



NEW YORK CITY DEPARTMENT OF BUILDINGS
TESTIMONY BEFORE THE NEW YORK CITY COUNCIL
COMMITTEE ON HOUSING AND BUILDINGS
MAY 4, 2021

Good morning Chair Cornegy and members of the Committee on Housing and Buildings. I am Melanie E. La Rocca, Commissioner of the New York City Department of Buildings (“the Department”). I am pleased to be here to discuss the legislation before the Committee, which touches on several different aspects of our work at the Department.

Intro. 354 creates a new penalty for altering or demolishing a building that has been calendared by the Landmarks Preservation Commission (“LPC”) without a permit issued by the Department. The Department takes any construction work that occurs without a required permit very seriously and supports imposing penalties where a building calendared by LPC is altered or demolished without a permit.

Intro. 1127 requires the Department to issue permits within five days where work on a building is in progress and additional permits are needed to proceed with such work. The Department is opposed to this legislation given that it presents operational challenges and does not improve upon existing processes. Permit applications are reviewed, and permits are issued, in the order for which they are applied for. This proposal could result in disruptions to service levels for our customers seeking a permit to begin, or continue, a construction project. It should also be noted that we review applications submitted in connection with construction projects expeditiously and can issue permits shortly thereafter. Additionally, applications submitted to the Department can be professionally certified by a Registered Design Professional, in which case a permit could be issued instantaneously. Last year, we also launched our online Customer Service Dashboard,

which is a new online tool that allows the public to understand the wait times they should expect when starting a construction project.

Intro. 1366 requires the Department to collect insurance information from contractors and to make such information available online. The Department supports this legislation as it enhances our current practice and continues our commitment to transparency. Contractors are required to submit proof that they comply with applicable insurance requirements at the time they are seeking a license or registering with the Department, and that insurance must be maintained when they are engaging in a construction project.

Intro. 1635 allows for art to be displayed on temporary construction equipment, which includes sidewalk sheds and construction fences. Temporary construction equipment is required to protect the public from construction activity, but there is no reason why these structures can't be beautiful too. The City Canvas Pilot Program, which we have implemented in collaboration with our partners at the Department of Cultural Affairs, already allows for art on certain temporary construction equipment. It is a great example of how art and temporary construction equipment can come together to improve the pedestrian experience and create opportunities for artists to present their work. The Department supports this program and looks forward to working with its partner agencies, and the City Council, to create a permanent pathway for art to be displayed on certain temporary construction equipment moving forward, provided that this shared goal can be achieved safely.

Intro. 1667 requires contractors that are mandated to create a plan relating to environmental conditions created by construction or demolition work to submit such plans, and report additional information, to the Department of Environmental Protection ("DEP") and the Department. Contractors are already required to control for air contaminants and must mitigate noise during certain construction operations. Noise Mitigation Plans must be prepared and submitted to DEP online and contact information for the contractor performing work for which such plans have been submitted must be made publicly available at construction sites. The Department would welcome the opportunity to discuss this legislation further with this Committee to better understand how this proposal interacts with existing requirements contractors must comply with.

Intro. 1737 establishes restrictions on issuance of After Hours Variances (“AHVs”), which allow construction work to occur before 7:00 a.m., after 6:00 p.m. or on the weekend. Restrictions include placing limits on the hours that an AHV can be issued for and the number of days an AHV can be requested. The legislation also requires reporting regarding the AHVs issued in the preceding year. The Department understands the impact construction has on a community and is committed to increasing transparency around the issuance of AHVs. On a weekly basis, the Department sends reports on AHVs issued to community members, including elected officials and Community Boards, so that they have relevant information about after hours construction going on in their neighborhoods. Additionally, the Department has released an interactive map that shows the location of each construction project for which an AHV has been issued, including the dates for which such AHV was issued and the reason why it was issued.

The COVID-19 pandemic has had unprecedented impacts on many industries, including the construction industry. As the Department visited construction sites throughout New York City last year to conduct proactive inspections, it found that many sites were closed for several months. The Department urges this Committee to consider the impacts placing restrictions on the issuance of AHVs would have on the recovery of the construction industry. We are committed to working with this Committee, and our industry partners, to balance community interests with the need for construction to continue in a safe manner and look forward to discussing this issue further.

Finally, **Intro. 1939** requires certain new buildings, including nursing homes, adult homes, and assisted living facilities, to be provided with standby power systems capable of providing power for at least 72 hours for certain building systems, including elevators, cooling and heating systems, refrigerators, and lighting. Standby power systems can improve safety in the event of an emergency, including a power outage. The Department is supportive of this legislation given that it can improve safety in buildings that will house vulnerable populations and looks forward to working together on this issue.

Thank you for the opportunity to testify before you today. I welcome any questions you may have.



May 4, 2021

STATEMENT OF THE NEW YORK LANDMARKS CONSERVANCY BEFORE THE NEW YORK CITY COUNCIL COMMITTEE ON HOUSING AND BUILDINGS REGARDING INT. 354-2018, A LOCAL LAW TO AMEND PENALTIES FOR ALTERING OR DEMOLISHING A PROPERTY CALENDARED BY THE LANDMARKS PRESERVATION COMMISSION

The New York Landmarks Conservancy is a non-profit organization that has been dedicated to preserving, revitalizing, and reusing New York's buildings and neighborhoods for nearly five decades.

The Conservancy supports Int. 354-2018. We have seen examples where building owners have intentionally altered or even demolished their properties to undermine individual landmark and historic district designation. These range from modifying character-defining features, to removal of unique details, to full destruction. These illegal deeds diminish New York's architectural and cultural legacy. We hope that the proposed penalties will deter this activity in the future.

We urge the Council to approve this legislation. Thank you for the opportunity to express the Conservancy's views.

REBNY Testimony | May 4, 2021

The Real Estate Board of New York to The Committee on Housing and Buildings of the New York City Council on Intro 354, Intro 1127, Intro 1366, Intro 1635, Intro 1667, and Intro 1737

The Real Estate Board of New York (REBNY) is the City's leading real estate trade association representing commercial, residential, and institutional property owners, builders, managers, investors, brokers, salespeople, and other organizations and individuals active in New York City real estate. REBNY thanks the Committee for the opportunity to testify on this important package of legislation impacting construction, the environment and our streetscapes.

New Yorkers' health, safety and quality of life are paramount. In our ever-changing cityscape, it is essential we remain diligent in reviewing and updating the safeguards surrounding construction, not only for the protection of workers and public safety, but also for the well-being and livability of our neighborhoods.

In considering any proposed changes to safety regulations, we encourage the Council to consult with industry stakeholders and discuss with the appropriate regulatory agencies how the changes speak to the existing requirements as well as to consider practical obstacles to their implementation. While today's committee agenda includes some reasonable policy ideas, REBNY believes a number of bills are not clearly defined and appear to overreach with no tangible benefit to our City. This includes Intro 1737, which would create significant harm to our City's current economic recovery.

What follows are more specific comments to the Introductions being heard today.

BILL: [Intro 1737-2019](#)

SUBJECT: After hours work authorization.

SPONSORS: Council Members Rivera, Powers, Chin, Holden, Kallos, Adams, Lander, Rodriguez, Reynoso, Menchaca, Van Bramer and Levin

Intro 1737-2019 would amend various aspects of the process for issuing an after-hours variance (AHV). It would provide that an AHV issued for public safety purposes expire 15 days after issuance; that an AHV only be issued for the hours of 6 a.m. to 7 a.m. and 6 p.m. to 10 p.m. on weekdays and for the hours of 8 a.m. to 6 p.m. on weekends; limit the number of days for an AHV application request to 3 weekdays per week, one Saturday or one Sunday per week and not include any holiday on which alternate side of the street parking rules are suspended; require the NYC Department of Environmental Protection (DEP) to issue a written explanation for its decisions on whether to issue an AHV; and require the DEP to issue an annual report to the Council including data on the administration of the AHV process.

REBNY is strongly opposed to this legislation as it would make construction projects less safe and harm our economic recovery.

In New York City, particularly Manhattan, construction safety plans and logistics requirements are incredibly complex and important. With crowded streets, tight spaces, and adjacent properties to accommodate, it is often a necessity that some essential, critical-path construction tasks are completed during off-peak, after-hour times. This could include the utilization of heavy equipment such as a crane, delivery of substantial materials or street and sidewalk work. In the case of work being done on occupied buildings, work must, in many cases, be conducted outside of normal operating hours for the protection of tenants. Limiting AHVs only exacerbates these challenges by putting unnecessary constraints on sites, compromising safety while simultaneously making essential jobs more costly and time intensive. In addition, restricting AHVs in this way would delay projects, lengthening their time to completion and adding cost that would jeopardize jobs. It is not an exaggeration to say that this legislation would impose millions of dollars in added costs to projects, reducing the number and quality of jobs and stifling growth.

As we work to build our way out of the pandemic to a more equitable city, we need to protect and grow jobs that provide opportunities for New Yorkers. This legislation would have the opposite effect and could potentially pose risks to existing construction jobs, including highly skilled, unionized construction jobs.

REBNY supports a city where all New Yorkers can enjoy a good quality of life, and to do so, the City must understand how New Yorkers are living. As a result of the pandemic, more workers are spending time at home and telecommuting. This change in work dynamic makes the idea of limiting after-hour variances to specific hours and days even less sensible. To better support quality of life, the City should enforce its existing local laws that protect against noise pollution.

Proponents of this legislation contend that it is necessary to improve the quality of life in neighborhoods where construction is occurring. This is not supported by data. Even prior to the passage of the noise level restrictions, the NYC Department of Buildings (DOB) tracked AHVs and noise complaints, and the data shows that 95% of projects issued an AHV do not receive any noise complaints, and projects that do have a median number of just one complaint.

Furthermore, numerous measures have already been put in place to protect nearby residents from construction noise. For instance, on January 18, 2018, Mayor de Blasio signed into law [new construction noise](#) mitigation requirements. The allowable construction noise levels were amended by this legislation to specifically address construction noise from after-hours work. If contractors violate those noise standards, DEP can issue a stop work order. The new allowable noise levels took effect in January 2020. Given the pandemic-related changes this past year, there has not been an opportunity to assess the effect of the 2018 law. It is premature to pass a legislation for an issue that may already have been resolved by prior legislation.

Moreover, the previous mayoral administration signed [Local Law 113](#), the New York City Noise Code, to establish updated standards to reduce noise, including setting decibel (dB) level thresholds. The 2005 law mandated that DEP adopt rules mitigating construction noise and required the development of Construction Noise Mitigation Plans.

If the goal of this legislation is to improve quality of life by mitigating noise, REBNY encourages Council to review the existing statutes that serve that end and look for ways to strengthen their enforcement rather than adopting a new regulation that would decimate sorely needed economic development and job growth.

If the Council is serious about New York's economic recovery, they will ensure that this bill does not move forward.

BILL: [Intro 354-2018](#)

SUBJECT: Penalties for the unauthorized alteration or demolition of premises calendared by the Landmarks Preservation Commission.

SPONSORS: Council Members Rosenthal, Salamanca, and Holden

Intro 354-2018 would increase the civil and criminal penalties for demolishing or altering a building without a Department of Buildings-issued permit when such building is calendared for consideration by the Landmarks Preservation Commission (LPC). The civil penalty would be increased to not less than \$25,000 and not more than \$50,000. The criminal penalty would be increased to an amount not more than \$50,000.

REBNY is unaware of any instances in recent decades where there have been issues of LPC calendared properties being drastically altered or demolished. While the importance of ensuring that landmarks across the city are rightfully protected where appropriate is appreciated and understood, REBNY fails to see a need for this legislation.

The penalties that Intro 354-2018 proposes appear to be duplicative and punitive. Owners are already subject to DOB fines for work that is done without a permit, and the additional fines that would be

imposed under this bill are higher than those for any work that creates an immediately hazardous condition. Civil penalties for immediately hazardous work done without a permit range from \$1,000 to no more than \$25,000, where this bill would impose a fine of not less than \$25,000 and no more than \$50,000. Fines for compliance under Intro 354-2018 should better fit contextually with the most serious of safety violations.

REBNY also believes that this legislation needs to further distinguish between alteration work that is minor and could be remedied, such as the removal of a cornice, and work that cannot be remedied, such as a demolition. Doing so would allow for appropriate work to continue to promote building maintenance, building safety, and for owners to avoid punitive penalties where there is no pernicious intent.

BILL: [Intro 1127-2018](#)

SUBJECT: Expediting Department of Buildings permits.

SPONSORS: Council Members Holden, Borelli, Brannan, Ulrich, Yeger, Gjonaj, Rodriguez, Koo, and Dromm

Intro 1127-2018 would require the DOB to expedite work permits where additional permits are required by DOB to proceed with ongoing work and would also require DOB to expedite amendments to permit applications.

REBNY supports this legislation. While DOB generally operates efficiently, the expedient approval of permit applications and amended permit applications would be a welcome reform that could have tremendous impacts on construction and economic development in our City. With this said, we encourage the Council and DOB to identify whether any additional resources would be needed to help facilitate quicker permitting approvals as required by this legislation.

While the enactment of this legislation is welcome, REBNY looks forward to any additional opportunities to discuss funding and reforms to additional permitting and inspection processes, particularly with the FDNY's Bureau of Fire Prevention. Such reforms are critical to economic activity in our City. Intro 1127-2018 is a good and proactive first step.

BILL: [Intro 1366-2019](#)

SUBJECT: Requiring certain insurance filings with the Department of Buildings.

SPONSORS: Council Members Moya and Holden

Intro 1366-2019 would require the Department of Buildings to collect and maintain information regarding insurance coverage provided at construction sites in a public, online database.

REBNY shares the Council's prioritization of ensuring construction sites are safe, which includes holding unscrupulous contractors accountable. However, REBNY questions what problem this legislation is working to solve and why this information needs to be made public.

DOB already requires as a prerequisite for pulling permits that contractors provide proof of insurance and that insurance requirements have been met relative to a job site. Insurance requirements are determined by permit type, height and number of stories of adjacent buildings, and the height and number of stories of the proposed construction.

REBNY is concerned that making sensitive insurance information public via a database raises serious privacy concerns that ultimately could impact insurance premiums. Insuring construction sites, particularly in New York City, is incredibly complex and expensive. Existing statutes already incentivize contractors to do everything possible to alleviate risk to keep premiums affordable. In today's industry, most if not all large general contractors or construction managers carry substantial insurance policies and require that their subcontractors also be covered under their umbrella policy, or that they be bonded. For a contractor or subcontractor to not do so would substantially limit, if not entirely prevent, their ability to do legitimate work in our City.

BILL: [Intro 1635-2019](#)

SUBJECT: Display of artwork on temporary protective structures on construction sites.

SPONSORS: Council Members Cumbo and Brannan

Intro 1635-2019 would require the Public Design Commission to solicit works of art from the public, and in consultation with the Department of Buildings and the Department of Cultural Affairs, at least annually approve four such works of art for display on temporary protective structures at construction sites. It would also authorize the installation of such artwork on temporary protective structures on or over City-owned buildings, sidewalks and streets.

As this legislation is permissive and not mandatory, REBNY supports this legislation. Opportunities for the installation of public art, particularly around construction sites in which temporary protection, scaffold or walkways may be present, could provide positive improvements to our streetscape. REBNY looks forward to discussing this bill further with the Council.

BILL: [Intro 1667-2019](#)

SUBJECT: Requiring contractors and the department of buildings to make information regarding environmental monitoring of construction work publicly available.

SPONSORS: Council Members Levin and Kallos

Intro 1667-2019 would require contractors to report information on environmental monitoring of construction or demolition work to the Department of Buildings and the Department of Environmental Protection. Additionally, contractors would be required to post contact information at the site of construction or demolition work. This bill would also require the Department of Buildings to post the environmental monitoring information on its website.

DOB and DEP rules and regulations already require contractors and owners to undertake substantial monitoring and prevention efforts to mitigate noise and air pollution. This includes comprehensive opportunities for the public reporting of nuisances surrounding job sites. As a result, REBNY questions how establishing the proposed series of reports and filings will create any tangible benefit without being prohibitively costly and burdensome to private contractors.

Before enacting this legislation, REBNY encourages the Council to first study DOB and DEP data surrounding monitoring requirements to see if existing requirements already provide access to the data that is being sought through Intro 1667-2019.

Thank you for the consideration of these points.

CONTACT:

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Free Enterprise The Future of Construction

May 4, 2021

Robert Cornegy, Chair
Committee on Housing and Buildings
New York City Council
250 Broadway
New York, New York 10007

Re: Committee Testimony – Hearing 5/4/2021

Dear Chairman Cornegy and Members of the Housing and Buildings Committee:

The Associated Builders and Contractors Association (ABC) Empire State Chapter and NYC Regional Leadership Committee, submits this testimony for the record to the Committee on Housing and Buildings of the New York City Council, Chaired by Councilman Robert Cornegy, for the hearing held on May 4, 2021 at 10:30 a.m., specific to agenda items: **Intro 1127-2018, Intro 1366-2019, Intro 1667-2019, and Intro 1737-2019.**

ABC and our Regional Leadership Committee represent hundreds of merit shop contractors and thousands upon thousands of employees throughout the city and across the surrounding regions. ABC is a national organization founded nearly 70 years ago with chapters across the country, with a renowned national construction safety platform. Here in New York City, we represent some of the largest general contractors and sub-contractors, building some of the largest and most complex projects across the five boroughs. We seek to ensure that there is work for all and that construction is done safe and with integrity. ABC was one of the first stakeholders to advance a comprehensive proposal to address construction safety when helping to draft landmark safety reforms in NYC leading to the passage of Local Law 196. Additionally, we participate on the Department of Buildings Chapter 33 Construction Code Review Committee which continues to reform the way in which the industry builds in New York City.

We thank Chairman Cornegy and the Committee for the opportunity to provide this testimony on these important pieces of legislation meant to impact construction, the environment, and communities across the NYC region.

The health, safety, and quality of life of those that live and work in the communities in which the construction industry builds is important to recognize. The success and completion of projects depends largely on the industry working with neighbors, community boards, the community at large, as well as with various regulatory agencies. We recognize that construction projects impact communities. We remain conscientious in our efforts to safeguard not only the construction workforce, but the public at large. We know that we are building in communities that our fellow New Yorker's call home and we take that responsibility seriously. We encourage the Committee to continue to seek consultation from industry stakeholders as well as regulatory agencies when seeking to enact reforms and other important legislation.

We respectfully submit the following comments specific to agenda items **Intro 1737, Intro 1127, Intro 1366, and Intro 1667:**

Intro 1127-2018 - Expediting Department of Buildings permits - Intro 1127-2018 would require the DOB to expedite work permits where additional permits are required by DOB to proceed with ongoing work and would also require DOB to expedite amendments to permit applications.

While the DOB is doing a good job processing permit applications industry wide. The expediting of approvals of permit applications and amended permit applications would always be a welcome reform that could have a tremendous positive impact on construction and development in the NYC region. This is a proactive reform that will benefit the industry. The ABC supports this proposed legislation.

Intro 1366-2019 – Requiring certain insurance filings with the Department of Buildings - Intro 1366-2019 would require the Department of Buildings to collect and maintain information regarding insurance coverage provided at construction sites in a public, online database.

ABC agrees believes that ensuring construction sites are safe should always be a priority. However, the DOB already require, as a prerequisite for pulling permits, that a contractor provides proof of insurance, to include insurance requirements specific to a job site. Current insurance requirements are determined by permit type, height, and the number of stories of adjacent buildings. This information is public on the DOB BIS portal. To make additional details be made public could negatively impact the cost of insurance premiums which are already some of the most expensive in the country. In the industry today, most large general contractors and/or construction managers carry substantial insurance policies and require that their subcontractors also be covered under their umbrella policy, and/or that they also be bonded. For a contractor or subcontractor to not do so would substantially limit, if not prevent their ability to do work in our construction industry. Therefore, ABC does not believe this proposed legislation is needed and would provide any benefit to the public, and therefore opposes the proposed legislation.

Intro 1667-2019 - Requiring contractors and the department of buildings to make information regarding environmental monitoring of construction work publicly available - Intro 1667-2019 would require contractors to report information on environmental monitoring of construction or demolition work to the Department of Buildings and the Department of Environmental Protection. Additionally, contractors would be required to post contact information at the site of construction or demolition work. This bill would also require the Department of Buildings to post the environmental monitoring information on its website.

DOB and DEP rules and regulations already require contractors to undertake substantial monitoring and prevention efforts to mitigate noise and air pollution. This includes comprehensive opportunities for the public to report nuisances specific to construction job sites. ABC does not believe that mandating the proposed series of reports and filings will create any real benefit without being costly and burdensome to contractors. Data should be analyzed specific to current monitoring requirements to ascertain if existing requirements already provide access to the data this proposed legislation is seeking to give access to. ABC therefore opposes this proposed legislation.

Intro 1737-2019 – In relation to after-hours work authorization - Intro 1737-2019 if enacted would amend various aspects of the process for issuing an after-hours variance, known in the industry as an AHV. It would require that an AHV issued for public safety purposes will expire 15 days after issuance; that an AHV only be issued for the hours of 6 a.m. to 7 a.m. and 6 p.m. to 10 p.m. on weekdays and for the hours of 8 a.m. to 6 p.m. on weekends; limit the number of days for an AHV application request it to 3 weekdays per week, one Saturday or one Sunday per week and not include any holiday on which alternate side of the street parking rules are suspended; require the NYC Department of Environmental Protection (DEP) to issue a written explanation for its decisions on whether to issue an AHV; and require the DEP to issue an annual report to the Council including data on the administration of the AHV process. ABC strongly opposes this proposed legislation as it would make construction projects less safe and cause potential harm to immediate neighbors of a project.

In New York City and the surrounding boroughs, especially in Manhattan, construction site safety plans and site logistics are increasingly complex. With crowded streets and highly traveled roadways, tight spaces, small yet tall project footprints, and neighboring properties to accommodate, it is often necessary for essential and critical construction paths to be conducted during not only off-peak, but after hours which includes evenings, overnight and weekends. The use of a crane or other heavy equipment, or the installation of a precast façade are just some examples of critical construction tasks that would be impacted if not for the availability of an AHV. Additionally, the delivery of significant construction materials, as well as some street and sidewalk work would not be possible without the availability of an AHV. Important

to also mention is work being done on occupied buildings, where work must be done on off hours for the protection of tenants. Limiting AHVs creates more challenges to conducting work safely and pursuant to various regulatory agency policies and processes. Limiting AHVs would not only compromise the safety of a project but prolong project timelines which directly affects not only the contractor, but neighbors and the neighboring community.

It is important to note that there are already regulations in place to protect tenants and neighbors specific to noise, as well as for the use of sidewalks and streets when building in NYC. In 2005 Local Law 113 was enacted. Referred to as the New York City Noise Code, it established standards to reduce noise, specifically setting decibel thresholds. This law mandated that the DEP adopt rules to mitigate construction noise and required the development of a construction project Noise Mitigation Plan. In 2018, the Mayor signed into law new construction noise mitigation requirements. This legislation specifically addressed construction noise from AHVs. In the industry if a contractor violates these noise standards, DEP can issue an SWO (stop work order). In January 2020, new allowable noise levels went into effect and are actively regulated. Due to the pandemic and work stoppage in the NYC construction industry, those mandates have not been thoroughly assessed. We believe that the intent of this legislation has already been addressed by prior legislation and is already being regulated by various agencies successfully. Therefore, ABC strongly opposes this proposed legislation.

In closing, we thank the Chairman and Committee Members for their consideration of our comments related to the above proposed legislation and welcome the opportunity to discuss the points raised prior to moving these introductions to the entire Council for consideration of passage.

Respectfully submitted,



Brian Sampson, President
Associated Builders and Contractors
Empire State Chapter



Intro. 1939-A – Standby Power for Certain Living Facilities

Testimony Submitted to the City Council Committee on Housing & Buildings May 4, 2021

The American Council of Engineering Companies of New York (ACEC New York) represents close to 300 consulting engineering and affiliate firms throughout New York, with a concentrated presence in New York City. Our member firms plan and design the structural, mechanical, electrical, plumbing, civil, environmental, fire protection and technology systems for New York City's infrastructure and buildings. We thank the Committee for this opportunity to comment on Intro. 1939-A.

We want to acknowledge that over the past 4 years the NYC Department of Buildings engaged in an intense collaborative process to revise the City's Construction Codes. Through this thorough process, the DOB engaged technical committees comprised of engineers, architects, attorneys, planners, tradespeople, construction industry representatives, utility companies, labor, interagency stakeholders and others. This tremendous work culminated in Intro. 2261 which was introduced by the Council on April 22, and which will comprehensively update the building, mechanical, fuel gas and plumbing codes.

Our Electrical Code and Mechanical Code Committees reviewed Intro 1939-A. The Committees, which are comprised of licensed professional engineers and design professionals, offer the following comments and recommendations:

- The proposed bill should clarify if these requirements are intended to apply retroactively to existing facilities. It does not appear to apply, but until the Existing Building Code becomes a reality, it should be clarified if, or under what circumstances, it applies to existing facilities.
 - Implementation is going to be the challenge if this is required in existing facilities; having to retrofit these facilities for standby power and facility owners' being burdened with the cost to install and maintain these systems. If it is required in existing buildings, the bill should include a hardship exemption.
- This bill covers various occupancy types that may already require emergency power in accordance with other codes, but not this code. This creates confusion in that the NYC Building Code will now require stand-by power, but not emergency power in these facilities.
- For those occupancy types that may not currently require emergency power, does this bill require that certain life safety systems – such as fire alarm systems, emergency lighting, exit signs, etc. – be connected to this required stand-by power system? Reference BC2702.4 Required loads for optional standby power systems.
- For occupancy types which require emergency power for 6 hours based on BC2702.1.1, would this bill require the emergency system fuel capacity to match the 72 hour requirement of this bill?

- Many domestic water and sanitary drainage systems utilize electricity for pumps, heaters, controls, etc. These systems, as they serve common areas, should be included in the list of stand-by power loads.
- We recommend amending the text as follows:
“2. Air conditioning, cooling, and heating systems sufficient to maintain temperature and humidity in accordance with Section 1204 in at least one common space ~~which can in order to~~ accommodate all occupants of such facility or in all spaces used by occupants of such facility for sleeping purposes;

If you have any questions or if our committees can be of assistance to you, we are happy to coordinate.

For further information please contact:

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**Committee on Housing and Buildings
May 4th 2021**

Good afternoon. Thank you for the opportunity to testify. My name is Phoebe Flaherty, I'm an Organizer at ALIGN: The Alliance for a Greater New York. ALIGN is a community-labor coalition dedicated to creating good jobs, vibrant communities, and an accountable democracy for all New Yorkers.

We coordinate the Climate Works for All coalition that led the organizing to pass Local Law 97 the Dirty Buildings bill.

As we all know, we are still in the midst of this pandemic, and New York's Black and brown and environmental justice communities are bearing the brunt of the impact of the virus and the economic downturn. We're seeing record high unemployment, concentrated in BIPOC and environmental justice communities.

Our City's budget must prioritize investment and job creation for the communities that have been hit the hardest by this pandemic.

The Climate Works for All coalition created an Equitable Recovery Report, a roadmap to creating 100,000 good green jobs for New York City's Black and brown communities and moving us out of the pandemic and recession towards our climate goals by investing 16 billion dollars over 3 years. This is the comprehensive plan we need to move our city through crisis and towards equity and climate justice.

However, we know that the city is still reeling from the crisis, and we have developed interim Climate budget priorities that will lead us on the same path towards investment in communities and green job creation, while acknowledging the reality of our budget constraints.

Within the City's 2022 budget, we are calling for an investment of 80 million to retrofit public schools and 100 million to install solar on public schools.

In April 2018, New York City passed Local Law 97 (LL 97), a law that puts a cap on greenhouse gas emissions for buildings larger than 25,000 square feet. To ensure the spirit of the law is upheld by the private sector and to reduce greenhouse gas emissions by 40 percent by 2030, New York City government must lead by example and retrofit public buildings with the urgency the issue deserves. The

CW4A coalitions' budget request specifically focuses on K-12 schools, which make up a large portion of public buildings that are currently emitting at rates above LL 97 emission caps.

Based on public data from 2019 on energy and water usage for large buildings and the Coalition's analysis, over 2,400 city-owned buildings are currently emitting at levels higher than the emissions cap for the 2030 - 2034 LL 97 compliance period. The buildings are dispersed throughout the city and comprise various building types including K-12 schools, government offices, maintenance and repair for government equipment, police stations, and fire stations, among other uses.

As of 2019, 1,132 K-12 schools, which add up to a total of 143,869,137 square feet, are emitting at levels beyond LL 97's 2030 - 2034 period of compliance. At an average cost of \$7.55 per square foot to retrofit buildings, the city would need over \$1.08 billion throughout the next 13 years to meet LL97 emission targets. **That is, the City needs about \$80 million every year to retrofit schools.**

Given the known associations between atmospheric pollution and climate change, and the correlation between air pollution and mortality rates for respiratory diseases like COVID-19, retrofitting buildings, particularly Heating, Ventilation, and Air Conditioning (HVAC) systems, serves as a common solution to two of the most urgent problems New Yorkers have faced in the last few decades—a pandemic and climate change. In addition, **research shows that building retrofits will create 482 good union jobs during a time of economic crisis.** Protecting children, teachers, public servants, and the public at large who utilize these buildings, while stimulating jobs for New Yorkers, should be of utmost importance in 2021.

In 2014, New York City committed to installing 100 megawatts of solar energy on public buildings by 2025. In order to achieve this goal, solar panels would need to be installed on over 300 public buildings over the following decade, a move that could be replicated on the other 4,000 city-owned and leased properties throughout New York City. It is integral that the Department of Citywide Administrative Services (DCAS), the agency charged with the city's solar implementation, prioritize its solar program. **An immediate investment of \$100 million toward DCAS' solar program will provide the capacity and resources the agency needs to swiftly meet New York City's 2025 solar goals.**

The New York City Department of Education's (DOE) building stock presents an opportunity for the City to make significant progress toward its solar goals. Not only do K-12 schools hold a large share of New York City's new solar energy capacity, they also account for one-quarter of all City-owned buildings. In fact, the DOE hosts more than half of the City's completed installations. Following the passage of the [Climate Mobilization Act](#), DCAS and the New York Power Authority (NYPA) announced their plans to install up to 16 additional megawatts of solar energy at forty-six New York City public schools. While this announcement is a good step, DCAS must prioritize an expeditious implementation of its solar program in environmental justice communities to ensure the city meets its 2025 solar goals.

Since 2014 DCAS has installed solar panels on 30 school buildings across the city, amounting to only 6.86 megawatts of solar energy. That means DCAS has installed an average of 1 megawatt per year. There are still 189 other school sites waiting to be completed that have the potential to reduce the City's emissions by another 10,449 metric tons of CO₂. **At completion, the savings from these sites will be equivalent to taking 2,257 cars off the streets for one year.** As DCAS continues to implement its solar program, it is critical that the agency utilizes social equity criteria to determine the order in which solar panels should be installed. As the largest school district in the country, there is an immense opportunity for New York City to create an implementation standard that can be replicated in other municipalities. Only taking technical considerations into account, such as solar-ready roofs, fails to recognize systemic inequalities in New York City. By prioritizing K-12 schools in environmental justice communities, the City will be building more resilient neighborhoods and ensure the benefits of renewable energy reach its most impacted New Yorkers.

Solar projects will not only reduce greenhouse gas emissions, but will also allow New York City to use investments to mitigate deep socio-economic and environmental inequalities in our city. New Yorkers had first-hand experiences of the catastrophic impacts of climate change through Hurricane Sandy. Now, these cumulative environmental risks have further intensified under the COVID-19 pandemic. Building energy generation technology in environmental justice communities is essential, especially as New York looks towards a Just Recovery from the current public health and economic crises. Investments in green



infrastructure will build more resilient neighborhoods and bring good, well-paying jobs back into communities that need it most. Research shows economic activity on green infrastructure generates both direct and indirect jobs. **Research shows an investment of \$100 million into installing solar on schools will create 508 direct and indirect jobs.** The installation of solar on K-12 schools coupled with building retrofits, a local hiring program, and strong project labor agreements, can expand access to career-track jobs and create an avenue for addressing environmental injustice.

In addition to retrofitting and installing solar on public schools, Climate Works for All is calling for an investment in the following areas as well, totaling an investment of \$200 million.

17 million towards public waste management, including 4 million to staff the Commercial Waste Zones program, and 13 million towards expanding the composting program.

3 million towards clean transportation expansions via electric school buses

These investments are what is necessary to invest in New York's BIPOC and frontline Environmental Justice communities, address the inequities of the pandemic and move us out of the COVID crisis while addressing the climate crisis. We believe these investments will move us forward on the path towards an Equitable Recovery.

Thank you for your time and consideration today.

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May 4, 2021

Testimony of the New York Building Congress before the New York City Council's Housing & Buildings Committee on Intro 1635

Chair Cornegy, Jr. and members of the City Council Committee on Housing and Buildings, thank you for the opportunity to provide testimony regarding Intro. 1635, which would authorize building owners to install artwork on temporary protective structures at construction sites across the five boroughs.

The New York Building Congress' membership consists of more than 525 constituent organizations and 250,000 skilled tradespeople and professionals, including architects, engineers, contractors and labor, many of whom design and build projects in your neighborhoods. For decades, the building industry has worked in the same manner, erecting temporary protective structures that ensure our workers and the general public are safe, but are also unattractive and rarely provide ancillary benefits to neighbors. That is why we support the spirit of this legislation.

The first City Canvas pilot announced in 2019 in Chelsea was a historic moment, bridging the gap between construction, culture and communities. We commend the efforts of the New York City Council and de Blasio Administration to now make artwork on construction sites a permanent fixture, with the goal of transforming over 300 miles of construction fences and sidewalk sheds that are ubiquitous in every neighborhood across the city. We are also excited for the innovative opportunities this will provide to support local artists and residents and celebrate their talents and culture. Through this legislation, in addition to keeping our neighbors safe, we can also enhance and beautify our urban landscape for New York City residents, visitors and workers for years to come.

While we fully endorse the installation of artwork on construction sites, in an effort to also support our tourism and arts and culture industries, we would support expanding the legislation to expressly include the placement of non-commercial signs in the eligible types of content that may be placed on temporary protective structures. We understand that advertising signs, as defined in the zoning resolution, are prohibited. We believe, however, that by allowing for non-commercial materials to be placed on sites across the city it will be a boon for our identity as the cultural capital of the world.

Our tourism industry supports 400,000 workers and provides billions of dollars to our local economy; as such, creating new and expanded spaces for the display of non-commercial signs will help attract additional visitors to some of our lesser-known attractions. Allowing for these signs would bolster attendance for many cultural organizations and museums that promote free exhibits and outdoor presentations in the outer boroughs that are of interest to the general public and compliment the City's \$30 million "NYC Reawakens" campaign. For instance, this fall, we will launch *What We Build*, our signature Centennial exhibit, free to the public, to celebrate the people, places and structures that have created the New York City we know and love today. It will feature a timeline and displays to document our unique eras, from the skyscraper boom of the 1920s to the development surge saved New York in the 1970s.

As it stands today, the zoning resolution allows for non-commercial copy to be affixed to a zoning lot as long as it does not exceed 12 square feet in size. We ask that the City Council and the Administration further define non-commercial copy materials in the legislation. Such materials should include, but not be limited to, messaging that promotes free events, exhibits and other performances of interest to the public.

Aligned with the goals of supporting artists, beautifying construction sites and better engaging local communities, we proudly support the intent of Intro. 1635. The New York Building Congress and its members are committed to advancing policies that create a more beautiful New York and we look forward to a continued partnership with the City Council to promote the arts and culture. Thank you for your time and consideration.

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May 6, 2021

Testimony of the New York Building Congress before the New York City Council's Housing & Buildings Committee on Intro 1737-2019

Chair Corney, Jr. and members of the City Council Committee on Housing and Buildings, thank you for the opportunity to provide testimony regarding Intro. 1737-2019, which would amend the administrative code of the City of New York in relation to after-hours work authorizations.

The New York Building Congress' membership consists of more than 525 constituent organizations and 250,000 skilled tradespeople and professionals, including architects, engineers, contractors and labor, many of whom design and build projects in your neighborhoods. For 100 years, we have sought to ensure that our city grows and is developed in a manner that is both safe and minimizes negative impacts on our fellow neighbors. More contemporarily, and throughout the last eight years, we have worked diligently with the City Council and de Blasio Administration to continue to advance both of those goals. We agree that quality of life for New Yorkers is of utmost importance; however, this proposal not only ignores some the underlying benefits of after-hours construction, but also has the potential to inhibit our economic recovery.

Intro 1737-2019 would amend various aspects of the process for issuing after-hours variances (AHVs) and in particular limit the number of days for which an AHV may be issued during any given week. As stated in the bill, it would provide that *“such requested days may not exceed three weekdays per week, one Saturday or one Sunday per week and shall not include any holiday on which alternate side of the street parking rules are suspended.”* We believe that providing limitations on the amount of work that may take place at a particular site outside of regular business hours would have limited benefits and more importantly, will affect the safety and quality of projects. In addition, restricting AHVs in this manner would inevitably prolong the duration of construction projects and make their completion more costly.

On our first point, it is often out of necessity that certain essential construction tasks be completed during off-peak, after-hour time periods. For example, in new construction, the pouring of concrete slabs is an activity that must be done consecutively and potentially without interruption. If there are extended time periods between pours, there is a higher risk that the design of slabs is not uniform in dimension or that the concrete does not cure appropriately between sections, which directly affects their safety. As for occupied buildings, conducting work afterhours is customary as a matter of safety for occupants and visitors. By limiting when AHVs may be issued, this bill is potentially diminishing the quality and security of places where we live and work.

Second, the pandemic has caused tremendous harm to many sectors of our economy, including the building industry. With the pause on non-essential construction and the reverberating market effects of the City and State's financial constraints, construction activity in 2020 and the first half of 2021 has been negatively impacted.

In our *2020-2022 New York City Construction Outlook* report, we forecasted that construction jobs would drop to approximately 128,200 jobs in 2020 and bounce back slightly to 136,650 jobs in 2021 and 140,200 in 2022, which represents 14 percent fewer jobs than the previous three-year period. It is a precarious time to impose harsh restrictions on the building industry, which offers good-paying jobs for a diverse workforce. The city is beginning to emerge from the crisis created by the pandemic and looking to gainfully employ thousands of unemployed or underemployed New Yorkers. Legislation that would impose costly restrictions directly hamper our ability to create thousands of quality jobs, including union jobs.

We agree that protecting nearby residents from construction noise is a worthy goal; however, we ask that the City Council rely on existing legislation to do so. Local Law 53 of 2018 (LL53) is specifically tailored to address issues of after-hours noise by requiring the filing of noise mitigation plans and empowering the Department of Environmental Protection (DEP) to issue stop work orders in response to certain violations. It is misleading to believe that reducing the number of days during which after-hours work can take place will directly relate to enhanced quality of life. Not all after-hours activities are at levels that harm quality of life, and there is existing legislation to regulate those that do.

To protect all New Yorkers, we sincerely hope that the Council will examine the implementation of existing regulations and explore alternatives to enhancing quality of life for residents that do not hamper the city's ability to emerge stronger from the COVID-19 pandemic. The New York Building Congress and its members are committed to advancing policies that promote a more productive and safer New York. We look forward to a continued partnership with the City Council to achieve both of those goals. Thank you for your time and consideration.

As the executive director of ArtBridge, a public art nonprofit, I'd like to offer comment on Intro 1635. ArtBridge was selected to implement the City Canvas pilot program, which currently enables art exhibitions on construction fencing.

Synopsis:

- ArtBridge supports Intro 1635;
- We believe ArtBridge's implementation of City Canvas has been a compelling success that Intro 1635 should use as a model;
- Though we also believe there are minor drafting issues that might hinder the intended outcomes of this very well-intended legislation.

City Canvas as a model:

Over the past 21 months, through City Canvas we've exhibited 38 local artists at 17 construction locations, installing more than 12,000 square feet of art. At the most basic level, City Canvas has enabled us to provide incredible exposure for these 38 artists, while making art accessible to all New Yorkers.

However, I believe that public art offers so much more potential than simply beautifying the city, or showing off the work of talented individual artists. City Canvas has worked best when we've enabled artists to also be collaborators and community builders.

A major part of our City Canvas implementation has been our citywide program with NYCHA and its residents. At each site, we work with residents to select local artists from an open call; often the artists are themselves NYCHA residents. We then build a months long program of engagement between the artists and residents, partnering with local community groups, and hiring residents to facilitate all of this.

Through this process, the artists create large-scale public artworks that amplify the complex voices of residents -- their problems, their accomplishments, their joys, and even their humor. The intent is to use art to amplify the voices of marginalized communities, empowering residents to control the way their lives are described, and to control their own public living spaces.

If written and implemented properly, Intro 1635 can allow for these impactful collaborations across the city. Through the city's more than 300 miles of construction fencing, artists can strengthen their communities and provide them with a stronger voice.

Potential issues:

ArtBridge strongly supports the concept behind Intro 1635. However, we fear that invoking the Public Design Commission as the arbiter of permitted art might have negative consequences. The Public Design Commission mainly oversees permits for “permanent” artwork installations in New York City, and meets just four times per year to provide these permits. As a result, it is not in an ideal position to oversee a robust program of site-specific artworks on construction fencing.

Construction fencing has a short lifespan (and hopefully even shorter, soon enough, if the laudable legislative efforts of Councilmembers Kallos and Cornegy are implemented). So in order to quickly respond to site-specific fencing artwork applications -- especially at NYCHA developments and in other lower-income communities -- there needs to be a permitting process that can react reasonably quickly. In our view, either the Department of Cultural Affairs or the Department of Buildings are best equipped to handle this role.

We also strongly advocate for the ability to create site-specific art exhibitions -- the ability of which is not specifically outlined in the current legislation draft. As articulated above, site-specificity is the key to successful public art.

Should this site-specific capacity be included in Intro 1635, we would also strongly advocate that a nonprofit partner (or perhaps a DCLA CDF-funded partner) be required to submit each application. In our experience collaborating with for-profit site owners of construction fencing, a nonprofit partner is needed to guide the process towards an outcome that foregrounds the importance of local artists, local narratives, and local impact.

Summary:

City Canvas has been an overwhelming success. Artists, local communities, local media, and the general public have all provided us with immense positive feedback. We are deeply appreciative of Councilmember Cumbo’s drafting of Intro 1635, and hope that it can be revised and passed in a way that allows the City to continue with the successful momentum of City Canvas.

Sincerely,



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MEMORANDUM OF OPPOSITION

BILLS: Intro. 1737-2019, Intro. 1366-2019, Intro. 1667-2019

SUBJECTS: After Hours Work, Insurance Filings, Environmental Monitoring

DATE: May 2, 2021

The Associated General Contractors of New York State, (AGC NYS) the leading statewide trade association representing union and open shop construction companies strongly opposes Intro. 1737-2019, Intro. 1366-2019, and Intro. 1667-2019.

Intro. 1737-2019

This bill would amend various aspects of the process for issuing an after hours variance (AHV). It would provide that an AHV issued for public safety purposes expire 15 days after issuance, that an AHV only be issued for the hours of 6 a.m. to 7 a.m. and 6 p.m. to 10 p.m. on weekdays and for the hours of 8 a.m. to 6 p.m. on weekends, limit the number of days than an applicant for AHVs can request it to 3 weekdays per week, one Saturday or one Sunday per week and not include any holiday on which alternate side of the street parking rules are suspended, require the Department of Environmental Protection (DEP) to issue a written explanation for its decisions on whether to issue an AHV and require an annual report where DEP would report to the Council data on the administration of the AHV process.

AGC NYS opposes this bill because the intent of the bill does not meet the practicalities of construction in New York City. After hours variances are judiciously issued by the Department of Buildings for specific reasons, such as safety, emergencies, undue hardship, and other reasons. Supporters of this bill fail to understand that the existing Administrative Code and authority of both the Department of Buildings and Department of Environmental Protection to control and mitigate noise related issues is extensive, including stop work orders. By limiting the days and hours for after hours variances, this bill would prolong construction projects and thus, drive up costs for the City of New York, private developers, and not for profit organizations. As we recover from the COVID-19 pandemic and await a robust infrastructure funding bill from President Biden, Majority Leader Schumer, and the New York Congressional Delegation, this bill would significantly reduce the benefits of the desperately needed federal aid. Furthermore, this bill would reduce the opportunities for construction workers that make substantially higher wages for after hours work.

Intro. 1366-2019

This bill would require the Department of Buildings to collect and maintain information regarding insurance coverage provided at construction sites in a public, online database.

AGC NYS opposes this bill because it is another costly mandate on businesses without any significant value to the public. The bill is an unfunded mandate to the City of New York because it would force the Department of Buildings to establish and maintain an online, interactive, electronic submission system available on its website to collect and maintain insurance information. If enacted, this bill would increase the number of frivolous lawsuits against contractors.

Intro. 1667-2019

This bill would require contractors to report information on environmental monitoring of construction or demolition work to the Department of Buildings and the Department of Environmental Protection. Additionally, contractors would be required to post contact information at the site of construction or demolition work. This bill would also require the Department of Buildings to post the environmental monitoring information on its website.

AGC NYS opposes this bill because it is another costly mandate on businesses without any significant value to the public. The Department of Buildings and Department of Environmental Conservation already enforce these regulations and promote worker and public safety through their review and professional analysis of environmental compliance. If enacted, this bill would increase the number of frivolous lawsuits against contractors.

For these reasons, AGC NYS opposes Intro. 1737-2019, Intro. 1366-2019, and Intro. 1667-2019 and urges the New York City Council to reject these bills.



The Building Owners and Managers Association of Greater New York's Testimony on Int Nos 1737, 354, 1127, 1366

The Building Owners and Managers Association of Greater New York (BOMA New York) appreciates this opportunity to submit the below comments for the record. BOMA New York represents more than 750 property owners, managers, and building professionals who own or manage 400 million square feet of commercial space in New York City. We are an association within BOMA International, a federation of 90 US associations and 19 international affiliates that own and operate approximately 10.5 billion square feet of office space in the United States.

Int 1737: A Local Law to Amend the Administrative Code of the City of New York, in Relation to After Hours Work Authorization.

This proposed legislation would significantly reduce the use of after-hours variances (AHVs) for construction that is allowed in the City. Such a result would have a negative impact on the economy as we emerge from the COVID-19 pandemic, and would not significantly improve noise-related or other quality of life issues. In addition, new and stricter construction noise regulations went into effect in 2020, and it is too early to know what impact those regulations will have. For all of these reasons, BOMA New York strongly opposes int no 1737.

Construction in New York City, and especially in Manhattan, is complicated by a range of constraints that need to be taken into consideration when proposing regulations. For example, many construction activities, such as the use of heavy equipment like cranes, need to occur in off-peak hours, when less pedestrians are around, for safety reasons. In addition, construction on existing, commercial buildings often needs to be undertaken when tenants are not in the building. Reducing the use of AHVs, as this bill would do, would prolong construction activities in ways that would both add to noise and other construction impacts and significantly increase costs of construction to a degree that would lead to a loss of jobs and other economic activity. The loss of jobs and economic activity would be particularly burdensome as we try to recover from the impacts of the COVID-19 pandemic.

In addition, only a relatively small number of AHVs are associated with noise and other complaints. According to DOB data, 95% of AHVs create zero noise complaints, and the median number of such complaints is 1 per AHV. Therefore, the benefits of reducing AHVs is minimal, while the costs are high.

Construction noise, as well as other sources of noise, are strictly regulated by the 2005 Noise Code, as amended over the years. Construction noise is managed by mandating specific mitigation measures based on the equipment being used or activity being undertaken. As stated, stricter construction noise regulations recently went into effect. These tools, if sufficiently

enforced, should allow for proper construction noise mitigation, while, through the use of AHVs, providing the flexibility needed for construction activities to take place at the safest times.

Int 354: A Local Law to amend the administrative code of the city of New York, in relation to penalties for the unauthorized alteration or demolition of a premises calendared by the landmarks preservation commission.

This bill would impose extremely harsh civil and criminal penalties for demolishing or altering buildings calendared for consideration by the Landmarks Preservation Commission without a DOB permit. As BOMA New York is unaware of these types of activities occurring in the recent decades, and given the size of the penalties, we oppose this legislation. If the legislation does move forward, it needs to carve out minor alterations that may be necessary for basic maintenance.

Int 1127: A Local Law to amend the administrative code of the city of New York, in relation to expediting permits.

This proposed bill would require DOB to expedite certain permits and amendments to permits. BOMA New York supports this legislation, but would call on the Council to work with DOB to make sure they have the resources necessary to implement the law.

Int 1366: A Local Law to amend the administrative code of the city of New York, in relation to requiring certain insurance filings with the department of buildings.

This proposed law would require DOB to collect and keep information about insurance coverage at construction sites and to publish it on a public website. Contractors and their sub-contractors in New York City already maintain extensive and costly insurance protections in order to undertake construction activities. Indeed, anyone seeking a permit from DOB has to show that they have insurance, and the amount of insurance they have to carry reflects the amount of risk the project has, such that where there is structural or similar work, they must be insured up to \$20 million. This information is viewable by the public through DOB NOW. It is unclear how this bill would improve the existing system, and it would raise privacy issues by sharing this information publicly. Therefore, BOMA New York opposes int no 1366.

Int 1667: A Local Law to amend the administrative code of the city of New York, in relation to requiring contractors and the department of buildings to make information regarding environmental monitoring of construction work publicly available.

This bill requires contractors to reports environmental monitoring data to DOB and DEP and to post it publicly on site. It is unclear how this legislation would improve the environment and human health over existing monitoring and mitigation regulations, but it would impose significant costs. For example, those receiving permits from the City must submit an environmental mitigation plan under the current system. BOMA New York recommends that the Council review existing DEP and DOB regulations to demonstrate that such costs lead to substantial benefits.

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BTEA Testimony in Opposition to Intro 1737
After Hours Work Authorization

Good morning Chair Cornegy and Committee members, I am Louis Coletti, President and CEO of the Buildings Trades Employer's Association (BTEA), an organization representing 26 contractor associations and over 1,500 construction managers, general contractors and specialty trades contractors doing business in New York City, employing 150,000 construction trades workers. Thank you for allowing me the opportunity to testify today on this matter of immense importance to our City.

I am here to convey the BTEA's very serious concerns with the premise and intent of Intro 1737. It would provide that an AHV issued for public safety purposes expire 15 days after issuance; that an AHV only be issued for the hours of 6 a.m. to 7 a.m. and 6 p.m. to 10 p.m. on weekdays and for the hours of 8 a.m. to 6 p.m. on weekends; limit the number of days for an AHV application request it to 3 weekdays per week, one Saturday or one Sunday per week and not include any holiday on which alternate side of the street parking rules are suspended; require the NYC Department of Environmental Protection (DEP) to issue a written explanation for its decisions on whether to issue an AHV; and require the DEP to issue an annual report to the Council including data on the administration of the AHV process. This bill does not take into account any engineering, logistical or safety considerations.

In New York City, particularly Manhattan, it is often a necessity that some essential, critical-path construction tasks are completed during off-peak, after-hour times. This could include the utilization of heavy equipment such as a crane, delivery of substantial materials or street and sidewalk work. In the case of work being done on occupied buildings, work must, in many cases, be conducted outside of normal operating hours for the protection of tenants. Limiting AHVs only exacerbates these challenges by putting unnecessary constraints on sites, compromising safety while simultaneously making essential jobs more costly and time intensive. In addition, restricting AHVs in this way would delay projects,

lengthening their time to completion and adding cost that would jeopardize jobs. It is not an exaggeration to say that this legislation would potentially double the length of some construction projects.

This legislation would have the opposite effect and could potentially pose risks to existing construction jobs, including highly skilled, unionized construction jobs. This change in work dynamic makes the idea of limiting after-hour variances to specific hours and days even less sensible. Even prior to the passage of the noise level restrictions, the NYC Department of Buildings (DOB) tracked AHVs and noise complaints, and the data shows that 95% of projects issued an AHV do not receive any noise complaints, and projects that do have a median number of just one complaint.

Furthermore, numerous measures have already been put in place to protect nearby residents from construction noise, for instance the law for new construction noise mitigation requirements. The allowable construction noise levels were amended by this legislation to specifically address construction noise from after-hours work. If contractors violate those noise standards, DEP can issue a stop work order. Moreover, the previous mayoral administration signed Local Law 113, the New York City Noise Code, to establish updated standards to reduce noise, including setting decibel (dB) level thresholds. The 2005 law mandated that DEP adopt rules mitigating construction noise and required the development of Construction Noise Mitigation Plans.

In closing, the BTEA believes that arbitrarily placing constraints on the judicious use of these after-hours variances could have the unintended consequence of both extending the length of projects, and, makes construction particularly in Manhattan less safe for neighbors and pedestrians.

Thank you.



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May 4, 2021

Honorable Robert E. Cornegy, Jr., Chairman
Committee on Housing and Buildings
New York City Council
250 Broadway Suite 1743
New York, NY 10007

Re: Intro 1737-2019
Intro 1366-2019
Intro 1667-2019
Intro 1127-2018

Dear Council Member Cornegy and Members of the Housing and Buildings Committee:

I am the Managing Director of Building Contractors Association, Inc. ("BCA") (see enclosed "Who Are We" document). The BCA and its contractor members have reviewed Intro 1737-2019, Intro 1366-2019 and Intro 1667-2019 and **oppose** these proposals. The BCA and its contractor members **support** Intro 1127-2018. I have enclosed a Statement for the Committee's review.

The BCA appreciates your anticipated consideration of our positions on these proposals. We are always willing to meet with you and the Committee to discuss any and all issues related to New York City's construction industry. If you have any questions, please feel free to call.

Yours truly,

John O'Hare
Managing Director



BUILDING CONTRACTORS ASSOCIATION, INC.

Who Are We?

The Building Contractors Association, Inc. (“BCA”) is Metropolitan New York’s leading membership association of unionized construction contractors. Since its formation in 1933, the BCA has represented and promoted the general welfare and interests of its construction industry employer members. The BCA provides the unified contractor voice needed to address and enter equitable long-term labor-management relationships. We are dedicated to establishing public confidence that a BCA member is a contractor of the highest integrity and responsibility. The BCA’s purposes also extend to the workers themselves. Long before it was required by law, BCA contractors have “encourage[d] the use of such means as will tend to reduce injury and death to building construction workers.”

The 200 plus members of the BCA represent the finest of New York’s builders. Forty percent of the Metropolitan areas largest construction firms are BCA members.¹ Many more are small family owned businesses. One multi-generational company has been in business for over 125 years. Other members represent the continuing growth of minority and women owned construction firms. Almost twenty five percent of BCA members are certified MWBE contractors. BCA member projects line the streets and skyline of the City of New York. They have employed generations of unionized construction workers providing solid, well-paying jobs to thousands of New Yorkers. They represent the proud tradition of New York’s quintessential construction industry.

The projects BCA contractors perform encompass every aspect of the construction process including high-rise office buildings, residential structures, hospitals and schools. In addition, BCA members have extensive experience in the fields of restoration, renovation, alteration and tenant changes. Our members perform work in both the public and private sectors of the construction industry.

¹ Crain’s, 2020 List of NY Area’s Largest Construction Firms, July 27, 2020, pages 1-12.

Studies show that even during the current pandemic and resulting economic downturn, New York City's construction industry will generate approximately \$55.5 billion in total spending with expectations that spending will reach \$168.5 between 2020 and 2022.² New York City's construction industry is an essential economic engine.

BCA members are actively interested in promoting and protecting the varied interests and issues related to New York's building and construction industry. The BCA is committed to the strength of the City of New York.

What we believe:

- Continued commercial and residential development is critical to maintaining the City of New York as the world's greatest city
- City and State support for public works projects is essential
- Stable labor-management relationships are essential to the well-being of the construction industry
- Construction industry is fully committed to safety first
- Developers, contractors and labor must work together to address high costs of construction work
- Opportunity is the gateway to success

² New York Building Congress October 2020 report.



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BUILDING CONTRACTORS ASSOCIATION, INC.

STATEMENT IN OPPOSITION TO INTRO 1737-2019, INTRO 1366-2019 and INTRO 1667-2019

STATEMENT OF SUPPORT FOR INTRO 1127-2018

The BCA and its 200 plus construction contractor members **oppose** Intro 1737-2019, Intro 1366-2019 and Intro 1667-2019 for the reasons set forth below.

The BCA **supports** Intro 1127-2018.

Intro 1737-2019: Amending Code in Relation to After-hours Work

This bill seeks to amend certain terms and criteria for issuing and/or renewing after hours variances (AHV) as currently set forth in §24-223 of the New York City Administrative Code. Intro 1737-2019 has been framed as addressing agency and industry abuses of after hours variances that have negatively impacted the City's residential quality of life. In the words of the bill's sponsor, "After hours variances are handed out like candy by DOB to developers who could easily accomplish their work during normal business hours."¹ It is claimed that developers and the DOB are abusing the after hours variance system in the interests of the developers' bottom line.² Construction work is not easy and the circumstances surrounding the need and use of AHVs are not nearly so nefarious.

Prior to the Covid-19 pandemic, the City's economy was strong and the construction market was booming. A 2017 New York Building Congress study showed that the City's construction market was generating \$66.3 billion in total spending with forecasted expectations reaching approximately \$127.5 billion by the end of 2018.³ Even

<https://www.amny.com/news/manhattan-council-members-propose-bill-to-limit-construction-work-at-night/>

² Id.

³ New York Building Congress 2017 Report

during the crushing economic slowdown caused by Covid-19 shutdowns, New York City's construction industry was still anticipated to generate approximately \$55.5 billion in total spending with expectations of reaching \$168.5 billion between 2020 and 2022.⁴ New York City's construction industry is an essential economic engine employing thousands of New Yorkers.

An unfortunate side effect of this prosperity was an apparent increase in noise complaints. According to an August 2017 Report issued by New York State Comptroller Thomas P. DiNapoli, the increase in noise complaints was directly attributable to an increase in after hours work.⁵ No contractor sets out with the intent to disturb residents. Construction can be noisy. However, the existing Administrative Code, rules and enforcement measures established by both the DOB and DEP to control and mitigate noise related issues are extensive, including, but not limited to issuing stop work orders. The DOB and DEP letters attached to the Comptroller's Report indicate an awareness and willingness to continue to improve agency performance, including the circumstances under which AHVs are issued, while also disagreeing with several of the Comptroller's recommendations.

§24-223 of the NYC Administrative Code authorizes DOB to issue AHV's according to the following categories:

1. Emergency work
2. Public safety
3. City construction
4. Construction with minimal noise impact
5. Undue hardship

The BCA **objects** to the proposal to limit AHV's authorized for **emergency work** and **public safety** to 15 days rather than 19 days. Currently, the 19 day period provides a three week window to complete the authorized work. The reduction to 15 days cuts this period by a third, does not guarantee that the work can be completed and will simply lead to further requests for renewals with associated costs. If the work is authorized as emergency or public safety related, it should not be unnecessarily rushed.

The BCA **objects** to the proposal to amend the subsection for **public safety** AHVs to require the DEP and DOB to "establish by rule the type of work involved" and fix a number of days to each type of work. First, this anticipates that all types of public safety related work can be identified, listed and given a fixed amount of time to complete. It is not realistic and would unnecessarily box in both agencies and contractors with a potentially adverse impact on public safety.

⁴ New York Building Congress October 2020 report.

⁵ NYS Office of the State Comptroller, Division of State Government Accountability, *Responsiveness to Noise Complaints Related to Construction Projects, New York City Department of Environmental Protection and New York City Department of Buildings*, Report 2016-N-3 August 2017, <https://www.osc.state.ny.us/files/audits/2018-02/sga-2017-16n3.pdf>

The BCA **supports** the proposed change from City construction work to Government construction work. We would even suggest expanding the category to include **federal, state or city agencies of any kind, including public benefit corporations and any work funded in full or in part through public financial assistance...**

The BCA **objects** to the substantial revisions targeting AHV's issued for reasons of **undue hardship**. These revisions include the new subdivision (f) proposals.

- a. **Proposed subdivision (f)(1)**: the proposal to limit weekday AHV's to 4 hours (6pm to 10 pm) is too restrictive and punishes workers and contractors by reducing an 8 hour day to a 4 hour day. It creates additional problems for unionized contractors who may be required to pay workers for a full 8 hour shift for only 4 hours worked. This raises questions of payment for no show work.
- b. **Proposed subdivision (f)(2)(B)**: the proposal to require an applicant to include a certification from a registered design professional ignores the numerous reasons why an undue hardship application may be made, including, but not limited to, "unforeseen conditions, scheduling conflicts and/or financial considerations outside the control of the permit holder" that may be beyond the scope of design related issues. This proposal also will add delay and costs to any construction project.
- c. **Proposed subdivision (f)(2)(C)**: limiting AHVs to three days per weekday and one weekend day only will ultimately result in the delay and extension of the underlying work thereby increasing the length of time residents could be subjected to after hours work. There are currently 49 days in 2021 identified by the City of New York as holidays on which alternate side of the street parking rules are suspended. This is too extensive and too many days when work will be unnecessarily delayed. <https://portal.311.nyc.gov/article/?kanumber=KA-01011>
- d. **Proposed subdivision (f)(3)(B)**: this proposal to limit AHVs issued "on the same or adjacent block" to hours and days previously authorized by prior AHVs is unrealistic.

The following are comments received from BCA contractors that perform the after hours work:

Commercial Office Interior renovation contractor: We are "concerned with the fact that they are not distinguishing between interior and exterior construction work. Most of our work is done within a fully enclosed building where noise is not a factor to the general public. These proposed requirements will make it virtually impossible for an interiors contractor to secure an After Hours Variance."

Commercial Office Interior renovation contractor: "Again, what about projects that are strictly after hours? The 6pm-10pm is un-realist. We currently request AHV from 6pm to 2am. This is a full shift of work time 8 hours. Projects of this type can't get built in 4 hour work days. The costs for all of these issues are making owners spend a lot more money in filing and permitting fees. They will prevent projects from being built with these crazy DOB costs."

Core and Shell/Commercial renovation contractor: "This proposal will also increase the price of city projects working after hours (SCA). Most projects start after the building is unoccupied (4-5pm), this bill stops all work at 10pm. That is a 5-6 hour workday, which equates to a 25%-33% reduction in production per day. This would cause bid prices to soar as contractors have to figure that in their estimates. Since these are city projects, the costs will be incurred by the city in the form of higher bid prices."

Core and Shell/Commercial renovation contractor: "This bill should be opposed. Reducing AHV will increase project schedules and cost since we use AHV as weather make-up days. Reduced AHV hours will reduce worker weekly take home pay. Some activities such as erection or dismantling of cranes can only be performed safely on weekends. Limiting weekend AHV could make it difficult to impossible to erect or dismantle a crane on weekends."

On a more general level, the BCA questions whether this proposal is the right thing to do as the City of New York tries to restart its economic engines. The construction and development boom that preceded the Covid-19 shutdowns no longer exists. Many contractors are currently struggling to find work. Does the City Council want to punish the construction workers who can make substantially increased wages on after hours work? Is this the right time to put caps and restrictions on a market that could and should be one of the primary engines needed to bring the City's economy back? This is especially true given the billions of dollars in infrastructure spending promised by both the Federal and State governments.

Intro 1667-2019: Report Information on Environmental Monitoring

This bill would require contractors to report information on environmental monitoring of construction or demolition work to the Department of Buildings and the Department of Environmental Protection. Additionally, contractors would be required to post contact information at the site of construction or demolition work. This bill would also require the Department of Buildings to post the environmental monitoring information on its website.

This establishes a whole series of reports and filings which is burdensome and costly without any real benefit. This is another case of the government shifting the cost if monitoring laws to the private sector.

Intro 1366-2019: Insurance Filings with Department of Buildings

This bill would require the DOB to collect and publicly post insurance information collected from contractors. The BCA questions why this information, especially insurance policy numbers, needs to be made public. BCA members oppose this proposal as an invitation for litigation.

ENVIRONMENTAL JUSTICE INITIATIVE
Joel R Kupferman, Esq. Executive Director
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Testimony - May 4, 2021 **DRAFT #2**
Committee on Housing and Buildings - NYC Council

Int 1127-2018 Robert F. Holden Expediting permits
Int 1667-2019 Stephen T. Levin Requiring contractors and the department of
buildings to make information regarding environmental monitoring of construction
work publicly available.

, Joel R Kupferman, Executive Director and Senior Attorney, Environmental Justice
Initiative and co-chair of the National Lawyers Guild- Environmental Justice Committee
decades of representing community organizations
catalyst of declaration of environmental health threat posed by 9/11 World
Trade Center disaster

1. SYSTEMATIC UNDER-ASSESSMENT & UNDER-ENFORCEMENT of
Environmental Health related laws and regulations- especially those affecting
BIPOC (Black, Indigenous and people of color) and the Disabled Community.
<https://www.dailydot.com/irl/what-does-bipoc-mean/>
2. COVID-19 brings heightened concern about adverse disparate effects: Health
Disparities. Air pollution increases vulnerability of environmental justice
communities.
 - a. A recent study of Harvard University's T.H. Chan School of Public Health
found Coronavirus patients in areas that had high levels of air pollution
before the pandemic are more likely to die from the infection than
patients, living in cleaner parts of the country.
 - i. "The results of this paper suggest that long-term exposure to air
pollution increases vulnerability to experiencing the most severe
Covid-19 outcomes" the authors wrote. The paper found that if
Manhattan had lowered its average particulate matter level by just
a single unit, or one microgram per cubic meter, over the past 20
years, the borough would most likely have seen 248 fewer Covid-
19 deaths by this point in the outbreak. [NY Times](#)
<https://nyti.ms/2URpouav>
 - ii. See Exposure to air pollution and COVID-19 mortality in the United
States. Xiao Wu, Rachel C. Nethery, Benjamin M. Sabath, Danielle
Braun, Francesca Dominici. medRxiv 2020.04.05.20054502; doi:

<https://doi.org/10.1101/2020.04.05.20054502> Results We found that an increase of only 1 µg/m³ in PM_{2.5} is associated with an 8% increase in the COVID-19 death rate (95% confidence interval [CI]: 2%, 15%). Conclusions A small increase in long-term exposure to PM_{2.5} leads to a large increase in the COVID-19 death rate. Despite the inherent limitations of the ecological study design, our results underscore the importance of continuing to enforce existing air pollution regulations to protect human health both during and after the COVID-19 crisis.

3. **INT. NO 1667** See attached **ANNOTATED BILL**
4. INT. NO 1366 Add section requiring Past Insurance History, including but not limited to Insurance violations, lapse of Insurance. Define Insurance to include Workers Compensation, Disability.
 - A. Including but not limited to Unpaid fines
 - B.
5. Beware of the word EXPEDITE - encourages cutting corners and lack of thorough agency review, including consultation with other CITY, State, and federal agencies.
6. AIR MONITORING INSUFFICIENT - especially in Pandemic
7. Tenant Protection Plan. The TPP can be found in the NYC Administrative Code: §28-104.8.4
 - a. Not being adequately evaluated or enforced -tenuous plans being accepted
 - b. The TPP can be found in the NYC Administrative Code: §28-104.8.4 Tenant Protection Plan. Construction documents for alterations of buildings in which any dwelling unit will be occupied during construction shall include a Tenant Protection Plan. The plan shall contain: a statement that the building contains dwelling units that will be occupied during construction, indicating in sufficient detail the specific units that are or may be occupied during construction; the means and methods to be employed to safeguard the safety and health of the occupants; and where applicable, include details such as temporary fire-rated assemblies, opening protectives, or dust containment procedures.
 - c. Section 3. Health Requirements. Specification of methods to be used for control of dust, disposal of construction debris, pest control and maintenance of sanitary facilities, and limitation of noise to acceptable levels shall be included. 3.1. There shall be included a statement of compliance with applicable provisions of law relating to lead and asbestos
 - d. Creation of false assurance that sufficient analysis and protection is being provided, used as a seal of approval by contractors/landlords responding to tenants' complaints of deleterious air polluting activities. More
 - e. Brownfield sites are afforded more intensive toxin analysis than residential

- properties.
8. Insufficient Community Air Monitoring Plans have been approved
 - a. Tenant Protection Bureau does not have tech expertise to adequately evaluate and enforce Tenant Protection Plan
 - b. Need more intensive PM, Volatile Organic Compounds (VOC), lead, heavy metal determination and monitoring.
 9. AIR POLLUTION DATA IS TIME SENSITIVE -
 - a. Need to notify neighbors when exceedances occur in order to ensure proper timely response by residents, medical community, contractors and agencies alike.
 - b. Enforcement is a cat and mouse game. Covid-19 Pandemic has deterred physical NYC DOB/DEP inspections.
 - c. Technology is readily available and inexpensive to provide live testing
 10. SELF CERTIFICATION - Not Good found bad - but no/little penalty. Delayed reporting deters meaningful oversight and examination of submitted reports, including analysis of mitigation actions required and taken.
 11. BAD ACTOR POLICY effective but under employed.
 - a. Should be examined by this committee to expand to building permit and self-certification policies.
 - b. Look at past record in determining aggravated fine, discretion to grant or impose heightened permit restrictions, and factor City's discretion to contract, lease or purchase from "bad actors".
 - c.
 12. DOB allowed improper inspection of School ventilation 1700 schools in a week
 13. No mobilization of DOH air monitors to hot spots including construction sites. Monitoring in NYC is fixed location configured - providing only neighborhood analysis. Mobilization of City-funded air monitors around and near a "hot spot" such as a construction site could reveal the source of air pollution - inclusive of PM. Such data facilitates enforcement and most importantly implementation of necessary changes and protective measures.
 14. Penalties not working - not a substantial deterrence – \$1 to 1.5 billion ECB fines remained uncollected (2018). Fines imposed are minimal relative to cost of construction and property values. Fines are not inflation indexed.
<https://www.amny.com/real-estate/landlord-fines-nyc-1-20838444/>¹
 15. 311 system not working for all NYCHA residents
 - a. Many calls to 311 concerning building violations were not accepted by 311 on the grounds that caller was a NYCHA resident, and directed caller to contact NYCHA (as reported to Environmental Justice Initiative from multi-boro NYCHA residents).

- b. Major denial of mandated services and protection to NYCHA residents
 - c. <https://www1.nyc.gov/site/buildings/about/enforcement-action-bulletin.page> enforcement action bulletin. DOB releases enforcement bulletins each month that highlight the agency's actions to sanction and deter bad actors in the construction industry through the enforcement of safety laws and codes of conduct for construction professionals.
16. Need to confer with other agencies: DOH, DEC, etc.

Submitted by Joel R Kupferman 5-10-2021

Environmental Justice Initiative*/

New York Environmental Law & Justice Project

affiliated with National Lawyers Guild Environmental Justice Committee

Joel Richard Kupferman, *Esq. Executive Director*

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1.

Real Estate

\$1.5 billion in building and sanitation fines have gone uncollected by city: Housing Rights Initiative

By Sarina Trangle

The city is missing out on millions in uncollected sanitation and building fines, according to a tenants rights group.
. Photo Credit: Liz Clayman

The city's failure to collect some \$1.5 billion in outstanding real estate fines is sending landlords the wrong message, a tenants right group says.

The Housing Rights Initiative said Tuesday that city Department of Finance records show the government is owed more than \$1.5 billion in various sanitation and building violation fines, including \$500,000 from Kushner Companies.

City Department of Building officials announced last week that the department issued \$210,000 in violations against Kushner Companies for filing construction permits with false information. The city acted after the Housing Rights Initiative reported that Kushner Companies' paperwork falsely indicated their buildings lacked rent regulated units, which the advocacy group believed was an attempt to sidestep the additional scrutiny such applications receive.

Aaron Carr, executive director of the watchdog group, said the new \$210,000 fine may not be meaningful, given that Kushner Companies — and other landlords facing fines — have spent years dodging the dues. Besides last week's fines, Kushner Companies owes some \$350,000 for more than 600 Environmental Control Board violations for everything from improper recycling to performing electrical work without permits, according to the Housing Rights Initiative.

"Kushner Companies provides a prism through which the shortcomings of our system can be viewed," Carr said in a statement. "New York City has created an environment where landlords risk putting themselves at a competitive disadvantage by following the law."

Kushner Companies, which is run by the family of President Donald Trump's son-in-law, Jared Kushner, did not respond to a request for comment.

Carr's group said the city is missing millions by not collecting fines for Environmental Control Board violations, which expire after eight years. The Housing Rights Initiative said \$93.59 million in such debt expired in fiscal year 2017.

The city Department of Finance is reviewing the Kushner properties in question to verify what is owed to the city, according to department spokeswoman Sonia Alleyne.

"We take the issue of non-payment seriously and have committed resources and developed processes to ensure that we are effectively collecting fines, increasing our rate by 61 percent over the last four years," Alleyne said in a statement.

By Council Members Levin and Kallos
Annotations by Joel R Kupferman, Esq.
Environmental Justice Initiative envjoel@ix.netcom.com

A Local Law to amend the administrative code of the city of New York, in relation to requiring contractors and the department of buildings to make information regarding environmental monitoring of construction work publicly available

Be it enacted by the Council as follows:

1 Section 1. Chapter 1 of title 28 of the administrative code of the city of New York is
2 amended by adding a new article 121 to read as follows:

3
4 **ARTICLE 121**
5 **ENVIRONMENTAL MONITORING**
6

7 **§ 28-120.1 Definitions.** As used in this section, the following terms have the following
8 meanings:

9 Contractor. The term “contractor” means a person, corporation or other business entity
10 performing construction or demolition work in the city pursuant to a permit from the
11 department.

12 Department. The term “department” means the department of buildings of the city of New
13 York.
14

15 **§ 28-120.2 Environmental monitoring of construction or demolition work.** Any contractor
16 who is required by law to develop a plan relating to environmental conditions created by
17 construction or demolition work shall submit a report to the department and the department of
18 environmental protection including any such plan and the results of any related test, survey or
19 analysis performed in connection to such plan.
20

21 1. Such reports shall include, but need not be limited to:

22 1.1. The name of the contractor;

23 1.2. The address of such construction or demolition work;

24 1.3. The noise mitigation plan for such construction or demolition work as required
25 pursuant to Section 24-220 of the *Administrative Code*;

26 1.4. The air pollution monitoring information for such construction or demolition work
27 as required pursuant to Section 24-141,142,143,144,145,& 146 of the *Administrative*
28 *Code*, including average daily emissions;
29
30
31
32

1
2 1.5. Any other environmental monitoring information reported to the department by
3 such contractor; and

4
5 1.6. Any unusual environmental conditions affecting such monitoring evidenced by
6 such monitoring, including a significant increase or decrease in recorded data levels,
7 disaggregated by type of environmental monitoring

8
9 1.7 Any mitigation actions directed or taken to rectify adverse conditions or
10 exceedances.

11
12 1.8 Any inspection reports and violations issued by City State or Federal Agencies
13 including but not limited to NYC DEP, NYC DOH, NYC DOS, NYS DEC, NYS DOH,
14 NYS DOL, EPA, HUD, ATSDR.

15
16 1.9 Any Soil Surveys or Analysis indicating toxic levels exceeding NYS State Soil
17 Cleanup Clearance Objectives. 6 CRR-NY 375-6.8. And any other registered soil
18 surveys/analyses performed.

19
20 1.10 Any complaints lodged by tenants, workers and community regarding such
21 construction or demolition

22
23 1.11 Any Worker Compensation claims regarding work at such construction or
24 demolition.

25
26 1.12 Any Complaints files with NYS Occupational Lung Disease Registry attributed
27 to work at such construction or demolition

28
29 1.13 Any Tenant Protection Plans, modifications and complaints regarding work at
30 such construction or demolition

31
32
33
34 2. For construction or demolition work planned to be completed more than one year from
35 the commencement of such construction or demolition work, such report shall be submitted
36 no later than two months after the commencement of such construction or demolition work
37 and every two months thereafter until the completion of such construction or demolition
38 work.

39
40 3. For construction or demolition work planned to be completed within one year from the
41 commencement of such construction or demolition work, such report shall be submitted no
42 later than two months after the commencement of such construction or demolition work
43 and every two months thereafter until the completion of such construction or demolition
44 work.

45

1 4. Such contractor shall issue a final report no later than 30 days after the completion of
2 such construction or demolition work which shall include any relevant information not
3 included in previous reports issued pursuant to this subdivision.

4
5 **§ 28-120.3 Posting of environmental monitoring reports.** No later than October 1, 2019, and
6 no later than the first of the month for each calendar quarter thereafter, the department shall
7 post on its data and reporting webpage the reports provided to the department pursuant to
8 section 28-120.2.

9
10 **§ 28-120.4 Posting of contact information.** At least 30 days before commencement of
11 construction or demolition work, each contractor shall post at the site of such construction or
12 demolition work the following information in conspicuously sized font:

13
14 1. The name of the contractor;

15
16 2. The telephone number of the contractor;

17
18 3. The email address of the contractor; and

19
20 4. Information about how to register, free of charge, for a service provided by the
21 department to receive an automated e-mail notification each time a change in status is
22 recorded with respect to one or more construction projects pursuant to Section 28-103.35
23 of the *Administrative Code*.

24
25 5. Name, telephone, email address of Safety Manager

26
27 6. Name, telephone, email address of Project Manager

28
29 § 2. This local law takes effect 120 days after it becomes law.

JEF
LS 9378
7/29/2019

Michael D. Riley
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mriley@michaelriley.org

To Whom It May Concern:

I strongly support the city further restricting the after-hours variances that are given for construction. I have often endured loud construction in the evenings, nights and weekends from numerous construction projects.

The renovation to 230 Park Avenue South by the Discovery Channel is the most recent example, which went on for some time over a year ago. They often did debris removal, usually involving grinding up all kinds of materials in garbage trucks outside my window on 18TH Street (where 230 PAS has street access). Often it would go on until 1am. When I looked on the buildings dept site I saw that they had a variance to do after-hours construction 'with minimal noise'. I can assure you grinding up debris or throwing large metal parts into a truck outside your window is not minimal noise; it's maximal noise for the neighborhood and you can't sleep through it or even read comfortably

I have filed numerous complaints to NYC311 about late-night loud construction. Typically they are closed weeks later with little attempt to investigate in a timely or time-of-day appropriate manner. I urge the city to reign in this abuse by whatever means are available. Please feel free to contact me if you need further information.

Michael D. Riley

Testimony of New York Coalition of Code Consultants (NYCCC) to the New York City Council Committee on Housing and Buildings

May 4, 2021

Good morning Chair Cornegy and Members of the New York City Council. My name is Laura Rothrock and I am providing testimony on behalf of the New York Coalition of Code Consultants, also known as NYCCC. NYCCC is a non-profit trade organization whose members specialize in securing construction and development approvals from municipal agencies, as well as building code and zoning consulting. We appreciate the ability to provide feedback on these bills today.

Regarding Intro 0354, the way that the bill is written, any alteration on a building calendared for Landmarks consideration would have steep penalties. Because the term “major alteration” is not defined, this could include interior work that is not being considered as part of the Landmarks designation. These penalties would be a tremendous hardship to owners who need to do necessary work. The description of the bill explains that this penalty would apply to work without a permit, but the language of the bill states that the penalty would apply to any work so we need clarification.

While we support Intro 1127 in theory, which requires DOB to expedite permits, we recognize that 24 hour turnaround, especially for complex construction developments seems unreasonable.

Intro 1737 limits and reduces After Hour Variance permits. The reason these variances are approved is because construction activity is not safe during regular business hours. Variances

should not expire after 15 days as the safety issue will not disappear after 15 days and public safety should remain paramount This bill would adversely affect the ability to complete construction sensibly during a time when the industry needs support during this period of our city's recovery.

Intro 1667 requires a DEP environmental monitoring report to be publicly accessible and our industry would like clarification on how this process would work. Would another document required to be uploaded prior to permit release? This process would be another delay on the already complex process for little gain.

Thank you for your consideration and we welcome the ability to discuss with you further.

TESTIMONY OF THE QUEENS & BRONX BUILDING ASSOCIATION
OPPOSING INTRO. NO. 1737
MAY 4, 2021

Good afternoon. I am Robert Altman and testify today in opposition to Intro. No. 1737 on behalf of the Queens & Bronx Building Association (QBBA) and the Building Industry Association of New York City (BIANYC).

Intro. No. 1737 is a bill that takes a hacksaw to what probably at best needs a scalpel. It will severely limit construction flexibility and again add unnecessary costs to construction.

First, the limitations on the variance apply to all construction work. It does not account for any differential for between work that has high noise volume and low volume. It does not distinguish between exterior work and interior work. In fact, it really makes no distinctions at all except to allow for government projects to more easily proceed. So in essence, it concedes that it wants to keep a limit on costs for government projects, but the private sector should pay more because this bill is at war with the private sector.

Second, it limits permits in absurd ways. For example, it sets a very restrictive time limit. Now if one of the reasons for the permit is public safety, my guess is that the sponsors think that public safety can be damned after fifteen days (and while it is renewable, you often get bureaucratic delays). Next, it only allows one permit per block. Again, I gather if there is a public safety element that the public safety is irrelevant because if there are two needs for public safety with two different permits, only one will be met. Third, the limitations on the days can result in a longer construction time period to correct poor conditions and again, lengthening a project increases the costs, which just gets passed along to the consumer.

Third, let's just deal with the fact that if the Council passes this bill it resends its message that it is business-unfriendly even in the face of a pandemic, even at a time where it needs jobs,

even when New York City is already the most expensive city in the nation to construct. When is the Council going to think of ways to make construction LESS expensive rather than more expensive? I cannot think of the last time it enacted such a measure.

For these reasons, Intro. No. 1737 is just illogical and unfair. The bill reads as if it is a wish list of community groups to stop the worst projects. But instead of focusing on the worst projects through currently available enforcement mechanisms or through a more tailored response, the bill is like taking an ax to the wound where a band-aid is probably needed.

For these reasons, QBBA and BIANYC oppose Intro. No. 1737.

May 2, 2021

New York City Council

Committee on Housing & Buildings

Re: After Hours Variances

Dear Councilmembers,

As someone who has over forty years experience in the construction industry in New York City including thirty years as an owner of a mid sized construction company I would like to provide my comments concerning the current bill being considered.

While what most New Yorkers see and experience when it comes to construction are the large, out of the ground office towers, the vast majority of the industry and work permits comes from the interior alteration business which helps employ hundreds of thousands of construction workers and generated billions of dollars each year of business in the City. These projects range from taking a few partitions down to expand an office, to complete gut demolitions and build out of new office spaces, to new building infrastructures. And it is these projects that likely generate the majority of after hours variance permits.

As these projects are mostly performed in occupied office buildings, with typical office hours of 8am – 6pm Monday through Friday, for the health and safety of both the office workers and the contractors, some of this work, particularly noisy work such as demolition, and work requiring extensive use of elevators, is typically performed after 6pm Mondays through Fridays and on weekends. Additionally, deliveries of materials for these projects can tie up services elevators for hours on end, making it difficult for buildings to perform their normal operations. In order to prevent congestion, not only within the buildings but traveling to these buildings, parking and off-loading, these deliveries are typically made between 6am and 8am weekdays, after 6pm or on weekends.

The proposed rule changes concerning after hours variance, particularly the 10 pm start time and limiting variances to only 3 days per week, would have a crippling effect on interior alteration business as a whole, and in particular to the trades that perform most of their work during “off hours” including the demolition and carting industry. Limiting contractors to four hour shifts (6pm – 10pm) and 3 days in a work week is completely unmanageable and would serve only to increase the length of projects thus the potential for disturbance to neighbors in the surrounding areas.

While I understand that the Council and the Department of Buildings need to find a way to address the concerns of the residents of New York, the review and issuance of after hours variances needs to be done on a project by project basis, without stringent rules that do not make sense for a vast majority of the industry and would have a crippling effect on our industry.

Thank you for your consideration,

Lance Liebhaber

Vice President, Lineage Construction LLC