



Legislation Text

File #: Res 0559-2023, **Version:** *

Res. No. 559

Resolution calling upon the New York State Legislature to pass, and the Governor to sign, S.1305/A.1321, which establishes a legal framework that may facilitate the timely removal of sidewalk sheds.

By Council Members Menin, Sanchez, Powers, Abreu, Marte, Fariás, Restler, Hanif and Ung (at the request of the Manhattan Borough President)

Whereas, The Department of Buildings (DOB) requires that a property owner install a sidewalk shed when constructing a building taller than 40 feet tall, when demolishing a building taller than 25 feet, and whenever a building façade threatens the safety of pedestrians; and

Whereas, As of March, 2023, there were more than 9,000 sidewalk sheds in the city of New York, which collectively cover more than two million linear feet, and more than 230 of these sheds had been installed for over five years; and

Whereas, Sidewalk sheds should be installed for no longer than the period of time required to repair an unsafe building façade, as sidewalk sheds may accumulate garbage, congest sidewalks, become an eyesore, and threaten public safety if not adequately maintained; and

Whereas, Local Law 10 of 1980 and Local Law 11 of 1997, which established the Façade Inspection and Safety Program, require that a qualified professional inspect the façade of a building with more than six stories and file a technical façade report to the DOB at least once every five years; and

Whereas, If the building's façade is found to be unsafe, then the building owner must install a sidewalk shed and either repair the building façade within a specified period of time or apply for an extension of time from the DOB; and

Whereas, Property owners who do not repair an unsafe building façade condition in the allotted amount

of time may receive a civil fine of \$1,000 per month, plus an additional fine per linear foot of sidewalk shed that increases in amount with each year that the sidewalk shed remains installed, as specified in the Rules of the City of New York Section 103-04(d)(3); and

Whereas, In practice, sidewalk sheds often remain installed past the time allotted by the DOB when, for example, the cost to repair the façade exceeds the cost of the penalty, the property owner cannot afford to repair the façade, or the property owner cannot repair the building façade without entry to an adjoining property whose owner who refuses to grant such entry; and

Whereas, When a property owner cannot make necessary repairs, such as repairs to a building façade, without entry to an adjoining property, and the adjoining owner refuses to grant such entry, then the property owner may petition a court to obtain a license to enter the adjoining property, as specified in New York State Real Property Actions and Proceedings Law (RPAPL) Section 881; and

Whereas, The legal proceedings necessary to obtain a license to enter an adjoining property may take months or longer, depending on a court's schedule, which may extend the duration of time for which a building façade remains in an unsafe condition and requires the continuance of a sidewalk shed; and

Whereas, S.1305, introduced by State Senator Leroy Comrie, and companion bill A.1321, introduced by Assembly Member Jenifer Rajkumar, would amend RPAPL §881 to require that the property owner both compensate the adjoining owner for the use of the adjoining property and include the adjoining property on any relevant insurance policy, and additionally, would amend RPAPL §881 to specify that a court shall grant a license to enter an adjoining property for the purposes of building façade repair; and

Whereas, These amendments would create a predictable framework that may shorten the duration of legal proceedings over access to adjoining properties while protecting the rights of adjoining owners, which would decrease the amount of time for which pedestrians must be protected from unsafe building façade conditions with a sidewalk shed; now, therefore, be it

Resolved that the Council of the city of New York calls on the New York State Legislature to pass, and the Governor to sign, S.1305/A.1321, which establishes a legal framework that may facilitate the timely removal of

sidewalk sheds.

AGB

LS #12612

4/5/2023