as unsafe pedestrian protections
7 are installed. So, those reports are submitted to
8 the Department and each and every report is reviewed
9 by a member of the staff.

10 CHAIRPERSON CORNEGY: So, how many of those
11 façades are currently designated unsafe or safe with
12 a repair and maintenance plan? Do you know that
13 number?

14 MELANIE LA ROCCA: Certainly. The last cycle
15 period that came to a close, which is cycle seven,
16 there were 93 percent of buildings that were either
17 safe or safe with the repair maintenance. So, of
18 that universe you asked for, there are currently as
19 of today, 577 identified as unsafe and you had ask
20 for safe with repair. Council Member, there's 5,2056
21 today, as of today.

22 CHAIRPERSON CORNEGY: How many outstanding
23 violations currently exist for unsafe façade
24 conditions?

1
2 MELANIE LA ROCCA: So, to date, there are
3 currently 130 open Class One violations issued to any
4 property owners for any type of façade work and
5 again, those violations are issued by the Department
6 and monitored by the Department as well to ensure
7 conditions do not deteriorate.

8 I apologize, I said 130, I meant, 1,390, my
9 apologies.

10 CHAIRPERSON CORNEGY: I'm curious, just from an
11 inspection standpoint, is there a reasonable
12 assumption that upon identifying a hazardous
13 condition at a building, that there would be more
14 hazardous conditions. Because I just feel like where
15 there's a structural hazardous condition found, it
16 seems to me that they're generally not isolated to
17 one part of a building.

18 So, upon finding that there is some hazardous
19 condition, is there a more intense inspection that
20 takes place?

21 MELANIE LA ROCCA: Certainly. So, for again, in
22 the universe of Local Law 11 where a registered
23 design professional, who is doing the work on behalf
24 of an owners, identifies a problem. There are two

2 routes; if they identify an unsafe condition, they
3 are required to notify the Department.

4 About half of all of the unsafe reports filed
5 with the Department also receive this secondary
6 notification. The Department inspects each and every
7 site where that notification is made.

8 However, to your point, where there are issues on
9 a façade, I would not say that that issue in that
10 area is necessarily representative of the entire
11 façade, that is why we ask for these up close
12 inspections to determine the extent of which there
13 maybe damage. And you'll see with the changes to the
14 façade rule that the Department is going forward with
15 starting next month, an increase in up close
16 inspections to really help better identify the extent
17 of the damage and the spread of that damage.

18 CHAIRPERSON CORNEGY: So, I don't want to be
19 disingenuous. I'm asking the question because I feel
20 like as we move into more – a deeper dive into the
21 use of new technologies, in particular drones, it
22 seems that it would be consistent in that.

23 So, I don't want to move out of this section but
24 there's a lead and tie in in that question to the use
25 of new technologies if there's a structure. And I'm

1 saying that because as a homeowner, there have been
2 reported cracks in a foundation, for example.

3 Usually, there's a deeper inspection that's done once
4 that's identified because the assumption is where, I
5 hate to say, where there is smoke there is fire but
6 where there is a structural damage identified,
7 there's a likelihood that that could be based on a
8 shift in the building that it could be based on. And
9 I know it doesn't happen as much with high rise
10 buildings but I have to assume that there is some
11 level of consistency in that.

12 And, if I were using new technology to identify,
13 I would be able to identify more of the building in
14 the immediate proximity to the structural damage,
15 than I would in other ways.

16 So, I'm just trying to give you a heads up. As
17 we move into the drone question, it seems to me that
18 this is a lead in potentially to the use of new
19 technologies included, including the use of drones.

20 MELANIE LA ROCCA: I think a fair Segway to
21 drones, I think certainly this Department is
22 certainly open and willing to have any conversation
23 about any potential technologies that may advance our
24 core mission. And again, our mission is ensuring
25

1
2 that all New Yorkers are safe, whether they be
3 occupants of building or those passing by buildings.
4 That's our core mission and any technology that may
5 improve our ability to do that and our efficiency in
6 doing such would be certainly worth looking at from
7 the Departments point of view.

8 CHAIRPERSON CORNEGY: And I just want to state
9 for public record, that I think we have the same
10 mission from Council and the Administrations
11 standpoint, which is the safety of all New Yorkers,
12 including those that are residents and those that are
13 pedestrians.

14 MELANIE LA ROCCA: Certainly, would agree.

15 CHAIRPERSON CORNEGY: My last question before I
16 go to my colleagues is, when a façade is designated
17 unsafe, what is the process for ensuring that unsafe
18 conditions are remediated? I guess, it seems simple
19 and probably redundant within your comments but I
20 just want to isolate that point.

21 MELANIE LA ROCCA: Sure, so again, every single
22 Local Law 11 report submitted to the Department is
23 reviewed. That's our baseline. Additionally, we
24 respond and inspect every instance of an unsafe
25 notification from a qualified Exterior Wall

2 Inspector. Those professionals who are performing
3 the inspection work on behalf of the owner.

4 Additionally, the Department does audit by doing
5 field inspections. A portion of all reports for
6 verification that the condition they have identified
7 in the report is in fact stated as such.

8 On top of that with the additional staff and
9 resources, you will be seeing a more proactive
10 approach to ensuring that owners are complying with
11 what their requirements are and they have been
12 legally mandated to ensure their buildings remain in
13 a state of good condition for some century now.

14 So, those are the steps that the Department takes
15 in ensuring that safety remains.

16 CHAIRPERSON CORNEGY: For the record, what
17 actually triggers an inspection? So, we've seen in
18 some instances with other city agencies the use of a
19 3-1-1 system triggers an inspection. Is that also
20 what triggers an inspection on façades?

21 MELANIE LA ROCCA: Absolutely, we respond to
22 every and all and every 3-1-1 complaint, whether it
23 be for façade issue or any other issues. So,
24 certainly, there is a universe of the Department that
25 is heavily complaint driven for our responses.

2 However, specifically to façades around Local Law 11
3 buildings, again, there is an element of the work
4 already happening that is proactive. We are seeking
5 with our additional staff to enhance that proactive
6 inspection, so that it is not complaint driven.

7 CHAIRPERSON CORNEGY: So, I don't know what the
8 ratio between new buildings and older buildings is in
9 this city but it seems that on every corner in every
10 district in every place, there's new buildings going
11 up and while we kind of ooh and aah and ogle at the
12 new architecture and new structures, I'm concerned
13 with what we have a pretty serious aging
14 infrastructure and that we pay as much attention to
15 both. Like, I find myself in my own district as a
16 tourist on some mornings when scaffolding is removed
17 and a new building is shown and it's like that around
18 the city. I just want to make sure that we are being
19 as responsible as we can with managing our aging
20 infrastructure as we are diligent with our new
21 buildings and inspections and safety.

22 MELANIE LA ROCCA: Agree, and again, the Local
23 Law 11 program is specific to existing buildings and
24 ensures just that. That existing infrastructure is
25 maintained and across the board, whether it's a new

1 building or an existing building, the responsibility
2 remains in place on the owners to maintain their
3 façade. So, an interesting stat of the sidewalk
4 sheds that are up. Two thirds are related to
5 construction or maintenance work and one third of
6 that universe is related to Local Law 11. So, there
7 is robust work happening on both ends.

9 CHAIRPERSON CORNEGY: So, you weren't at the
10 press conference this morning, but Council Member
11 Kallos cited some crazy numbers and one of the things
12 he cited was that the amount of sidewalk scaffolding
13 that we have is equivalent, could be, if stretched
14 end to end, would go from Central Park to the
15 Canadian border. Now, that maybe for a dramatic
16 effect, but he is usually pretty accurate and I count
17 on him for the way he uses his statistics.

18 That's a scary proposition. The scary part of it
19 is, we know that in some instances, developers and/or
20 landlords are using the scaffolding as a way of
21 avoiding actually to remediation. What do we have in
22 place to ensure that that scaffolding and length of
23 time that is up does exactly that? Is geared more
24 towards remediation.

2 We've had prior hearings where we found that it
3 was more cost effective to take the fines as a
4 developer or a building owner, to take the fine as
5 opposed to actually doing the, fine for the use of
6 scaffolding inappropriately than it is to actually do
7 the remediation of the buildings.

8 MELANIE LA ROCCA: I think that's a great point
9 to raise. So, a couple of things to that point
10 Council Member. The sheds up and this is a reminder
11 to everybody. Sheds are up as a temporary measure.
12 They are there to ensure the protection of the public
13 while the violating condition or the reason for the
14 shed being in existence is taking care of.

15 So, from our point of view, sheds are very
16 important. They provide protection; however, they
17 are there for a reason and our goal has been
18 consistent across the board, it's compliance. We
19 want the condition that is causing the shed to be
20 there in the first place to be corrected as quickly
21 as possible.

22 To your point Council Member about removing some
23 of the incentives. We are looking through our façade
24 rule to stiffen the penalties associated on the Local
25 Law 11 side with owners who chose to not follow their

1 obligations. And so, what we're doing there is
2 increasing the fine and the penalties associated with
3 failure to action. So, failure to report or being
4 late in your reporting will see a significant
5 increase in fines.

6
7 Again, removing the financial incentive to wait.
8 On top of that, there will be penalties associated
9 with those who chose to not do the work but rather
10 put the protection in place and leave it, ensuring
11 that you are now penalized for your linear footage of
12 a shed that is up. And so, we are again, removing
13 the excuses and ensuring that owners do the work that
14 they are legally required to do.

15 The other side to that is, Council Member Kallos
16 alluded is, you know, our goal is again compliance.
17 The shed represents a temporary fixture, we want the
18 condition alleviated.

19 So, we are, as the Council Member mentioned,
20 using all of our powers, that also includes taking
21 owners to criminal court who have been negligent in
22 their responsibility for maintaining their façades
23 and have chosen to keep their sheds in place.

24 CHAIRPERSON CORNEGY: So, while I appreciate
25 that, I do wrestle with the idea of using fines and

1 fees as incentives. The city, I think, when we begin
2 to monetize these things goes in a different
3 direction. Just for the record, I don't say that
4 that's not a tool in our toolbox to get compliance
5 but relying heavily on fines and fees has been
6 problematic in communities like mine.

7
8 So, I'd love to work with you around making sure
9 that we're not indiscriminate in the way that we use
10 those fines and fees and the escalated fines and fees
11 and it doesn't produce undo harm. Because usually
12 what happens when - not in terms of the DOB but in
13 general, when that happens usually it's the wrong
14 people who find themselves on the end and people who
15 could least afford and who are trying to do the best
16 that they can to meet the needs of the city. They
17 usually find themselves in the crosshairs of
18 increased fines and fees. So, I'm sometimes careful
19 when I think about that and its implementation across
20 the city.

21 So, I'm not saying I'm against it, I'm saying I'd
22 like to work with you to get to a place that it
23 doesn't disproportionately negatively impact. That
24 it only impacts bad actors and not potentially people
25

1 who are trying to make a difference in the city and
2 do thing.

3
4 MELANIE LA ROCCA: We welcome that collaboration.

5 CHAIRPERSON CORNEGY: So, my colleagues have
6 questions. Council Member Chin.

7 COUNCIL MEMBER CHIN: Thank you Chair. First of
8 all, I wanted to thank Commissioner La Rocca for
9 assisting us with the building in Chinatown that had
10 a you know, a horrific fire right before the New Year
11 and thank you for working with my staff and keeping
12 us in touch and I hope that we can stabilize the
13 building, so that we can go in there and retrieve the
14 artifact for the Museum of Chinese American.

15 I really appreciate you taking your personal time
16 to really keep us updated and all your staff. So, I
17 just wanted to thank you in person.

18 MELANIE LA ROCCA: Thank you Council Member,
19 thank you.

20 COUNCIL MEMBER CHIN: So, in my district in lower
21 Manhattan, I have lots of sidewalk sheds up there and
22 there is some that's been up there for more than a
23 decade. So, one of the questions that I ask is that,
24 how often do they have to come back for renewal and
25 does that trigger the Department of Building to

1
2 investigate, why is it taking so long for them to
3 complete the work that they're supposed to do?

4 MELANIE LA ROCCA: Certainly, so, there are at
5 this moment, just over 9,500 sheds in the City of New
6 York. 98 percent of those sheds have been in place
7 for three years or less. 88 percent of those sheds
8 have been in place for less than a year.

9 The average time a shed is up is just over 300
10 days. So, a number of our sheds, while by volume, it
11 may seem significant, a number of the sheds do move
12 relatively quickly. With respect to longstanding
13 sheds, again, as I mentioned, our goal is compliance.
14 So, the shed is there for a reason. We want to
15 ensure that whatever the condition was that caused
16 the shed to go up, is addressed and that shed is
17 removed quickly.

18 So, we are working towards getting the sheds that
19 are some of our longest standing sheds down as
20 quickly as possible and encourage owners to move
21 along with the work that they require and one of the
22 tools that we are using to do that is through the
23 criminal court process.

24 COUNCIL MEMBER CHIN: Okay. So, how successful
25 have you been using the criminal court? Was there

1
2 any kind of example, cases that you were able to get
3 the owner to do the repair.

4 MELANIE LA ROCCA: Yes, and we can certainly
5 provide you with that information following the
6 hearing. But again, it is a tool that we use and as
7 we dedicate more time and resources to this effort of
8 insuring that where sheds are required, they're there
9 and when they are no longer required, they are
10 removed as quickly as possible. And so, this is a
11 work in progress for the Department but we'll happily
12 follow up with your office and the Committee to
13 ensure that information is shared.

14 COUNCIL MEMBER CHIN: Yes, I mean I would like to
15 follow on some of the sheds have been up for so long.
16 In your testimony, you talk about after the incident
17 that happened in Manhattan that caused a tragedy.
18 That the Department did a sweep about 1,331 building
19 and you were saying that the one that did not comply,
20 that the Department issued an immediate emergency
21 declaration for their 152 buildings that failed to
22 install the protective measure. And that means that
23 the Department of Building is going to come in with
24 contractors to do the work?

1
2 MELANIE LA ROCCA: It is through our partnership
3 with HPD that the city installs at the owners cost
4 those protective measures.

5 COUNCIL MEMBER CHIN: That's great. I mean, was
6 that a regular practice?

7 MELANIE LA ROCCA: We have a very good
8 relationship and partnership with HPD and yes, where
9 there are issues, whether they be façade related or
10 otherwise, that the Department deems it necessary to
11 issue an immediate emergency declaration. HPD is our
12 partner to ensure that those protections are
13 installed.

14 COUNCIL MEMBER CHIN: Yeah, because I know that
15 you know, we work with HPD and they come in and they
16 do the repair and they charge the owners. So, I
17 mean, it's good that the Buildings Department is also
18 working with them. Because yeah, if they don't
19 comply and it's a dangerous situation, something has
20 to be done.

21 MELANIE LA ROCCA: We agree.

22 COUNCIL MEMBER CHIN: Yeah, so, I'm glad we're
23 doing that more because I mean, what happened with
24 the incident in Manhattan, I mean the owner was cited
25 many months ago and didn't comply and that's what

1
2 happened. You know, tragedy happened when people
3 doing follow the rules and I think that's something
4 that we really need to pay serious attention to, to
5 make sure that they do you know, comply and I'm glad
6 that this is happening and that you are taking that
7 measure.

8 Thank you Chair.

9 CHAIRPERSON CORNEGY: Thank you. If there are no
10 more questions, I just have a couple more. So,
11 obviously, the tough discussion to have is anytime a
12 tragedy and loss of life is present. But I do have
13 just a question or two around the loss of life of
14 Erica Tishman.

15 You mentioned that DOB had done an investigation
16 that resulted in - do we know what went wrong
17 actually? Because I'm really still not sure in that
18 whole communication where they were actually fined,
19 paid the fine and then the incident still occurred?
20 I'm trying to figure out where the gap is in there,
21 so that we could not have that happen again.

22 MELANIE LA ROCCA: Sure, certainly, so, let me
23 just start by saying anytime a member of the public
24 is harmed or God forbid, struck by and killed, that
25 is a tragedy for my department certainly, as we, our

1 mission is insuring that New Yorkers are safe and
2 obviously it is felt throughout the city.

3
4 So, let me just start by saying that. The
5 incident in Manhattan is still under investigation by
6 the Department and our partners in law enforcement
7 but I will say this, our process for Local Law 11
8 buildings did require that the Department review each
9 and every report and it was because of that process
10 that we did identify discrepancy with the way the
11 report was filed to the Department and what we
12 believed the filings should have been.

13 That led to an inspector going out to the site to
14 inspect visually, inspect the building, which
15 confirmed our belief that the building should have
16 been characterized as unsafe. We issued and ordered
17 the owner to take appropriate measures to protect the
18 public. That may include a shed, it may include
19 other measures and as I mentioned, that order was not
20 followed certainly. And so, at the end of the day,
21 we believe that process that we had at that moment,
22 which we are adding to and will continue to make more
23 robust, identified a problem. We issued the
24 violation and ordered certain actions to be taken
25 that were not.

2 CHAIRPERSON CORNEGY: So, an incident like that,
3 minus the loss of life, what generally is the next
4 procedural step when someone has not complied?

5 MELANIE LA ROCCA: So, as I mentioned, we'll be
6 doubling our inspectorial staff dedicated exclusively
7 to façades, to build on the work we were already
8 doing to ensure more proactive boots on the ground
9 inspections occur, so that we can ensure compliance
10 with both the immediate orders and ultimately the
11 condition that has caused the protection to be there.

12 And so, the Department will be doing 60 and then
13 30 days later inspections and then, these properties
14 will be on a cycle for reinspection.

15 CHAIRPERSON CORNEGY: So, before I let you go and
16 thank you so much for answering every question.
17 Intro. Number 1853, oh, I'm sorry, also, we've been
18 joined by Council Member Torres.

19 Intro. 1853, a Local Law in relation to requiring
20 by Department - I'm sorry, requiring the Department
21 of Buildings to report on safety and feasibility of
22 permitting building exterior wall examinations by
23 unmanned aircraft systems.

24 How long would it take for the Department of
25 Buildings to conduct a report on the safety and

1
2 feasibility of permitting building exterior wall
3 examinations that the bill requires?

4 MELANIE LA ROCCA: Well, I'll happily take a look
5 at the legislation but generally speaking Council
6 Member, the Department remains committed to embracing
7 any technology that may allow us to achieve our core
8 missions of safety for all New Yorkers and to do that
9 more efficiently. But I will say, this Department is
10 also keenly aware of the fact that there is certain
11 value to be added by having visual hands on
12 inspections by humans who can truly touch and feel
13 the material, in order to help determine the state of
14 condition of that façade.

15 CHAIRPERSON CORNEGY: I mean, just for general
16 knowledge, I don't believe that they're mutually
17 exclusive. I don't believe that there's one or the
18 other. I believe that in tandem, we'll get a safer
19 city.

20 So, I don't want to mislead anybody into thinking
21 that I want to do away with the ability to see, feel
22 and touch from a humans perspective inspections. I
23 just, I think that we could expedite, get a closer
24 look in a shorter period of time but the manpower
25

1
2 necessary around safety requires, in my opinion, that
3 there be this tandem of effort.

4 MELANIE LA ROCCA: I, again, we remain open to
5 any and all technologies that help us fulfill or
6 mission.

7 CHAIRPERSON CORNEGY: I'm clear on your answer
8 but I'm dully bond to ask the question plainly, does
9 the Department of Buildings support Intro. 1853? I'm
10 not dense in understanding what your broad scope of
11 using everything is, but I have to ask.

12 MELANIE LA ROCCA: Yes, the Department supports
13 reviewing and issuing a report on the applicability
14 of drones.

15 CHAIRPERSON CORNEGY: Thank you. I understand
16 that there are Council Member questions, starting
17 with Council Member Grodenchik.

18 COUNCIL MEMBER GRODENCHIK: Thank you Mr. Chair.
19 Good to see you Commissioner as always, good to see
20 somebody from Flushing.

21 Just quickly, on the sidewalk sheds, you know, I
22 have a situation in my district where not totally
23 analogous but somewhat analogous, where somebody has
24 been building a home for like 14 years now. It maybe
25 longer, 14, 15 years and they renew the permits and

1
2 as you can imagine, living next to or across the
3 street from a green fence, you know, in what is
4 otherwise a beautiful residential area is not
5 something any of us would really want and you know,
6 these sidewalk sheds go on forever. Does it make any
7 sense in the opinion of the Department of Buildings
8 to increase the fees for reupping after a certain
9 amount of time?

10 MELANIE LA ROCCA: We can certainly look at that.

11 COUNCIL MEMBER GRODENCHIK: Alright, I'll be in
12 touch with you about that then. Thank you. Thank
13 you, Mr. Chair.

14 CHAIRPERSON CORNEGY: Thank you. Council Member
15 Torres.

16 COUNCIL MEMBER TORRES: How are you Commissioner?
17 I just want to follow up on what I understood to be
18 Council Member Cornegy's question. Obviously, a lack
19 of safety in façades is a matter of life and death
20 and so, when you issue an order, and an owner
21 blatantly disregards it, what's the enforcement
22 mechanism? What's the mechanism for holding that
23 owner accountable?

24 MELANIE LA ROCCA: So, as I mentioned, the
25 Department currently for Local Law 11 buildings does

2 review each and every report filed, as well as does
3 in field inspections of a portion of that universe.
4 We will be increasing that significantly, as well as
5 ensuring that any façade, regardless of status, for
6 any reason that was issued a Class 1 violation will
7 be on a reinspection protocol to ensure immediate
8 compliance with the order for protection, as well as
9 compliance with correcting the condition.

10 COUNCIL MEMBER TORRES: That part I understand
11 that the inspections are going to be much more
12 aggressive and much more proactive, but once you've
13 issued an order and the owner has disregarded it,
14 what's gives the order teeth? What's the enforcement
15 mechanism?

16 MELANIE LA ROCCA: So, with all of our
17 violations, if the Department issues a Class 1
18 violation, we will continue to reinspect and issues
19 additional violations to that property owner for
20 their failure to correct a violating condition.

21 So, the Department already has a robust process
22 to ensure that owners are continuously engaging with
23 the Department through our enforcement action but
24 also, has the ability to ensure that they are able to
25

1
2 come in and actually correct the condition that is
3 causing the violation.

4 Secondly, if there is an issue that we believe is
5 immediately hazardous to Council Member Chin's
6 question, we will issue an immediate emergency
7 declaration whereby the owner is required and should
8 they chose not to, the City will step in and install
9 the appropriate protections to ensure the public is
10 safe.

11 COUNCIL MEMBER TORRES: So, that's one mechanism,
12 is emergency declaration. Is there a point at which
13 DOB will take legal action against an owner?

14 MELANIE LA ROCCA: Certainly, we have taken legal
15 action. As I mentioned, for our longstanding sheds
16 that have been up for over ten years, we have begun
17 the process and are currently in criminal court over
18 the length of those, the sheds, being there and
19 again, the sheds are there as a temporary measure.
20 They're there to ensure the protection of the public
21 because of a violating condition elsewhere typically
22 on the façade.

23 So, the criminal court process allows for two
24 fold. One, the removal of the shed but only through
25 the correction of the condition that was initially

1
2 cited. So that allows for both parties to be
3 addressed on our end, the public protection and the
4 violating condition.

5 COUNCIL MEMBER TORRES: Thank you Commissioner.

6 CHAIRPERSON CORNEGY: Thank you. Before you go,
7 I just want to have a question or two on the Energy
8 Conservation Code update.

9 Please walk us through the process that the
10 Department of Buildings uses to create this code
11 revision.

12 MELANIE LA ROCCA: Certainly, so with all of our
13 Energy Codes, we have a very robust engagement with
14 our stakeholders in the industry. The Energy Code is
15 a consensus based driven process. We have, as I
16 mentioned in my testimony, over 40 stakeholders. We
17 have 48 Advisory Committees; they are broken into two
18 categories residential and commercial. Those
19 committees sought the expert guidance from 17 guest
20 experts who were invited to participate and all
21 committee members are selected through a call to our
22 industry for applications, as with our other
23 committees, we solicit directly from industry and
24 through our website for participants to come on and
25 be members of our committees.

2 CHAIRPERSON CORNEGY: And my final question is,
3 it doesn't have an effective date. Can you describe
4 why and when can we anticipate it going into effect?

5 MELANIE LA ROCCA: So, the Energy Code, unlike
6 the remainder of the Construction Codes, is directly
7 tied to the states enactment. So, the State Energy
8 Code has been approved, we are waiting for its
9 publication and upon its publication, the State Code
10 will be in effect 90 days later.

11 New York City is required to have our own Energy
12 Code in effect on that date or sooner.

13 CHAIRPERSON CORNEGY: Thank you so much and thank
14 you for your testimony.

15 MELANIE LA ROCCA: Your very welcome. Thank you,
16 Council Members.

17 CHAIRPERSON CORNEGY: We are going to be calling
18 the first panel. The first panel consists of Diana
19 Cooper, Brendan Schulman, Justin Pascone, and Bryan
20 Lozano.

21 Just a couple of housekeeping rules, I want to
22 remind you that there is a two minute clock per
23 testimony for public testimony. I ask that you
24 identify yourself and the organization that you are
25

1 associated with unless you're testifying on your own
2 behalf and good morning.

3
4 You guys can begin whenever you'd like. I just
5 will say that I am old school and it requires that
6 ladies first, but you can do whatever you'd like.

7 DIANA COOPER: Thank you Chairman. Good morning
8 Chairman and Committee Members. My name is Diana
9 Cooper and I am Senior Vice President of Policy and
10 Strategy at PrecisionHawk. One of the country's
11 leading drone software and service providers. I am
12 also a resident of New York City.

13 At PrecisionHawk, we pride ourselves in
14 conducting operations that serve the public interest.
15 We have used drones to support an environmental
16 impact study for the Department of Veterans Affairs
17 West LA Campus. The data collected was used to build
18 a digital twin to support master planning and
19 redevelopment. Drones have a clear benefit in urban
20 design and construction project in terms of
21 efficiency and safety.

22 Climbing roofs can be hazardous tasks; by
23 outfitting workers with drones, we are helping them
24 perform their jobs more safely.

2 Drones also play a crucial role in disaster
3 response. After Hurricanes Florence and Michael, we
4 used drones to capture imagery and video of impacted
5 bridges, dams and roads. This allowed for real-time
6 decision making about road closures and evacuation
7 routes. We also used drones to assist utilities to
8 restore power faster, and to help insurance companies
9 process claims faster to get people back into their
10 homes.

11 Although hurricanes are rare in the city, many
12 recall the impact of Superstorm Sandy. If a severe
13 storm returns, drone technology must be empowered to
14 help New Yorkers rescue, restore, and recover.

15 In the city, the use of drones is hampered by an
16 outdated local law intended for helicopters and
17 airplanes. The manner in which this law is being
18 applied to drones amounts to an effective local
19 flight ban, which is not legally enforceable since
20 the FAA has exclusive authority to regulate airspace.

21 While major cities such as LA and Chicago have
22 begun to reap the benefits of this technology, New
23 York City stands alone and has been left behind.

2 It's time for our city to bring this modern tool
3 to its businesses, students, teachers, civil
4 servants, media and artists among others.

5 Thank you.

6 CHAIRPERSON CORNEGY: Thank you.

7 BRYAN LOZANO: My name is Bryan Lozano and I'm
8 the Director of External Affairs at Tech:NYC. Thank
9 you for calling this hearing and for the opportunity
10 to testify. I am here today to voice support for
11 Introduction 1853 and discuss the need for New York
12 to reassess regulations limiting drone usage.

13 Tech:NYC is a nonprofit coalition with the
14 mission of supporting the tech industry in New York
15 through increased engagement between our more than
16 800 member companies, New York government and the
17 community at large. Tech:NYC works to foster a
18 dynamic, diverse and creative ecosystem, ensuring New
19 York is the best place to start and grow tech company
20 and that New Yorkers benefit from the resulting
21 innovation.

22 Today, New York City stands as a global hub for
23 innovation and our vibrant ecosystem is a model for
24 cities around the world. Our city's tech ecosystem
25 has benefited from the strong partners in government

2 and forward thinking policymakers. However, when it
3 comes to drones, our city has been behind. Due to an
4 outdated municipal law from 70 years ago, the
5 aviation statute, many professionals are dissuaded
6 from utilizing drone technology in New York City.

7 Drone technologies can benefit a wide array of
8 stakeholders and they have the capability of allowing
9 businesses, government, nonprofits and many others to
10 do their work faster, safer and more efficiently.
11 New York City would undoubtedly benefit from a
12 revised regulatory framework for drones.

13 Drones can be particularly useful in the
14 construction and building trades. Drones equipped
15 with cameras and sensors, can be used to quickly,
16 accurately, and cheaply inspect infrastructure from
17 bridges to buildings. With a large portfolio of
18 aging infrastructure and laws mandating inspections,
19 drones would play an important role in façade
20 inspections and in ensuring the safety of New York
21 City's infrastructure.

22 In cities around the world, drones are already
23 being deployed for this very purpose and there is no
24 reason this should not be the case in New York.

2 One of our main objectives at Tech:NYC is to
3 ensure that New York's laws and regulations do not
4 unnecessarily impede innovation; as new technologies
5 are created and developed, it is important for our
6 laws to be updated. This is of the utmost importance
7 if our city is to remain an international hub for
8 innovation.

9 Introduction 1853 would be an important first
10 step towards updating our laws and we applaud the
11 Council for realizing the potential benefits of
12 drones for building inspections.

13 Thank you.

14 CHAIRPERSON CORNEGY: Thank you.

15 Chairman Cornegy and the Committee Members. I am
16 Brendan Schulman; the Vice President of Policy and
17 Legal Affairs for DJI. The world's largest
18 manufacturer of civilian drones.

19 Prior to 2015, I spent my career practicing law
20 in New York City, where I founded the nation's first
21 drone legal practice group. Questions on how to
22 balance the public safety, security and privacy
23 concerns posed by drones with the enormous benefits
24 they bring, have been the focus of my career for the
25 past six years.

2 Consumer and public safety are top priority DJI.
3 Our drones include many safety features such as
4 geofencing, that automatically prevents them from
5 flying into sensitive areas such as airports. Our
6 remote ID system has helped law enforcement and
7 security authorities in New York ensure the safety of
8 large public events.

9 Our latest drone, which I have right here, the
10 Mavic Mini, weighs about half a pound and aviation
11 researcher and regulators worldwide have determined
12 that drones this small don't pose a serious risk of
13 harm to people or aircraft. So, I'm glad to say that
14 drones are safe for use in New York.

15 We have been very encouraged by the many Council
16 Members who appreciate the amazing potential of drone
17 use. By our count, from news reports alone, drones
18 like these have rescued over 325 people from peril,
19 including floods and fires and have also found
20 missing people.

21 Façade inspections are just one of countless
22 drone applications available to New York. They can
23 capture breathtaking images for film, TV and the
24 news. Drones already help the NYPD and FDNY but can
25 also help the Parks Department survey for rotting

2 tree branches or invasive species. DOT can insect
3 bridges and roadways, NYCHA can inspect rooftops and
4 water tanks, DEP can monitor and remediate
5 environmental conditions, and the list goes on.

6 Right now, New York City, as you've already
7 heard, is interpreting a 1948 law that was created to
8 limit the airports where helicopters and airplanes
9 are allowed to land, as meaning that all drone use is
10 illegal. This fearful policy is the wrong attitude
11 and burdens emergency response resources when people
12 call in to report a drone.

13 We are working with a broad coalition of
14 organizations calling on the Mayor's Office, City
15 Council and NYPD to reconsider this policy and enact
16 a 21st Century framework for drone use.

17 We support this current bill because it will
18 promote one use of drones that is exceedingly
19 beneficial, but I urge the Council to also consider a
20 broader framework for drone use in New York City.

21 Thank you.

22 CHAIRPERSON CORNEGY: Thank you. I just have a
23 question for you on geofencing when we've completed.

24 BRENDAN SCHULMAN: Of course.

2 JUSTIN PASCONE: Thank you, Council Member. My
3 name is Justin Pascone; I'm the Director of Policy at
4 the New York Building Congress.

5 The Building Congress is a nearly 100 year old
6 organization working to encourage the growth and
7 success of New York City's building industry and the
8 vibrancy of New York at large. We represent more
9 than 500 constituent organizations employing over a
10 quarter million professionals and tradespeople.

11 Today's building industry has an enormous on the
12 city and our citizens, despite the fact that many of
13 the techniques that we employ are stuck in the 20th
14 and sometimes 19th Century.

15 We're encouraged that the Council is considering
16 the studying of safe use of drones to perform façade
17 inspections and we support the bill. New
18 technologies like drones are being used in other
19 cities around the country and around the world and if
20 New York can't embrace this change, we're going to be
21 left behind.

22 Under the City's Façade Inspection Safety
23 Program, which we heard about today, more than 14,000
24 buildings throughout the five boroughs require
25 inspections. These inspections involve a team to

1
2 erect or climb scaffolding or use a construction lift
3 vehicle, or in some cases rappel down the side of
4 tall buildings in order to assess a façades
5 structural integrity.

6 Drones offer a 21st Century solution to increase
7 public safety, reduce inspection time and cut
8 construction costs. On sites around the country,
9 drones are equipped with sophisticated sensors and
10 cameras, can quickly fly around buildings to generate
11 3D models and high quality images. What would take
12 several days to accomplish under the current
13 conditions, could take only minutes or hours when
14 completed with a drone and nearby operator.

15 Given the New York City Housing Authorities,
16 massive portfolio of buildings, it would be the
17 biggest beneficiary of using drones. With over 1,500
18 buildings, 6 stories or more, NYCHA is the city's
19 largest single conductor of façade inspections,
20 conducting roughly 300 a year.

21 The Building Congress recognizes that the
22 introduction of any new technology like drones, in a
23 dense urban environment raises legitimate concerns
24 and has potential impacts, but we believe a smart law
25 can address those impacts in a cohesive way.

2 In addition to the DOB study, we would urge the
3 Council to establish a working group of relevant
4 stakeholders, such as engineers, architects, drone
5 manufacturers, the Police Department, building owners
6 and inspectors.

7 Together with our partners in government and the
8 industry, it's time to create a safe and sensible
9 system that allows for drone use.

10 Thank you for your time today.

11 CHAIRPERSON CORNEGY: Thank you. I want to say
12 that we've been joined by Council Member Helen
13 Rosenthal and Council Member Mark Gjonaj. If you
14 could just briefly describe for me the benefit to
15 geofencing as it relates to safety and concerns that
16 in a densely populated, largely metropolitan area.
17 What is the implication, I'm sorry, what is the use
18 of geofencing? How is that a benefit?

19 BRENDAN SCHULMAN: I'm happy to answer all your
20 questions. So, we've been using geofencing for a
21 number of years, probably six or seven years and the
22 way it works is sort of like your cars navigation
23 system. The drone knows where it's flying and we can
24 preprogram locations that raise very high safety or
25 security concerns, such as airports, powerplants and

2 prisons. So, the drone knows automatically not to
3 take off within those locations or to fly into them
4 from the outside. So, we focus our efforts on
5 locations that are obvious high safety and security
6 risks.

7 CHAIRPERSON CORNEGY: So, I guess you could
8 imagine in this tough political and terrorist
9 environment, maybe some -lessly identifying security
10 spaces may come up. Buildings around, so, I could
11 see that the geofencing area could be narrowly
12 focused based on what we're facing as a county in
13 terms of the military. How would you be able to hone
14 that?

15 BRENDAN SCHULMAN: I think we view geofencing as
16 really just one of the number of solutions and really
17 the primary function is to prevent inadvertent or
18 careless operation in those places that are the
19 highest concern such as the airports.

20 When it comes to a terrorism or intentional harm,
21 I think the better and additional solution that we
22 have is called Remote ID. And that is a solution
23 that transmits the ID of the drone's serial number,
24 make and model to authorities in the surrounding
25 area. This is something that we have implemented in

1
2 our drones for the past two years. It is a recent FA
3 proposal, to require that across the entire industry
4 and in our discussions with security agencies in
5 Washington, we've heard that is the key to security
6 of the kind that you're mentioning. Namely to know
7 the drone is there, detect it, see where it's going,
8 see where it's heading and also, identify where the
9 person is controlling it with the remote control on
10 the ground is located, so that the authorities can
11 respond and take action when needed.

12 CHAIRPERSON CORNEGY: And I guess, the concern
13 has been, a general concern, is once this is
14 implemented as a standard operating procedure for
15 inspections, then anyone could kind of jump in that
16 space and be able to operate drones in that space.
17 You know, like, so, once we have this it become
18 almost habitual to use, then people are less likely
19 to identify a drone as maybe a threat and report it
20 as such or people are able to just have ease of entry
21 into the market and once we've reached this.

22 BRENDAN SCHULMAN: I think we do have a
23 socialization challenge, not just in New York City
24 but really around the world and it's something we've
25 seen with other technologies. If you go the 3-1-1

1
2 website right now for the city, it literally says
3 call 9-1-1 if you see a drone flying in the city,
4 they are illegal.

5 That's really an unproductive approach to a
6 challenge, if there is one. We do think with the
7 introduction of Remote ID, as well as education, for
8 example knowledge testing is coming for recreational
9 users. Commercial use, like you're describing
10 requires an FA license called the Part 107 License.
11 There are constraints and rules that govern the
12 operation of drones safely and as we already know
13 from our observations in other city's around the
14 world, the benefits are clear and they're here today.

15 So, we certainly want to see New York City take
16 advantage of those benefits, while of course,
17 addressing the concerns that you point out which are
18 real and which we are concerned about as well.

19 CHAIRPERSON CORNEGY: So, I will just state that
20 I am looking forward to working with some of the
21 industry professionals on crafting as we do our
22 investigation. Crafting something that is conducive
23 to having a safe city but not turning over the keys
24 to potential threats.

1
2 So, it's a fine line, I'm willing to walk it with
3 industry professionals. Thank you

4 BRENDAN SCHULMAN: Thank you.

5 CHAIRPERSON CORNEGY: Oh, I'm sorry, Council
6 Member Rosenthal.

7 COUNCIL MEMBER ROSENTHAL: Yes, and did you have
8 one more speaker? Has everyone - oh, okay.

9 Thank you Chair Cornegy, I appreciate you. I
10 have a couple of questions. Having I think in my
11 second year, we similarly had a terrible incident in
12 my district where an engineer had illegally signed
13 off on an inspection that never occurred and a big
14 chunk of concrete killed somebody.

15 So, I'm intrigued by the drone legislation. I
16 really like it; I'd like to sign on. I guess I'm
17 curious about two things. One, is it possible to
18 have limits set on specific drones where they would
19 have to register with the Department of Buildings,
20 that specific drone and be limited to only be able to
21 surround that particular building? Is that
22 technologically possible, number one? And number
23 two, I'm curious, what's the market? Is it a robust
24 market of companies that have these drones or is it
25 pretty limited?

2 JUSTIN PASCONE: I can speak to the first part
3 Council Member. It is technically possible to
4 program drones to operate only in certain areas but
5 of course, you cannot anticipate on a day to day
6 basis where you might need to go in terms of your
7 job. Particularly, as many companies in the industry
8 are service providers. They show up, they do one job
9 and they move to another job the next day or the next
10 hour.

11 With respect to registration, all drones today
12 are already required to be registered with the FAA.
13 So, we're already in an environment which that
14 identifying step is required and in combination with
15 the Remote ID that's been proposed by the FAA last
16 month and which we've already implemented two years
17 ago, anyone in the area who is concerned about the
18 drone will be able to identify. Like a license
19 plate, identify who's operating that and hold that
20 person or that company accountable in the event
21 something goes wrong, or if they have a concern about
22 the operation.

23 COUNCIL MEMBER ROSENTHAL: So, how about
24 Tech:NYC, do you guys have a sense of the market?

2 BRYAN LOZANO: Yeah, you know, out of our 800
3 members, we have a handful that work particularly in
4 the drone industry. I think because of the way that
5 the law right now is currently set, I would say that
6 New York companies sort of are you know at a
7 disadvantage, but generally speaking, I think the
8 drone industry is fairly strong. There's a lot of
9 different players like, that we do have. Generally,
10 it's not necessarily direct sale but it's often like
11 augmenting experiences for drones.

12 Like, drone usage for example is not, in this
13 particular case, it's regarding safety and façade
14 usage but there's so much usage across the board,
15 multimedia, recreation, etc. But within our own
16 membership we have a strong handful of them and we
17 thing there's a strong, in general strong market.

18 DIANA COOPER: Thank you for your question. Our
19 company has a platform called, Droners and it's an
20 Uber like platform where you can hire qualified
21 providers of drone services for things like roof
22 inspections, you know, if you have hail damage on
23 your roof and things like that.

24 Simple jobs performed by contractors, we have
25 about 200 in the New York City area that are you

1 know, looking to provide services here and are
2 legally providing services outside of the city.

3 It's a vibrant and emerging marketplace. There
4 are a lot of great start ups that are developing
5 really interesting software you know that can help
6 tell you, you know, is this really hail damage or is
7 this you know, human damage trying to falsify a
8 claim. You know, it's a great marketplace and
9 unfortunately, New York City stands alone and has
10 been left behind.

11 COUNCIL MEMBER ROSENTHAL: Great, I really
12 appreciate that information because I would want to
13 know as we legislate this that we're not empowering
14 one particular company over another, but there would
15 be a robust marketplace on this technology.

16 Thank you very much.

17 CHAIRPERSON CORNEGY: Wait, before you go. So,
18 if anyone at the panel would like to address this,
19 there are concerns around privacy. Especially flying
20 drones on the face of residential buildings to do
21 façade inspections. What is the protection for
22 someone who prefers on this 37th floor not to be
23 dressed you know, in their apartment building? Like,
24 how do we protect against the ability to use drones.
25

1
2 You don't have to? Like, none of you are required to
3 answer this, I'm just as industry professionals to
4 some degree, I'm curious as to how we protect the
5 safety from harm of brick and mortar while also
6 protecting the safety from you know, using imagery,
7 invading privacy and those types of things through
8 the use of drones.

9 DIANA COOPER: You know, we already have laws in
10 place that protect from you know, invasion of privacy
11 issues and there have been some cases across the
12 county including in New York, looking at the
13 application of those laws to drone technology. Just
14 because you use a drone, doesn't mean all of a
15 sudden, your activity is legal somehow.

16 I live in a building just a two minute walk from
17 here, it's a very tall building and I get a notice
18 when they're cleaning the windows. You know, a few
19 days a head of time. Something like that could
20 easily be done, you know, when you're going to do a
21 drone inspection of façade, just give notice to the
22 residents in the building.

23 CHAIRPERSON CORNEGY: Thank you.

24 BRENDAN SCHULMAN: If I could please add to that.
25 So, and just to add that Remote ID will provide the

1
2 mechanism. So, a lot of people, when they see a
3 drone, they wonder who and why is that drone flying
4 here. Who is flying it and why, and I think that
5 raises the privacy concerns. And as Ms. Cooper said,
6 we've had actual prosecutions in New York State under
7 existing law.

8 So, in 2015, there's a case involving a man who
9 had flown around a medical facility in upstate New
10 York. It was a medical building. The concern was he
11 was spying on people who were being disrobed and
12 being examined in the medical facility. Prosecutor
13 upstate took it all the way through jury trial. The
14 verdict was an acquittal. Why? Not because the law,
15 unlawful surveillance statute in New York State
16 wouldn't apply. Of course, it would apply, but he
17 was acquitted on the facts because that particular
18 building had a mirrored finish. He couldn't actually
19 have been seeing into the offices using a drone and
20 actually drones are not good at seeing behind glass.
21 They are actually great at doing the façade
22 inspection, but once you have a mirrored or glass
23 finish, they really aren't well suited for it.

24 So, in the facts of that case and I think others
25 that you might imagine are problematic, we have laws

2 in New York State to address it. They have been
3 prosecuted and are enforceable, Remote ID is coming
4 to make sure that that is even easier to do. If you
5 have a concern, you can get the license plate of the
6 drone remotely using your cell phone and then report
7 it to the police if you're concerned and you have
8 your accountability and privacy concern addressed.

9 CHAIRPERSON CORNEGY: Thank you so much. Council
10 Member Gjonaj has a question.

11 COUNCIL MEMBER GJONAJ: Thank you Chair. My
12 concerns are the application in and around the
13 benefits searches. I could imagine that drone
14 technology can help us located someone that may have
15 had a boat collapse in large bodies of water.
16 Something that my own district has suffered from a
17 few years back with a few of our teenagers drowned.
18 They weren't located in a timely fashion. Can you
19 tell me the benefits when it comes to search
20 operations? When it comes to the benefits that can
21 be used by both citizen and law enforcement in rescue
22 operations?

23 JUSTIN PASCONE: Would be delighted to bring our
24 Director of Public Safety Integration to our next
25 hearing in New York on this issue. It's a very

1 important topic. We've actually, as I mentioned in
2 my testimony been tracking just the reports, we see
3 of drones like these used in rescue situations.

4 Probably most often missing persons or disastrous
5 floods and fires and we're up to at least 325 people
6 who have been rescued from those kinds of peril and
7 many of those rescues are lifesaving.

8 Sometimes it's hard to tell, you know, and some
9 of them actually have died but in some cases it's
10 very clear and I think one of the most recent rescues
11 was of a young child who was missing in the woods on
12 a cold night.

13 So, absolutely, the ability to put a sensor,
14 whether it's a camera or a thermal sensor into the
15 air and look down, we see police departments
16 particularly in the UK in Lincolnshire doing amazing
17 work. Finding people under debris or in the woods on
18 a cold night and we already have a great report we
19 put about once a year on that public safety use of
20 drones and we see it increasing in pace. It's about
21 once a week I think now, if you just look at some of
22 our Twitter accounts, you will see that we are
23 tweeting out a rescue almost every day, if not surely
24
25

1 every week in scenarios like the ones you are
2 describing.

3
4 COUNCIL MEMBER GJONAJ: Anyone else have any
5 input on this that would be a direct benefit to
6 public safety?

7 DIANA COOPER: As I mentioned in my opening
8 statement, you know, our company worked with North
9 Carolina Department of Transport over the last few
10 years after the hurricanes and you know, it's not
11 just about identifying you know, people that are
12 missing or you know, in flood washouts but it's also
13 about being able to provide data to the Command
14 Center in a DOT that helps them send out tweets and
15 use social media to tell people which roads to avoid,
16 which areas they should use for proper evacuation, so
17 that we avoid people getting into situations of parol
18 in the first place. And we've seen tremendous drone
19 use across the country in those types of scenarios.

20 COUNCIL MEMBER GJONAJ: Thank you.

21 CHAIRPERSON CORNEGY: Thank you for your
22 testimony and I'm sure you didn't plan on being
23 grilled today but this is how it goes sometimes.
24 Thank you for answering the questions in the fashion
25 that you did, I appreciate it.

2 So, we'll call the next panel. Andreas Benzing,
3 Tim Shields, In Cho, Maureen Shea.

4 So, again, I remind you that the public testimony
5 is confined to a two minute clock. I also ask that
6 you identify yourself and any organization that you
7 may be associated with unless of course you are
8 testifying on behalf of yourself.

9 So, you can begin whenever you'd like.

10 ANDREAS BENZING: Thank you Chair and Council
11 Member for allowing us to testify on behalf of the
12 Energy Code. My name is Andreas Benzing; I am an
13 architect here in the city and I'm President of New
14 York Passive House.

15 The proposed Intro. bill 1816 eliminates the very
16 critical Section R408 Passive House as an alternative
17 compliance path of the New York Stretch Energy Code.
18 New York Passive House does not support the deletion
19 of Section R408 Passive House. Passive House is an
20 accepted industry standards and has the potential to
21 shift the industry into the high performance building
22 sector. Passive House is a critical tool for the
23 building industry to achieve greenhouse gas emissions
24 goals established by the City of New York City.

2 New York Passive House regrets the inclusion of
3 Section R408 Passive House into the New York City
4 Energy Conservation Code. And with considerable
5 concern supports the proposed bill. The bill as it
6 stands is merely an incremental improvement of the
7 current code. In the face of a climate emergency it
8 can no longer sustain half measures. We advocate for
9 a bill with the inclusion of Section R408, which will
10 allow our building and street to fulfill the
11 requirements of Local Law 32 and 97.

12 Thank you so much.

13 CHAIRPERSON CORNEGY: Thank you.

14 IN CHO: Good morning esteemed members of the New
15 York City Council on Housing and Buildings. My name
16 is In Cho; I am registered Architect in the tristate
17 area and Internationally Certified Passive House
18 Designer and Co-founder of ChoShields Studio, an
19 architecture firm that's dedicated to environmental
20 and social sustainability.

21 This past year, I served as a member of the New
22 York City Energy Code Advisory Committee and together
23 with fellow advisors, advocated for the inclusion of
24 Section R408, to allow Passive House certification of
25 new and renovated buildings as an alternate

1 compliance path for meeting the requirements of New
2 York City Energy Conservation Code.

3
4 The driving force for the inclusion of this
5 Section R408, is to support the AAC community in
6 their actions to meet New York City's goal of 80 by
7 50. The triannual updates per bill number 1816,
8 presented before you today, is critical to this
9 effort along with the recently passed Climate
10 Mobilization Act bills, for which we're very, very
11 thankful.

12 But to fulfill these goals, we need concrete
13 tools that will show us how to implement these
14 strategies. Currently, the New York City Energy
15 Stretch Code articulate what the elements are for
16 energy efficiency, providing a prescriptive
17 compliance tool, which has been updated with more
18 stringent parameters, a critical next step.

19 Passive House methodology provides the tools that
20 help us understand how these elements need to work
21 together to achieve actual building energy
22 performance. As such, it is one of the most
23 effective and critical tools in our industry to
24 guarantee that not only that all energy compliance
25 requirements are met but also exceed the standard, so

1
2 that we can reduce total carbon emissions as
3 effectively and quickly as possible.

4 Passive House Certification standards are based
5 on sound and proven principles of physics and
6 building science. A comprehensive suite of software
7 and over 20 years of experience and practice on
8 buildings of all types.

9 The Passive House method relies on the
10 coordinated design strategy for integrating all
11 aspects of a building's performance into one holistic
12 effective approach. It has been adopted as the
13 Energy Code in Brussels and Passive House districts
14 have been created in many European and Canadian
15 cities.

16 Passive House communities here and overseas have
17 implemented a suite of electronic and hand-on
18 training tools to ensure that all architecture,
19 engineering, and construction professionals working
20 with Passive House have the resources and training to
21 implement these standards.

22 Including Section R408, Passive House has an
23 alternate energy compliance path for the New York
24 City Energy Conservation Code, will ensure that New
25 York City's goal of 80 by 50 is achieved and

1
2 therefore confirming New York City's role as a
3 worldwide leader in taking action to help mitigate
4 climate change.

5 And most importantly, it will keep all New
6 Yorkers safe, comfortable, energy efficient, at very
7 little cost to all building owners and ultimately to
8 their savings.

9 Thank you very much.

10 CHAIRPERSON CORNEGY: Thank you.

11 MAUREEN SHEA: Hello, my name is Maureen Shea and
12 I'm a Project Manager for ChoShields Studio, the same
13 firm and basically, I have a request to reinstate
14 R408 into the New York City Stretch Code 2020.
15 Eliminating R408 Passive Houses as an alternative
16 path will waste an important opportunity to maximize
17 implementation of the Stretch Code.

18 NYCECC's process of frequent updates is bringing
19 the New York City building codes much closer to
20 meeting ambitious goals regarding the energy use of
21 building by mandating improvements and insulation,
22 windows, equipment, continuity of air sealing and
23 mitigation of thermal bridges. However, the frontier
24 and reducing the city's carbon footprint is the
25 actual performance of buildings and newness and

1
2 complexity inherent to the process of ongoing
3 amendment in the New York City Energy Conservation
4 Code require increasing levels of understanding from
5 building professionals.

6 In practice, even good faith efforts to comply
7 with the laws may not produce buildings that actually
8 meet the stated goals of the code. And as an
9 additional compliance method, the Passive House
10 standard and software can help a wide range of
11 buildings meet the requirements of the evolving
12 codes, because it is a holistic system of low energy
13 building design with verifiable performance measured
14 in energy use per square foot per year.

15 If R408 is included in the current Stretch Code,
16 future NYCECC updates can remove redundant compliance
17 requirements to streamline DOB submissions and
18 include a similar provision for commercial buildings.
19 The buildings which do follow this path are reliably
20 low energy with clearly verifiable code compliance.

21 And I just want to outline some of the Passive
22 House strategies for meeting Energy Code targets.
23 The Passive House standard, training and software
24 incorporate building form, siting, envelop design,
25

1 HVAC, DHW, and user behavior to determine energy
2 performance of a building within a given climate.
3

4 An enclosure first approach emphasizes
5 eliminating thermal bridging and quantifying thermal
6 gains to minimize energy demand and enable the use of
7 lower capacity mechanical equipment.

8 They promote user health and comfort requiring
9 mechanical ventilation in all certified projects,
10 since this is necessary for health in tighter
11 buildings.

12 Passive House calculations of energy use per
13 square foot per year allow comparison with a wide
14 range of worldwide construction. This performance
15 metric is currently used in the British Columbia
16 Building Code, one of the model codes studied by the
17 NYC DOB as an example for development of the proposed
18 Stretch Code.

19 They do not require energy modeling for a
20 theoretical building to compare with the proposed
21 building as is required in the ASHRAE Appendix G.

22 And that's actually a lot of stuff and they
23 include the optimization of user behavior and if you
24 see actually, the City is moving towards actually
25 legislating improvements in user behavior as part of

1
2 the New York City 2030 program, which will demand on
3 reductions in user determined energy use from
4 tenants.

5 CHAIRPERSON CORNEGY: Thank you.

6 TIM SHIELDS: Good morning to the City Council.
7 My name is Tim Shields; I'm from ChoShields Studio,
8 one of the Principals here with my colleagues. I'm
9 speaking in favor of bill 1816 but specifically for
10 the inclusion of Section R408 allowing Passive House
11 Certification as an alternate means of compliance to
12 meet the requirements of Bill 1816.

13 As someone with 20 years of experience in
14 construction in this City and also with 20 years'
15 experience running a certified Passive House design
16 and architectural office with my partner, I can
17 confidently state that the Passive House design and
18 testing protocols provide the best methodology for
19 ensuring that the actual construction work being done
20 on building sites to implement the Energy savings
21 required by Bill 1816, will be done properly.

22 Passive House requirements make sure that at the
23 critical point where the wheels meet the road, that
24 those wheels not only grip but that they carry us to
25

1
2 an energy saving future of efficient and comfortable
3 buildings.

4 Thank you.

5 CHAIRPERSON CORNEGY: Thank you. Oh, we have a
6 question.

7 COUNCIL MEMBER CHIN: Thank you, I was just
8 curious because I have a project in my district,
9 senior housing that's going to be built with the
10 Passive House standards, so I'm very excited about
11 that.

12 Because your request is to reinstate, why did
13 they take it out? I mean, why was this R408 taken
14 out of the new Energy Code?

15 ANDREAS BENZING: I can just somewhat speculate,
16 but it's my understanding that the Passive House
17 Section in the New York Stretch Energy Code wasn't
18 included because it is an ineffective tool.

19 I was also on the Advisory Board for DOB,
20 together with In Cho and my understanding is that the
21 tool in Passive House we use is called PPP, it's
22 Passive House Planning, it's the energy modeling tool
23 which is not currently approved by the Secretary of
24 State and although the Stretch Code is an overlay or
25

1 residential state code, I think, and you might have
2 to ask DOB their opinion.

3
4 I think was that since that Energy tool is not
5 approved by DOS, it cannot be included in the City
6 Code. That's my current understanding.

7 COUNCIL MEMBER CHIN: Okay, I think we should
8 take a look into that because if it was in the – was
9 it in the Code before? I mean, you're talking about
10 reinstate, so I assume that it was in there before.

11 ANDREAS BENZING: No, we're saying reinstating it
12 from the New York Stretch Energy Code. So, to keep
13 it inside the City Code.

14 MAUREEN SHEA: Can I just make a clarification
15 here? The project that you're talking about is
16 actually the people who are designing the building
17 are following the Passive House standard. There's no
18 reason why a project can't follow the Passive House
19 standard but what they have to do currently, and this
20 is also in the proposed code as the text is now
21 written, is that they have to also follow all of the
22 compliance requirements in the prescriptive code.
23 So, basically, they can do it but as long as they
24 don't go against any other laws. There's no reason
25 why they can't do it but we're trying to work towards

1
2 now, is streamlining the compliance process and
3 initially what we need to have is the Passive House
4 excepted as an alternate compliance method.

5 And once it's excepted as an alternate compliance
6 method, which is the way it was written into the
7 code. I think it was R401, where they defined what
8 the alternate compliance or what the possible
9 compliance paths are and it was one of the listed
10 ones that were excepted and then over time, we can
11 streamline the process so they won't have to go
12 through all the other requirement in the prescriptive
13 code.

14 Because it would save a lot of time for people
15 trying to get buildings built with this great system,
16 the Passive House which does ensure that the
17 buildings meet the goals of the code.

18 IN CHO: And just to add to that point. I mean,
19 at the moment, those who are practicing Passive House
20 and this methodology, this whole standard is the most
21 stringent standard there is. So, if you comply to
22 the Passive House methodology and standard, we've
23 exceeded any current New York City Stretch Energy
24 Code.

1 So, it seems, and yet, when we have to follow the
2 city mandates, the Passive House professionals have
3 to comply in two different methodologies. So, it's
4 making the whole administrative process and the work,
5 you know, not just double but almost quadruple for
6 something that we're trying to do even more
7 stringent.

8 So, it's becoming very administrative heavy and
9 it's actually discouraging the communities to be able
10 to want to follow these different paths, because who
11 will want to do their work four times. You know,
12 when you're actually trying to do something even
13 better than what the mandates are.

14 So, this is why we're trying to streamline this
15 process and again, I think the critical factor at
16 this point, is that we're asking for it to be an
17 alternate means of compliance. So, therefore, if
18 there's concern that perhaps let's say, the rest of
19 the industry who is still not doing Passive House,
20 may feel overwhelmed by this process. It's giving
21 them more options rather than narrowing what their
22 possibilities are for compliance.

23 So, we think that would actually help rather than
24 impede.
25

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2 TIM SHIELDS: And just very quickly, I'm sure
3 there will be people who will be speaking to this.
4 Having this alternate means of compliance will allow
5 the Passive House industry to be nourished and to
6 provide the services that it can towards meeting 80
7 by 50.

8 COUNCIL MEMBER CHIN: Do you have any statistics
9 on how many projects in the city have followed the
10 Passive House Standards?

11 ANDREAS BENZING: We recently started a map of
12 Passive House projects in New York State. We have
13 about 200 who followed the methodology in New York
14 State and we have about 70 **[INAUDIBLE 2:19:13]** and we
15 see quite a lot of buildings, new construction,
16 larger buildings going up in Manhattan currently that
17 are on three. I would say, I would think.

18 So, we have about 120 in New York City.

19 COUNCIL MEMBER CHIN: Okay, I think we'll check
20 in with the Department of Building to really look
21 into your request.

22 MAUREEN SHEA: Thank you because just in the last
23 recent Stretch Code of last year that we were part
24 of, basically the Passive House standard was the
25 reference guide for all of our current revisions.

1
2 So, it seems that it would be a really wonderful
3 organic next step to actually include it as an
4 alternate compliance path.

5 Thank you.

6 COUNCIL MEMBER CHIN: Thank you.

7 COUNCIL MEMBER GJONAJ: I want to thank the panel
8 for their testimony and I remind you that you have up
9 to two days to submit additional written testimonies
10 that will go into the record and I encourage all of
11 those that are here and listening to do the same, so
12 it doesn't end with this hearing.

13 Can we have the next panel. Jay Murdoch, Marty
14 Salzberg, Todd Kimmel and Stash Zakrewski. I hope I
15 didn't abuse that too badly.

16 In no particular order.

17 TODD KIMMEL: Dear Housing and Building Council,
18 Committee Council. My name is Todd Kimmel and I'm a
19 resident of New York City. A father of two children,
20 a Certified Passive House Designer and a member of
21 the board of the New York Passive House organization.

22 I'm also happily employed by a company called
23 Rockwool North America, a manufacturer of stonewall
24 insulation. It's a global company which strides to
25 increase its positive impact on people and society by

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2 maximizing its positive product impact and minimizing
3 its operational footprint.

4 Rockwool is a large supporter of the Passive
5 House standard and its laser focus impact on reducing
6 carbon emissions in our built environment. On behalf
7 of Rockwool North America, New York Passive House, my
8 family and myself, I'm here testifying to communicate
9 my support for Bill 1816. However, I'm also here to
10 firmly express our collective displeasure that
11 Section R408 on Passive House was omitted.

12 We'd just like to ask for your reconsideration
13 and eventual inclusion of Section R408 Passive House
14 into the New York City Energy Conservation Code.
15 Passive House is a well known and excepted industry
16 standard that has the potential to shift the industry
17 into the high performance building sector. This
18 legislation will help New York City achieve
19 greenhouse gas emissions goals previously established
20 in 2019.

21 The inclusion of Section R408 on Passive House
22 will no doubt put our buildings on track with the
23 requirements of Local Law 97 and the Climate
24 Mobilization Act.

1
2 So, thank you for your time and consideration and
3 action.

4 COUNCIL MEMBER GJONAJ: Thank you sir.

5 JAY MURDOCH: Good afternoon now, I think or good
6 morning. Jay Murdoch with Owens Corning; I'm the
7 Director of Industry Affairs. Owens Corning is a
8 building product manufacturer like my peers from
9 Rockwool, we make insulation. Basically, Owens
10 Corning invented modern day insulation in 1930's.
11 Fiberglass insulation, mineral wool insulation, foam
12 and cellular glass.

13 I'm really here to talk about, I cover a lot of
14 codes and standards across the county, so I want to
15 appreciate this open forum and the building
16 departments journey on open code development. I work
17 in a lot of jurisdictions where that rule making is
18 done in a corner and in the shadow, so I want to
19 compliment the Council and the Building Department
20 for their process.

21 Also, in 1982, as an intern architect, I thought
22 I was going to work with an architectural firm here
23 in Manhattan and the first job I got was to climb up
24 into that rotunda of the dome to do [INAUDIBLE
25 2:25:10] for about six weeks, which I think the

1
2 drones could do in about 30 minutes today. So, it's
3 kind of surreal being back here.

4 So, I have two points. A lot of experts here in
5 the room and talking about decarbonization and energy
6 efficiency and all kinds of things like that. I'm
7 not that smart. I'm going to cover two things. I'm
8 going to cover why a code is very important to
9 including voluntary nonmandatory provision in the
10 code, because that sends a very clear market signal
11 to building product manufacturers about the direction
12 you intend to go in coming years.

13 So, there are two market drivers in the
14 marketplace. There's the design professionals who
15 signal to us what products they're going to use, what
16 kind of attributes you have in products and what
17 products you're not going to use. That's already
18 happening in the marketplace in carbon and chemical
19 attributes.

20 Here, it's a critical for local governments to go
21 ahead and signal to building product manufacturers,
22 where they're going to go in future code generations.

23 That's number one. Number two, I work with — I'm
24 a recovering builder. So, when I was trying to get
25 my permits, I was on top of the review, getting my

1
2 permits, I want my permits. Sometimes argue with the
3 field inspectors.

4 Putting Passive House in the code gives safe
5 harbor to many building code departments to
6 acknowledge that yes, there's a minimum standard of
7 care in the code, but you've acknowledged these other
8 above code provision. It could be Energy Star, DOE
9 Zero Energy, Lead or Passive House. That gives those
10 code officials and plan reviewers a little safe
11 harbor that this is a deemed to comply alternative
12 compliance path.

13 Thank you for your good work and thank you for
14 leading.

15 COUNCIL MEMBER GJONAJ: Thank you sir.

16 STASH ZAKREWSKI: Hi, my name is Stash Zakrewski;
17 I'm a registered architect here in New York City, I
18 have my own firm. I'm also Vice President of New
19 York Passive House. I'm on the AIA committee for the
20 Environment. I've also spent the last six year on
21 the DOB Advisory Code for the Energy Code and I'm
22 currently also on the Local Law 97 Climate
23 Mobilization Act Advisory Committee.

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25

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2 So, I'm here with some testimony from the AIA New
3 York and I have a few more comments from New York
4 Passive House as well.

5 AIA New York in consultation with advisors on its
6 Committee on the Environment offers its support For
7 Intr. Number 1816, which would make New York City's
8 Energy Conservation Code one of the most advanced
9 building energy codes in the country and would make a
10 major contribution towards advancing the goals of
11 energy efficiency and carbon reduction that the city
12 has set for 2030 and beyond. While the new Code
13 takes significant steps to reduce energy consumption
14 and hence emissions, it is not stringent enough on
15 its own to meet the 80 by 50 goal and the targets set
16 by Local Law 97.

17 There are many improvements to lighting and
18 mechanical systems that can improve the buildings
19 energy performance and the updated regulations do
20 address these to some extent, but as architects we
21 have a particular awareness of the impact a buildings
22 envelope can have on energy efficiency, and occupant
23 health and comfort. High performance glazing, more
24 effective insulation, and airtight construction

2 should be the standard for all of our buildings, not
3 just the exceptional few.

4 The new code does take steps toward envelope
5 improvement but there is still a long way to go. The
6 argument is often made that setting standards to
7 glazing, insulation, and airtightness will result in
8 significantly higher construction costs and will have
9 negative impacts on real estate values. But in fact,
10 the opposite is true, high performance envelopes lead
11 to lower upfront mechanical costs, increased leasable
12 area, higher productivity from occupants, lifetime
13 energy savings and increased resilience.

14 While we think that this legislation is
15 undeniably a step in the right direction and will
16 help architects design better, more energy efficient
17 buildings, we are unanimous in our opinion that the
18 adoption of the new code is far preferable to the
19 alternative, our enthusiasm for the progress it
20 offers is tempered by the knowledge that it simply
21 does not go far enough to respond to the current
22 climate emergency.

23 Thank you.

24 MARTY SALZBERG: My name is Marty Salzberg and
25 for 30 years I was a professional architectural

1
2 lighting designer and I am a member of the IALD that
3 has more than the International Association of
4 Lighting Designers with more than 100 members here in
5 New York practicing lighting design and 1,400 members
6 nationwide. I also have more than ten years been on
7 the ASHRAE 90.1 Lighting subcommittee writing the
8 ASHRAE Energy Code.

9 I'm here to speak about three errors that I found
10 in Intro. 1816 for Energy Code and I didn't know the
11 drill, so I'm going to try to talk really fast.

12 Section C405232 side lit zones has an error where
13 the word no was introduced to say that note that a
14 building is an obstruction if it's - or the set back
15 has to be no greater than the height of the bottom of
16 the penetration. This is the exact opposite of the
17 intended meaning. This error was introduced in the
18 Stretch Code. So, now, all buildings that were
19 previously considered daylight zones are not daylight
20 zones, because of the introduction of the word no.

21 The second thing is in ASHRAE compliance path in
22 Section 9.1.2, alterations are not required to have
23 daylight responsive lighting controls. That's the
24 omission of control requirements E and F and in New
25 York City alterations are every tenant **[INAUDIBLE]**

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2 **2:33:41]** is an alteration. So, that means that no
3 tenant **[INAUDIBLE 2:33:49]** in existing buildings
4 would be required to have daylight responsive
5 lighting controls.

6 That language has flowed through from ASHRAE but
7 it's not in the IECC compliance path, so that there
8 would be a loophole that people would not have to put
9 in daylight responsive controls in New York City for
10 any side light area.

11 And one last point is, very quickly, in the
12 ASHRAE table for open plant spaces, open offices of
13 less than 300 square feet have a more stringent
14 requirement in the ASHRAE path than in the IECC path
15 via footnote, eleven, which requires – in the IECC
16 path only applies to open plant offices greater than
17 300 square feet and was erroneously made to apply to
18 spaces open offices of less than 300 square feet in
19 the ASHRAE path.

20 Thank you.

21 CHAIRPERSON CORNEGY: I want to thank you so much
22 for your testimony and I want you to know that your
23 consistent mailing to my email has not fallen on deaf
24 ears. I've gotten a considerable amount of email. I
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know that the group has sat with my office already.
I'd like to arrange a time for me to sit as well.

Thank you.

So, we are now commencing the hearing on Housing
and Buildings for today. Thank you [GAVEL]

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 April 1, 2018