



**TESTIMONY OF
SAMI NAIM, ASSISTANT COUNSELOR TO THE MAYOR,
BEFORE THE NEW YORK CITY COUNCIL
COMMITTEE ON GOVERNMENTAL OPERATIONS
REGARDING INTRO. NO. 118**

APRIL 21, 2010

Good morning Chair Brewer and members of the Committee. I am Sami Naim, Assistant Counselor to Mayor Michael R. Bloomberg, and am here on behalf of the Administration to testify in support of Intro. No. 118, a measure which would establish a business owner "bill of rights."

Let me first say that the Bloomberg Administration remains steadfast in its commitment to providing the best customer service to New Yorkers. Indeed, since 2002, improving customer service standards has been a cornerstone of the Administration. In fact, Mayor Bloomberg signed an executive order to create a Customer Service Group within the Mayor's Office of Operations to ensure that every member of the public who interacts with City agencies receives the best customer service possible regardless of how those services are received – whether in-person, over the phone, by letter or email, or via NYC.gov.

Let me also begin by reaffirming the Administration's commitment to small businesses - a commitment we share with the Council. Small businesses are critical engines of our economy, employing half of all New Yorkers who work in the private sector. They are also important contributors to our quality of life, creating a special and unique sense of community in neighborhoods throughout the five boroughs.

Intro. No. 188 builds upon both these commitments by establishing customer service standards for small business owners that they can expect to receive when subject to a routine agency inspection. Indeed, the bill would help encourage feedback from business owners regarding their inspection experience. Our Customer Service Group along with agency managers can then take this feedback and determine where operational improvements need to be made in order to maintain a consistent level of professionalism and customer service across City agencies. Accordingly, Intro. 188 will provide a foundation for constructive and informed interactions between small business owners and agency inspectors.

It is important to note, however, that Intro. 188 will not undermine or disrupt the critical work carried out everyday by our agency inspectors to ensure and safeguard the public's health, safety and well-being. Nor will it serve as a tool for an uncooperative business owner to use to prevent an agency inspector from enforcing the law.

That being said, we request that the Council modify the bill to provide for an explicit exception for undercover inspections that may be undertaken by agencies, as well as law enforcement investigations and inspections by the Police Department, which have heightened public health and safety implications. Without an explicit exception, the bill could be read to undermine these important special enforcement tools, which, of course, would be an unintended consequence for a bill whose focus is properly on routine agency inspections, which comprise the overwhelming majority of inspections in the City.

In conclusion, we look forward to continue to work with Council to refine Intro. 188 and ensure that the "bill of rights" strikes the correct balance between effective customer service and law enforcement, allowing small businesses to reach their full potential, and ensuring consumer confidence and the highest standards for public health and safety are promoted through proper agency oversight. Lastly, I would like to thank members of the City Council and their staff for their leadership on this and other initiatives to assist small businesses.

Thank you, and I would be happy to answer any questions you may have.



ASSOCIATION OF WATER & SEWER
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April 21, 2010

The New York City Council

To Whom It May Concern:

Good morning. My name is Steven Kogel, Vice President of the Association of Water & Sewer Excavators Inc.

The Association applauds the efforts of the City Council for introducing Intro 118, a business owner's bill of rights. Too often business owners are being forced to defend their company at ECB for NOV's which are not issued by the agency who issued the permit. Case in point, DOT, DEP and building inspectors must take civil service examinations. These tests are necessary to ensure that the inspectors have knowledge in their field; DEP for plumbing, water & sewer distribution, DOB for plumbing & building codes and DOT for street excavations & restorations. Each of these agencies write NOV's under their own jurisdiction, however, traffic enforcement has decided that they can also write NOV's relating to DOT permits without having proper training.



This unfair practice results in too many NOV's that get dismissed because they do not understand the rules and it costs the business owner time, energy and money to defend. We ask that traffic enforcement be limited to traffic issues unrelated to street permits.

Another issue is ECB notices of hearings are not sent or received and this causes NOV's to become defaulted. This then requires an application to open defaulted judgments which may be denied by ECB. To ensure that proper notice of hearing is received we request that in addition to mail, an e-mail be sent to ensure that the respondent has received the new court date. In many instances, the agencies are dealing with the same permittees and thus e-mails are readily available. This will reduce the amount of requests to open default judgments and protect the rights of the respondents.

Lastly, ECB must notify respondents in a timely fashion of a judge's decision. Waiting months is not acceptable and these notices should also be by e-mail.

On behalf of the Association of Water & Sewer Excavators Inc., I want to thank the members of the city council for the opportunity to comment on this issue.

Yours truly,



Steven Kogel
Vice President



Public Testimony on Intro 118
By East Williamsburg Valley Industrial Development Corporation
NYC Council Committee on Governmental Operations
April 21, 2010

On behalf of the East Williamsburg Valley Industrial Development Corporation (EWVIDCO) I am strongly supportive of NYC's efforts to create a bill of rights for local business owners.

EWVIDCO provides technical assistance to the over 1,000 industrial firms in the Greenpoint-Williamsburg and North Brooklyn Industrial Business Zones through a contract with NYC Department of Small Business Services. EWVIDCO also contracts with New York State to administer the North Brooklyn-Brooklyn Navy Yard Empire Zone. The businesses in our service area employ over 15,000 individuals, many of which reside in the local neighborhood.

North Brooklyn relies on industrial and manufacturing jobs to support the nearly 40% of community residents who work in the industrial sector. These jobs, on average, pay our residents 73% more than local retail establishments; or \$52,842 vs. \$30,620 annually. Additionally, over 60% of manufacturing jobs offer benefits, compared with 30% of service jobs. Also, these jobs frequently do not require English proficiency or advanced education. Considering 20% of our local residents do not speak English, 31% live at or below the poverty line and nearly 37% of are on some form of public assistance, these jobs offer the best path to self sufficiency and economic security for our community residents.

NYC manufacturers support the other export sectors of New York City, producing goods that cannot be imported. Rebuilding efforts in lower Manhattan require concrete that must be poured no more than 90 minutes after being mixed; midtown hotels and restaurants require freshly baked bread that must be delivered twice daily; Wall Street firms require prospectuses to be printed and delivered overnight. The concrete mixers, bakeries and printers must be located very close to the primary business center in industrial areas—this demonstrates the importance of industrial uses in the overall local economy.

We are thrilled that the NYC Council is considering measures to create continuity of code enforcement among agencies. Our constituent businesses must comply with codes that are enforced by a variety of agencies, resulting in multiple visits from different inspectors, each with the apparent purpose of identifying a violation to make the visit worthwhile. This results with the businesses feeling embattled and adversarial toward the City. This is potentially hazardous to local jobs as NYC manufacturers can operate right outside the City just as easily, and in many cases much more cheaply. Given the precarious state of the economy, NYC should be doing all it can to retain local jobs, especially in sectors like manufacturing that are more footloose than service businesses.

One local garment manufacturer recently discussed an issue related to elevator inspections with me. He was visited by the contract inspector, who found a violation. He repaired the violation, and submitted bills for service and notarized proof. He was then fined for non-compliance because he only notarized the response form, and not the cover letter that accompanied it. He appealed, and sat before a hearing inspector. He admitted that he had not notarized the letter, but provided proof of making the repairs. The rep for NYC DOB urged the judge to fine him the maximum extent because he admitted not notarizing the cover letter. The business was then visited by two separate elevator inspectors from different private contractors at the very same time, ostensibly to follow up on the original issue and write another citation. The original matter is awaiting final judgment at this time.

We are pleased that the NYC Council is discussing code enforcement improvements and offer our assistance to help you as you develop a policy that creates transparency, consistency and a sense of fairness. This is important for the economic health of the entire city, but especially for NYC's 7000 manufacturers and the 200,000 families that depend on manufacturing for their income.

My name is Joseph K. Robles and I am the President of Knight's Collision Experts of Brooklyn. I am also the Metropolitan Regional Vice President of Empire State Towing and Recovery Association (ESTRA) and President of EWVIDCO.

Today's hearing on the Business Owners Bill of Rights is of primary importance to the towing and repair shop industry because many of the City's policies are not friendly to the industry – which is comprised of hundreds of small businesses.

Towing companies, such as mine, rely heavily upon governmental contracts in order to remain in business. My company tows disabled and damaged vehicles from two sections of the City's arterial highways system. Many other companies participate in the City's DARP and ROTOW programs, where they remove damaged and abandoned vehicles from the City' streets.

The rates that towers may charge under these programs are set by law – as are the rates that they may charge for towing vehicles that are illegally parked on private property. The rates under the ROTOW program, for example, were set at \$80.00 per tow ten years ago.

For the past two years, the towing industry has been seeking legislation to increase these rates – and the rates under all other towing programs - to \$185.00. While this may appear to be a large increase, it is the same amount that City Police, Marshalls,

Sheriffs and Department of Finance SCOFFLAW towers are permitted to charge. It is also more in keeping with rates that are charged in many other major metropolitan areas.¹

The Town of North Hempstead recently approved a rate of \$125.00 plus \$5.00 per mile after the first mile – which brings the rate for an average tow to \$150.00 to \$175.00. As you know, fuel costs have skyrocketed in recent years. The cost of insurance and equipment has also risen dramatically. Quite frankly, I am finding it difficult to remain in business and to provide a decent wage to my employees under the current rate structure. ESTRA is in the process of re-introducing legislation to address this issue, and I ask for your support on this most important bill.

The towing industry is regulated by the Department of Consumer Affairs, which at times, can be a difficult agency to work with. To illustrate, sections 20-110 and 20-211 of the Administrative Code require corporations and partnerships to obtain prior approval from DCA before bringing in a new major shareholder (more than a 10% interest) or adding or terminating a general partner. It is not unusual for DCA to fail to provide such timely approval in a timely fashion, thereby causing prospective business ventures to fail. Accordingly, DCA should be required to provide these prior approvals within a reasonable period of time.

It is not unusual in the towing industry (as well as many other industries) for a towing company to purchase the business and assets of another towing company. Here, too, DCA is often tardy in approving these transactions. If the purchasing company is

¹ San Francisco, \$220.00, Dallas, \$212.00, Oakland \$180.00, Chicago, Baltimore and Philadelphia, \$150.00

already licensed by DCA, I see no reason why such prior approvals are even necessary. It should be sufficient for the purchasing company to provide DCA with timely notice of the transaction.

Towers may be fined or suspended by DCA for committing numerous infractions (such as failing to respond to an accident or overcharging) under its various towing programs. While I recognize that DCA has a duty to police the industry, there have been numerous instances in which charges have been brought for violations that were alleged to have occurred months, and even years, in the past. Because it is virtually impossible to defend against such stale charges, I suggest that a statute of limitations should be imposed on DCA's ability to bring these charges.

Many of these issues would never come to the forefront if there were better cooperation between DCA and the towing industry. There is a vehicle within existing law that should foster this cooperative effort – the Tow Advisory Board. However, DCA has not convened this Board for several years and it has allowed the current membership on the Board to expire. In past years, ESTRA has submitted legislation that would provide the City Council with greater oversight over the Tow Advisory Board and we welcome the opportunity to re-submit the legislation in the current session.

Thank you for providing me with the opportunity to express my views on these issues of importance to my industry.

The Officers of the MFDA and our Executive Directors have looked at the initial writing of 118 and wonder if the committee members have been listening to the deliberation of our Officers and Board and whether or not you have heard from your local funeral directors concerning the recent “sweep” conducted by the Department of Consumer Affairs of the City of New York

Like other local small business owners we have been put into the rotation of the DCA and faced telephone price shopping and visits from DCA Inspectors over the past few months.

We have no issue with the right of the City of New York to make consumer protection regulations but we do have an issue with the fact that the Inspectors sent to our locations have absolutely no knowledge about our business and how the City rules and regulations deal with what they are looking for during their inspections. Our way of doing business has changed over the past decade, which was approximately the last time we saw any Inspectors from the DCA coming into our funeral homes.

Credit is due to the DCA for reaching out to the nearly 600 registered funeral businesses within the City of New York and price shopping them prior to going into the business to make inspections. We also applaud the DCA administration for taking a series of meetings with the MFDA during the Inspection process based on the complaints from the local funeral home owners to the MFDA.

**Testimony by MFDA President Martin Kasdan
April 21, 2010**

877 652 7326

Testimony by Robert Bookman, Esq
Pesetsky and Bookman

Counsel, NYS Restaurant Association, New York Nightlife Association, NYC
Newsstand Operators Association

April 21, 2010

This bill is a rare step in the right direction, pro small business, and as such we support it and truly thank you for introducing it and giving it a hearing. BUT frankly, it is only symbolic, and the City's small businesses need more than symbolism, we need real help from an ever increasing over regulated, over fined, job killing business environment. The Speaker talked of it in her State of the City address, we went through a regulatory reform process last year still with no results, we need real action.

The Health Dept fines keep going up every year, from under \$12 million only 7 years ago to a projected \$39 million next year., over a 300% increase..and you are giving them more inspectors to fine us even more! You are passing or allowing agencies to pass new burdensome mandates we cannot afford such as 100% employed funded time off from work legislation or letter grading on our windows.

This bill talks about rights, but what use are rights, such as "consistent enforcement", as stated in the bill, but with no consequences if my rights are violated. When there is no redress mechanism or you cannot use your rights being violated as a defense, as stated in the bill, it is not very meaningful rights is it? It is really not rights at all, only suggestions.

With respect, let me make some suggestions for some other rights the city's small businesses can use:

1-The right to a warning and time to correct non safety related violations instead of a fine. Is the public policy compliance or fundraising.

2-The right to have what you did wrong in an ever increasing encyclopedia of regulations explained to you in your native language.

3-The right not to waste half a day of business going to a tribunal to fight these violations. How about adjudication by mail, not just to plead guilty, but to plead not guilty. How about hearings by video conferencing? My kids and their teachers video chat. The city can't figure it out?

4-The right to a one year moratorium on all new regulations and mandates, during the worst economy since the Depression, while we wait for the Regulatory Reform recommendations and changes which are long overdue.

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. 118 Res. No. _____

in favor in opposition

Date: _____

Name: Leah Archibald (PLEASE PRINT)

Address: ~~287 1st St~~ 11 Catherine

I represent: EWU & Co

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. 118 Res. No. _____

in favor in opposition

Date: _____

Name: Joseph K. Kobles (PLEASE PRINT)

Address: 120 Union Ave Brooklyn NY 11206

I represent: Empire State Towing & Recovery Assn.

Address: Same

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. 118 Res. No. _____

in favor in opposition

Date: 4/21/10

Name: STEVEN KOGEL (PLEASE PRINT)

Address: 2600 ATLANTIC Ave B'Klyn N.Y. 11207

I represent: Association Water Sewer Excavation

Address: 420 CARROLL ST. B'Klyn N.Y. 11211

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

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 118 Res. No. _____
 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: SAMI NAIM

Address: CITY HALL

I represent: OFFICE OF THE MAYOR

Address: CITY HALL

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

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____
 in favor in opposition

Date: _____

Name: MARTIN KASBAN (PLEASE PRINT)

Address: 180 West 76 Street NYC

I represent: METRO FUNERAL DIRECTORS ASSN

Address: 180 West 76 Street NYC 10023

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