

SUPPLEMENT TO

THE CITY RECORD

THE COUNCIL —STATED MEETING OF
WEDNESDAY, DECEMBER 9, 2009

THE COUNCIL

*Minutes of the
STATED MEETING*

of

Wednesday, December 9, 2009, 3:50 p.m.

The President Pro Tempore (Council Member Dickens)
Acting Presiding Officer

Council Members

Christine C. Quinn, Speaker

| | | |
|-------------------------|-----------------------|-------------------------|
| Maria del Carmen Arroyo | James F. Gennaro | Michael Nelson |
| Tony Avella | Vincent J. Gentile | James S. Oddo |
| Charles Barron | Alan J. Gerson | Annabel Palma |
| Gale A. Brewer | Eric N. Gioia | Domenic M. Recchia, Jr. |
| Leroy G. Comrie, Jr. | Sara M. Gonzalez | Diana Reyna |
| Elizabeth S. Crowley | Vincent M. Ignizio | Joel Rivera |
| Bill de Blasio | Robert Jackson | Helen Sears |
| Inez E. Dickens | Letitia James | Kendall B. Stewart |
| Erik Martin Dilan | Melinda R. Katz | Eric A. Ulrich |
| Mathieu Eugene | G. Oliver Koppell | James Vacca |
| Simcha Felder | Jessica S. Lappin | Peter F. Vallone, Jr. |
| Julissa Ferreras | Melissa Mark-Viverito | Albert Vann |
| Lewis A. Fidler | Darlene Mealy | David I. Weprin |
| Helen D. Foster | Rosie Mendez | Thomas White, Jr. |
| Daniel R. Garodnick | Kenneth C. Mitchell | David Yassky |

Excused on December 9, 2009: Council Members Baez, Liu*, Rodriguez*, Sanders*, and Seabrook* (*but see *Editor's Note re: Attendance and Voting for the Stated Council Meeting held on December 9, 2009 printed below*).

After gaveling in the Meeting, Council Member Dickens was replaced by Council Member Rivera as the President Pro Tempore and Acting Presiding Officer for these proceedings.

After being informed by the City Clerk and Clerk of the Council (Mr. McSweeney), the presence of a quorum was announced by the President Pro Tempore (Council Member Rivera).

*There were 46 Council Members present at this Stated Meeting held on December 9, 2009 (but see please *Editor's Note below).*

**Editor's Note re: Attendance and Voting for the Stated Council Meeting held on December 9, 2009 : The Stated Council Meeting of December 9, 2009 opened and was subsequently recessed on December 9, 2009 before being called to order again and subsequently adjourned on December 14, 2009. The Recessed Meeting held on December 14, 2009 is, therefore, the continuation and conclusion of this Stated Council Meeting of December 9, 2009. Though not present on December 9, 2009, Council Members Liu, Sanders, Seabrook, and Rodriguez were present at the*

Recessed Meeting of December 9, 2009 held on December 14, 2009, and are thereby considered present for attendance and voting purposes for this Stated Council Meeting of December 9, 2009. Council Members Liu, Sanders, Seabrook, and Rodriguez chose to cast affirmative votes on December 14, 2009 for the items coupled on the Land Use Call-up and General Order calendars of this Stated Council Meeting held on December 9, 2009.

INVOCATION

The Invocation was delivered by Rev. James B. Barnwell, Pastor, Mt. Olivet Baptist Church, 202-03 Hollis Avenue, Hollis, NY 11412.

Let us bow.
Heavenly Father,
we come this afternoon
just to say thank you
for this privilege to come,
To share in this session.
We ask the Lord
that our spirit be invoked
upon the members of this Council.
We pray oh Father God
that our Mayor, our Speaker,
those who represent the districts of this city,
give them wisdom, insight and guidance
that they may make the right decisions.
We thank You for Your power.
We thank You for Your might.
Continue to encourage us,
guide us and direct us.
Bless each family
that's represented here on today.
Guide and direct us is our prayer,
in the awesome presence of our Lord and Savior, Amen.

Council Member Comrie moved to spread the Invocation in full upon the Record.

At this point, the Speaker (Council Member Quinn) asked for a Moment of Silence in memory of the following individuals: Ydanis Rodriguez (father of Council Member Ydanis A. Rodriguez) and William Robinson.

Ydanis Rodriguez, 85, father of Council Member Ydanis A. Rodriguez, died on December 5, 2009. He passed away two months after suffering a stroke on Primary night 2009. He is survived by his wife, thirteen children, and many grandchildren, relatives, and friends.

William Robinson, 72, husband of Assembly Member and former Council Member Annette Robinson, died on December 3, 2009. His funeral is to be held this night in Brooklyn.

ADOPTION OF MINUTES

Council Member Nelson moved that the Minutes of the Stated Council Meeting of October 28, 2009 be adopted as printed.

MESSAGES & PAPERS FROM THE MAYOR

M-1688

Communication from the Mayor - Mayors veto and disapproval message of Introductory Number 662-A, in relation to clergy parking permits.

December 8, 2009

Hon. Michael McSweeney
City Clerk and Clerk of the Council
141 Worth Street
New York, NY 10013

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Dear Mr. McSweeney:

Pursuant to Section 37 of the New York City Charter, I hereby disapprove Introductory Number 662-A, which would expand the scope of parking privileges provided to members of the clergy and increase the number of individuals and motor vehicles eligible for clergy parking permits.

Clergy members serve in crucial capacities in communities throughout the City. Existing law and Department of Transportation rules were established to accommodate clergy members as they fulfill their official duties through the issuance of special parking permits.

Curbside parking space is a limited resource, and it is the City's responsibility to ensure a reasonable turnover of parked cars, without which, traffic congestion increases. The expansion of parking permits proposed by this bill runs counter to the City's efforts to reduce the use of parking placards throughout the City. These efforts recognize that there must be a balance between the need for placards in certain circumstances and the mandate for a more sustainable City with less traffic congestion. Our Administration's comprehensive program has reduced the number of placards by more than 50% across City, State, and Federal agencies.

By expanding the scope of privileges offered to clergy permit holders and increasing the number of individuals and motor vehicles eligible for such permits, this bill would make fewer spaces available within the City, to the detriment of residents, local businesses, and the general public.

I have great appreciation for the many contributions members of the clergy make to our City and the need to facilitate the valuable work they do. Given the competing needs for parking space, I do not believe that the permit privileges already provided by law should be further extended.

Accordingly, I hereby disapprove Introductory Number 662-A.

Sincerely,

Michael R. Bloomberg
Mayor

Referred to the Committee on Transportation.

M-1689

Communication from the Mayor - Mayors veto and disapproval message of Introductory Number 907, in relation to establishing a grace period for certain parking violations.

December 8, 2009

Hon. Michael McSweeney
City Clerk
and Clerk of
the Council
141 Worth

Street
New York, NY 10013

Dear Mr. McSweeney:

Pursuant to Section 37 of the New York City Charter, I hereby disapprove Introductory Number 907, which would prohibit the issuance of a notice of violation for parking in excess of the time allotted as indicated on a munimeter receipt or longer than the time period allowed by a sign posted by the Department of Transportation until five minutes after the actual violation.

While characterized as a "grace period" to benefit drivers who are rushing to their vehicles, this universal extension of time for drivers would have the practical effect of impeding traffic flow and disrupting street cleaning operations. It would thus have a negative impact on the quality of life for all City residents. Additionally, the bill could generate confusion for drivers and prove difficult to enforce.

When New Yorkers park at a meter or at a signed curbside space, they leave their vehicle knowing exactly how much time they have purchased or are otherwise permitted to park. The overwhelming majority of motorists in New York return to their vehicle in time without the help of a grace period. Providing an additional five minutes merely creates confusion and increases the likelihood of confrontation between motorists and enforcement personnel.

Furthermore, the stated intention of the Council is for the bill to apply to munimeter spaces and alternate-side-of-the-street parking. However, because of the manner in which the bill is drafted, the new law would seem to apply to every metered parking space and every violation dependent upon signage indicating a lawful time period.

At single space meters, enforcement would be difficult, potentially generating dangerous conflict between enforcement personnel and motorists, because the meter does not indicate what time it expires. An enforcement agent would not know whether the five-minute period had expired unless the enforcement agent happened to see the driver park or the meter expire, or¹ waits for five minutes next to an expired meter to see if the driver arrives. Additionally, we anticipate that some drivers will continue to try to get their cars at the last minute — thus this bill will not resolve conflicts that sometimes occur between drivers and enforcement agents when a driver is a few minutes late, but will only push them back by five minutes.

Earlier this year I announced a comprehensive strategy to make parking easier, more efficient and more user-friendly through new technology and a series of new initiatives. These include reductions in alternate side of the street parking regulations, exploring technology that will allow New Yorkers to view a map of available parking spaces, receive alerts when their meter expires, and pay parking meters on their mobile device. In addition, all 2,795 of the City's traffic enforcement agents will take part in increased sensitivity training to ensure New Yorkers that are ticketed are dealt with in a professional and courteous manner.

Accordingly, I hereby disapprove Introductory Number 907.

Sincerely,

Michael R. Bloomberg
Mayor

Cc: Hon. Christine C. Quinn

Referred to the Committee on Transportation.

COMMUNICATION FROM CITY, COUNTY & BOROUGH OFFICES

M-1690

Communication from the Comptroller – Submitting projection of the City's debt-incurring power for Fiscal Years 2010-2013, pursuant to Section 232 of the New York City Charter.

December 1, 2009

The Honorable Christine Quinn Speaker
The City Council
City Hall
New York, New York 10007

Dear Speaker Quinn:

Enclosed please find the projection of the City's debt-incurring power for Fiscal Years 2010-2013, as required by Section 232 of the New York City Charter.

Very truly yours,

William C. Thompson, Jr.

In accordance with Section 232 of the City Charter, the following table represents estimates of New York City's debt-incurring power as of July 1, 2009 and each of the next three ensuing fiscal years.

NYC Debt-Incurring Power

(\$ in millions)

| | July 1, 2009 | July 1, 2010 ^a | July 1, 2011 | July 1, 2012 |
|--|--------------|---------------------------|--------------|--------------|
| Gross Statutory Debt-Incurring Power | \$74,904 | \$75,105 | \$75,985 | \$76,088 |
| Actual Bonds Outstanding as of June 30 (net) ^b | 39,402 | 37,813 | 35,836 | 33,784 |
| Plus New Capital Commitments | | | | |
| FY 2010 ^c | | 8,794 | 8,794 | 8,794 |
| FY 2011 | | | 5,671 | 5,671 |
| FY 2012 | | | | 4,027 |
| Less: Appropriations | (1,601) | (1,986) | (2,082) | (2,057) |
| Subtotal: Net Funded Debt Against the Limit | \$37,801 | \$44,821 | \$48,239 | \$50,219 |
| Plus: Contract and Other Liability | 9,433 | 9,433 | 9,433 | 9,433 |
| Subtotal: Total Indebtedness Against the Limit | \$47,234 | \$54,054 | \$57,672 | \$59,652 |
| Remaining Debt-Incurring Power within General Limit ^d | \$27,870 | \$21,081 | \$18,293 | \$16,407 |

^a FYs 2011 through 2013 debt limits are based on the NYC Comptroller's Office forecast of billable assessed value.
^b Not adjusted for Original Issue Discount, Capital Appreciation Bonds, GO bonds issued for the water and sewer system, Business Improvement District debt and cash on hand.
^c Reflects Capital Commitments as of the FY 2010 Adopted Budget Commitment Plan (released in September 2009) and includes cost of issuance and certain Inter-Fund Agreements. In July 2009, the State legislature included future debt of the NYCTFA PIT bonds under the general debt limit, thus capital commitments will be funded by the NYCTFA as well.
^d The Debt Affordability Statement released by the City in May, 2009 presents data for the last day of each fiscal year, June 30, instead of the first day of each fiscal year, July 1, as reflected in this table. The City's Debt Affordability Statement forecasts that indebtedness would be below the General debt limit by \$22.39 billion at the end of FY 2009.
 SOURCE: NYC Comptroller's Office and the NYC Office of Management & Budget.

Received, Ordered, Printed and Filed

LAND USE CALL UPS

M-1691

By The Speaker (Council Member Quinn):

Pursuant to Rule 11.20(b) of the Council and Section 20-226(g) of the New York City Administrative Code, the Council resolves that the action of the Department of Consumer Affairs approving an unenclosed sidewalk café located at 636 Hudson Street, Community Board 2, Application 20105147 TCM shall be subject to review by the Council.

Coupled on Roll Call.

LAND USE CALL UP VOTE

The President Pro Tempore (Council Member Rivera) put the question whether the Council would agree with and adopt such motion which was decided in the affirmative by the following revised vote of 50-0-0* as of December 14, 2009 (superseding the original vote of 46-0-0 recorded on December 9, 2009):

Affirmative –Arroyo, Avella, Barron, Brewer, Comrie, Crowley, de Blasio, Dickens, Dilan, Eugene, Felder, Ferreras, Fidler, Foster, Garodnick, Gennaro, Gentile, Gerson, Gioia, Gonzalez, Ignizio, Jackson, James, Katz, Koppell, Lappin, Liu*, Mark-Viverito, Mealy, Mendez, Mitchell, Nelson, Palma, Recchia, Reyna, Rodriguez*, Sanders*, Seabrook*, Sears, Stewart, Ulrich, Vacca, Vallone Jr., Vann,

Weprin, White, Yassky, Oddo, Rivera and the Speaker (Council Member Quinn) – 50*.

At this point, the President Pro Tempore (Council Member Rivera) declared the aforementioned item **adopted** and referred this item to the Committee on Land Use and to the appropriate Land Use subcommittee.

*Please see the Editor's Note re: Attendance and Voting for this Stated Council Meeting held on December 9, 2009 printed after the Roll Call for Attendance in these Minutes.

REPORTS OF THE STANDING COMMITTEES

Reports of the Committee on Environmental Protection

Report for Int. No. 476-A

Report of the Committee on Environmental Protection in favor of approving and adopting as amended, a Local Law to amend the administrative code of the city of New York, in relation to benchmarking the energy and water efficiency of buildings.

The Committee on Environmental Protection, to which the annexed amended proposed local law was referred on November 15, 2006 (Minutes, page 4865), respectfully

REPORTS:

I. Introduction

On December 8, 2009, the Committee on Environmental Protection will vote on Proposed Int. No. 476-A, in relation to benchmarking the energy and water efficiency of buildings, Proposed Int. No. 564-A, in relation to adopting a New York City Energy Conservation Code, Proposed Int. No. 967-A, in relation to requiring energy audits, retro-commissioning and retrofits of building systems, and Proposed Int. No. 973-A, in relation to upgrading lighting systems in existing buildings greater than 50,000 gross square feet.

II. Background

By enacting Local Law 22 of 2008, New York City committed to reduce its Greenhouse Gas emissions by thirty percent by 2017 for City government operations and by thirty percent citywide by 2030. Buildings are responsible for eighty percent of New York City greenhouse gas emissions,¹ making building energy efficiency a crucial component of New York City's obligation to meet its emissions reduction goals.

New buildings in New York are subject to increasingly stringent energy efficiency requirements – the New York State Energy Conservation Construction Code Act of 1978² instituted state-wide energy efficiency standards, and authorized the State Fire Prevention and Building Code Council to update these standards periodically. With the enactment of Local Law 86 of 2005, New York City mandated that all new or substantially reconstructed City buildings be designed to the LEED Silver level or higher under the US Green Building Council's system for scoring the environmental performance of buildings.³ While energy efficiency standards for new buildings are one key to energy savings from buildings, the vast majority of New York City is already built –an estimated 85% of New York City's carbon emissions in 2030 will come from buildings that already exist today.⁴ Energy efficiency measures that focus on existing buildings, therefore, are needed to accomplish New York City's ambitious carbon emissions reduction goals. The four bills before the Committee today, therefore, focus on renovations, on monitoring the performance of existing buildings, and on upgrading systems that do not operate efficiently.

Energy efficiency must be achieved in an economically viable manner in order for such construction and operational practices to be sustained. Furthermore, the New York State Energy Conservation Construction Act requires that the State Energy Conservation and Construction Code minimize energy use while maintaining the cost-effectiveness of building in the state.⁵ "Cost-effectiveness" is defined by that Act to mean that the cost of building materials and their installation be less than or equal to the present value of the energy savings they will provide over the next ten years. The four bills before the Committee today adhere to this principle as well, requiring improvements that will not unreasonably increase the cost of building in New York City. Additionally, energy efficiency improvements must be made in the context of existing building rules; nothing in the provisions of these bills is meant to inhibit the discretionary authority of the Department of Buildings as it relates to enforcement of codes enforced by DOB, including these bills.

for the Lower Ma_____

¹ Andrew Revkin, City Plans to Make Older Buildings Refit to Save Energy, *New York Times*, p. A19, Environment Section, April 22, 2009.

² Chapter 397 of NYS Laws of 1978

³ Local Law 86 of 2005.

⁴ Mayor's Office of Long-Term Planning and Sustainability, 2007. PlaNYC 2030, p.106.

⁵ NY CLS Energy § 11-103 (2009)

III. Bill Discussions

a. Benchmarking Buildings' Environmental Performance

i. Background and Intent of Proposed Int. No. 476-A

Proposed Int. No. 476-A requires that the City of New York annually benchmark the energy and water use of all City-owned or City-leased buildings over ten thousand square feet. It also requires owners of any building over fifty thousand square feet in size and located in the City to annually benchmark the energy and water use of their buildings. Through regular benchmarking of energy and water use, the owners and operators of large buildings in New York City will be able to see how well their buildings function compared to similar buildings. Benchmarking will also enable prospective buyers and renters who are already using the Department of Finance's several databases to understand the value of real estate in the City and the relative efficiencies of various buildings. This type of analysis and transparency supports building owners who maintain efficient buildings and work with tenants to manage energy consumption.

ii. Analysis of Proposed Int. No. 476-A

Section 1 of Proposed Int. No. 476-A amends chapter 3 of title 28 of the Administrative Code to add a new Article 309, titled "Benchmarking Energy and Water Use." Proposed section 28-309.1 requires that the energy and water use of City buildings and covered buildings shall be benchmarked in accordance with this article.

Proposed section 28-309.2 contains definitions of relevant terms. "Benchmark" is defined as inputting and submitting to the benchmarking tool, which is defined as is as the internet-based database system developed by the United States Environmental Protection Agency, the total use of energy and water for a building for the previous calendar year and other descriptive information for such building. The "Benchmarking tool" description also includes any complementary interface designated by the Office of Long-Term Planning and Sustainability, to track and assess the energy and water use of certain buildings relative to similar buildings. A "City building" is defined as a building over 10,000 gross square feet for which the City pays part or all of the energy bills. A "covered building" is defined as a building not owned by the City over 50,000 gross square feet in size, or two buildings on the same lot whose combined gross square footage is over 100,000, or two or more buildings held in the condominium form of ownership that are governed by the same board of managers and whose gross square footage is over 100,000.

Section 28-309.3, pertaining to City buildings, provides that commencing on May 1, 2010, and no later than every May 1 thereafter, City buildings shall be annually benchmarked with respect to their energy and water use by the entity or agency responsible for management of the building, except that water use shall not be benchmarked if the building was not equipped with automatic meter reading equipment by the Department of Environmental Protection for the entire previous calendar year.

Section 23-309.4 applies to large privately owned buildings. It requires the owners of buildings over fifty thousand gross square feet in size to annually benchmark their buildings with respect to the energy and water performance commencing no later than May 1, 2011 and no later than every May 1st thereafter. Benchmarking will not be required if the building was not equipped with automatic meter reading equipment by the Department of Environmental Protection for the entire previous calendar year.

Section 28-309.4.1 places an obligation upon the owner of the building to request tenant information relating to the tenant's separately metered energy use for the previous year, unless the unit is occupied as a dwelling unit, and places an obligation upon the tenant to report the information requested to the owner. Section 28-309.4.1.1 requires the building owner to solicit such tenant information respecting such tenant's separately metered energy use for the previous calendar year, no earlier than January 1st and no later than January 31st, of any year in which the owner is required to benchmark the building. The Office of Long-Term Planning and Sustainability may require that the owner give the tenant a form designated by them for the purpose of reporting the required information.

Section 28-309.4.1.2 requires the tenant to report the information required with respect to their separately metered energy use for the previous year.

Section 28-309.4.1.3 requires that the owner request the relevant information respecting the tenant's energy use upon receiving notice that the tenant is planning to vacate a unit or other space. Here the owner is required to request the information for the relevant period in order to carry out the obligation to benchmark the building. An obligation is also placed upon the tenant to report the information requested.

Section 28-309.4.1.4 provides that there is a continuing obligation upon both the owner and the tenant to report the information pertinent to benchmark the building and that the failure of any tenant to report the information requested will not relieve the owner of any obligation to benchmark information otherwise available to the owner.

Section 28-309.4.2 places an obligation upon the owners of covered buildings to preserve the records, including but not limited to energy and water bills, needed to benchmark the building for a period of three years provided that the Commissioner may permit destruction of such documents before the expiration of three years or require that such records be maintained longer. Further, this section mandates that the records shall be made available upon request for inspection and audit by the department at the owner's place of business during normal business hours.

Section 28-309.4.3 makes it unlawful for the owner of a covered building to fail to benchmark the building and makes it a "lesser violation" for the owner of a covered building to fail to benchmark the building.

Section 28-309.5 addresses direct uploading of information into the benchmarking tool. Section 28-309.5.1 encourages direct upload of the needed information by a utility and provides that if a utility does this, owners or tenant shall not be required to request and report such information. Section 28-309.5.2 mandates that the Department of Environmental Protection directly upload information respecting water usage for metered covered buildings.

Section 28-309.6 authorizes the Director of the Office of Long-Term Planning and Sustainability to suspend the benchmarking requirement upon a finding that a technological deficiency with the benchmarking tool precludes compliance. Where the deficiency has been corrected, the suspension may be lifted in whole or in part. The office must notify the City Council, the Department, the Department of Citywide Administrative Services, the Department of Environmental Protection, and the Department of Finance promptly upon issuing a suspension or lifting a suspension.

Section 28-309.7 places an obligation upon the Department of Finance to annually notify owners of covered buildings of their obligation to benchmark, to notify owners of covered buildings of any suspension or lifting of a suspension of a benchmarking obligation and to make available to the Department information regarding owners of covered buildings for which no benchmarking information was generated.

Section 28-309.8 mandates that the Department of Finance make the information generated by the benchmarking tool available to the public no later than September 1, 2011 and no later than every September 1st thereafter for City buildings, and no later than September 1, 2012 for covered nonresidential buildings and no later than September 1, 2013 for covered residential buildings. Information made available to the public may include the energy utilization index, carbon dioxide emissions per square foot, the water use per square foot, a rating that compares the energy and water use of the building to that of similar buildings, and comparison of data across calendar years for any years such building was benchmarked. However, information generated by the benchmarking tool for the 2009 calendar year for City buildings and covered buildings, for the 2010 calendar year for covered buildings, and for the 2011 calendar year for covered buildings whose primary use is residential, as determined by the Department of Finance, will not be disclosed. There is an exception for information generated from a covered building that contains a data center, television studio, or trading floor that exceeds a percentage of the gross square footage of any such building as determined in rules. In that case the information shall not be disclosed until the Office of Long-Term Planning and Sustainability determines that the benchmarking tool can make adequate adjustments for such facilities.

Section 28-309.9 requires the preparation of reports by the Office of Long-Term Planning and Sustainability evaluating the administration and enforcement of this article and analyzing the data obtained from the benchmarking tool. The reports must be sent to the Mayor and City Council and must be posted on the internet no later than December 31 of 2011, 2012, and 2013. The reports must contain information regarding: the energy and water efficiency of buildings in the City, accuracy of benchmarked data and the need to train and/or certify individuals who benchmark, compliance with the requirements of this article, any administrative and legislative recommendations for strengthening the administration and enforcement of this article, the effectiveness of the tool in accounting for New York City conditions such as high density buildings, the use of steam, and specific high-energy uses, and such other information and analysis as the office of long-term planning and sustainability deems appropriate.

Section 28-309.10 authorizes the Department, the Department of Finance and the Office of Long-Term Planning and Sustainability to promulgate such rules as deemed necessary to carry out the provisions of this article. This local law will take effect immediately.

b. Creation of the New York City Energy Code

i. Background and Intent of Proposed Int. No. 564-A

The New York State Energy Conservation Construction Act sets standards for building throughout New York State; the Act, however, specifically allows municipalities to adopt their own energy codes, provided that the municipality's code is no less stringent than the State's Code.⁶ Proposed Int. No. 564-A will create the New York City Energy Conservation Code (NYCECC), enabling the City of New York to enforce and update a more stringent energy code than the State does. The NYCECC will apply to all renovations, closing the loophole in the State Energy Conservation Construction Code that exempts renovations of 50% or less of the building system or subsystem from compliance with the energy code. The bill changes references within all other New York City construction codes to refer to the City's Energy Code rather than the State Code.

The State's Energy Code currently applies only to alterations that lead to the replacement of at least 50% of a building system or subsystem. Renovations in New York City, particularly in large buildings, often do not meet this State Code threshold, meaning that many renovations in New York City are not required to comply with the Energy Code. By capturing renovations that would not otherwise be required to comply with the State Energy Code, the enactment of this legislation is expected to reduce the City's carbon emissions by 1 to 1.5 percent over the next 20 years.⁷ This reduction will make a significant contribution to New York City's mandated reduction of 30% of carbon emissions by 2030.

The New York State Energy Conservation Construction Code is based on the International Energy Conservation Code (IECC), which is published by the non-

for the Lower Ma—

⁶ NY CLS Energy § 11-109

⁷ Mayor's Office of Long-Term Planning and Sustainability, 2009. Greener, Greater Buildings Plan.

profit International Code Council.⁸ Many state and local governments choose to use the IECC as the basis for local codes. Of the 42 states that base their codes on the IECC, however, only New York modifies the application of the code to exempt renovations of less than 50% of a building system or subsystem. The enactment of the New York City Energy Code would not require that any portions of a building not being altered be upgraded – it would only require that the planned work conform to the code. Paperwork demonstrating compliance with the code will not be onerous. Two forms that are already required by the Department of Buildings in order to receive building permits will now include required information regarding compliance with the Energy Code.

ii. **Analysis of Proposed Int. No. 564-A**

Section 1 of Proposed Int. No. 564-A states that the Council finds that it is reasonable and necessary to promulgate a New York City Energy Conservation Code in order to ensure enforcement of the State Code and to apply the Code to all renovations.

Section 2 of the bill amends Title 28 of the Administrative Code of the City of New York by adding a new Chapter 10, entitled “The New York City Energy Conservation Code.”

New section 28-1001.1 adopts the Energy Conservation Construction Code of New York State, as amended by new section 28-1001.2, as the New York City Energy Conservation Code (NYCECC).

New section 28-1001.2, entitled “The New York City Amendments to the 2007 Energy Conservation Construction Code of New York State,” establishes the following amendments to the 2007 Energy Conservation Construction Code of New York State (NYECCC).

New section 101.1 of the NYCECC establishes the title of “New York City Energy Conservation Code.”

New section 101.2 of the NYCECC defines the scope of the NYCECC’s application as residential and commercial buildings, as defined in the NYCECC.

New section 101.4.3 of the NYCECC defines exceptions from compliance for historic buildings. The first exemption relates to State or National Register of Historic Places designations, and the second relates to Landmarks Preservation Commission designations.

New section 101.4.4 of the NYCECC provides that all additions, alterations, renovations, and repairs shall conform to the provisions of the Code, without requiring unaltered portions of the building or building system to comply. Exceptions to the need for code compliance, however, are provided for storm windows installed over existing fenestration; glass only replacements in an existing sash and frame; existing ceiling, wall or floor cavities exposed during construction; and construction where the existing roof, wall, or floor cavity is not exposed. These are the same exceptions found in the State Code.

New section 101.5.1 of the NYCECC states that a demonstration of compliance with the Code is required to be submitted with all applications for building permits. Subdivision 101.5.1.1 requires a statement by a design professional certifying that the project meets the requirements of the NYCECC. Subdivision 101.5.1.2 requires an energy analysis for any project requiring a building permit. For a new building project, the energy analysis must include the envelope, mechanical, service water, heating, lighting and power systems in accordance with the Code. For an alteration project, the energy analysis must compare the proposed design to the prescriptive requirements of the Code. Subdivision 101.5.1.3 requires that supporting documentation demonstrate that the building project conforms to the energy analysis.

New section 105.1.2 provides that whenever any provision of the Energy Conservation Construction Code of New York State is more stringent than this Code, the more stringent requirement shall govern.

Revised section 202 of the NYCECC provides revised definitions, including “addition,” “approved,” and “system,” and adds “alteration” and “project.”

Revised Chapter 10 of the NYCECC replaces ASHRAE (American Society of Heating, Refrigerating, and Air-Conditioning Engineers) standard “90.1-2001” with “90.1-2004” to reflect ASHRAE’s revisions of that standard.

New section 28-1001.3 of the Administrative Code provides for a periodic update to the NYCECC. Subdivision 28-1001.3.1 requires that the Commissioner of Buildings submit proposed updates to the City Council following any revision to the State’s Code, as well as every three years after the enactment of this legislation. Subdivision 28-1001.3.2 requires the Commissioner to establish an Energy Conservation Code Advisory Committee, consisting of registered design professionals, environmental advocates with expertise in energy efficiency, and representatives of labor organizations, to provide advice and recommendations on the code.

Section 3 of the bill amends section 28-101.1 of the Administrative Code, adding the New York City Energy Code is added to the list of New York City Construction Codes.

Section 4 of the bill amends subsection 28-101.4.3 of the Administrative Code by adding a new item 8, noting that all work related to energy efficiency shall be regulated by the NYCECC.

Section 5 of the bill amends section 28-104.7.9 of the Administrative Code by providing that building permit applications shall include a demonstration of compliance with the NYCECC.

Section 6 of the bill amends section 28-104.8.1 of the Administrative Code, requiring a statement certifying compliance with the NYCECC, rather than with the New York State ECCC, to accompany building permit applications.

Section 7 of the bill amends section 101.4.6 of the New York City Building Code by requiring that building projects comply with the NYCECC rather than the State ECCC.

for the Lower Ma_____

⁸ International Code Council, 2009. More information is available at www.iccsafe.org

Section 8 of the bill amends section 106.6 of the New York City Building Code, adding demonstration of compliance with the NYCECC to the requirements for architectural plans submitted pursuant to the Building Code, and adding a requirement that these plans address insulation and vapor retardant elements of the building envelope. This section also provides that when submittals of portions of the architectural plans are deferred, the deferred submittal of construction documents must show that the estimated annual energy use submitted with the initial plans is not exceeded.

Sections 9 through 29 of the bill replace references to the New York State Energy Conservation Construction Code within the New York City Building Code, the New York City Plumbing Code, the New York City Fuel Gas Code, and the New York City Mechanical Code with references to the NYCECC.

Section 30 of the bill contains a severability clause.

Section 31 of the bill provides that the local law enacted through this bill shall take effect July 1, 2010, provided that the Buildings Commissioner shall promulgate rules and take other necessary actions for its implementation before that date.

c. **Required Audits and Retro-commissioning and Retrofits of City Buildings**

i. **Background and Intent of Proposed Int. No. 967-A**

New York City has more than one million buildings, many of which are old and energy-inefficient. These buildings will likely still be here in 2030 or even beyond. Energy audits analyze the areas where buildings are energy inefficient and what types of changes would result in more efficient building operation. Typical energy audits evaluate potential updates to heating, ventilation and air conditioning systems and improvements to windows, structural seals and roofing.⁹ Two types of improvements are normally recommended as a result of energy audits: retrofits and retro-commissioning. Retrofits entail capital improvements such as new insulation, boiler replacements, and other upgrades that improve building performance. Many of these capital investments in buildings result in substantial energy savings, but also require an upfront investment in new building components. An audit normally includes an analysis of the “payback period” of such an investment, in terms of the number of years of energy savings that will result in a payback of the initial cost of the upgrade. Retro-commissioning seeks to optimize a building’s energy performance through the identification and correction of deficiencies in a building’s systems. This may include adjustment of HVAC controls or cleaning filters. Retro-commissioning ensures that a building’s systems are operating at an optimal level, and does not normally require large initial capital investments.

ii. **Analysis of Proposed Int. No. 967-A**

Section 1 of Int. No. 967 amends chapter 3 of title 28 of the Administrative Code to add a new Article 308. Section 28-308.1 sets forth the definitions and defines “covered building” as a building that exceeds 50,000 gross square feet or where there are two or more buildings on the same tax lot that in the aggregate exceed 100,000 gross square feet, or two or more buildings held in the condominium form of ownership and governed by the same board of managers whose total gross square footage is greater than 100,000. “Base building systems” are defined as the systems or subsystems of a building that use energy or impact energy consumption, including the building envelope, HVAC systems, conveying systems, domestic hot water systems, and electrical and lighting systems. Building systems do not include systems or subsystems owned by tenants, condominium owners, or cooperative unit shareholders, and do not include industrial processes that occur within a covered building.

“Energy audit” is defined as a systematic process of identifying and developing modifications and improvements to central systems of covered buildings based on the level II audit set forth in the 2004 edition of Procedures for Commercial Building Energy Audits published by the American Society of Heating, Refrigerating and Air-conditioning Engineers Inc. (ASHRAE) as such process may be amended. An “energy auditor” is defined as an approved agency authorized by the Department to perform energy audits and to certify audit reports as required by the bill. Further rule-making by DOB will establish a standard for authorization as an energy auditor. As there are currently no national qualifying standards, DOB rules may require that an energy auditor be registered architect or professional engineer with additional credentials to be determined by rule; however, if national standards are established, DOB may adopt those standards. A “retro-commissioning agent” is defined as an individual who is not on the staff of the building being retro-commissioned, who is authorized by the Department to certify retro-commissioning reports as required by this article. Again, further rule-making by DOB will establish a standard for the retro-commissioning agent. If no national standard is established, the standard may require the retro-commissioning agent to be a registered design professional, a licensed refrigerating system operating engineer, or a licensed high pressure boiler operating engineer, with additional credentials to be determined by DOB by rule. If a national standard is established, DOB may adopt the standard. A “financial hardship (of a building)” is described as a building that is on the New York City tax lien sale list due to water or wastewater charges in arrears or outstanding balances under the Department of Housing Preservation and Development’s emergency repair program, that is exempt from property taxes and has had a negative revenue less expenses during the two years prior to the due date of an energy efficiency report, or that has an active or effective letter from a governmental agency that provides for the financing of the rehabilitation of the building for affordable housing or housing for low or moderate income families. DOB will promulgate rules to refine the

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⁹ Thomas DiNapoli, State Comptroller, Green best practices: How Local Governments can Reduce Energy Cost and Minimize Impact on Global Climate Change, at p. 5, April 2008.

qualifications for financial hardship. “Retro-commissioning” is described as a systematic process of optimizing the energy efficiency of existing base building systems through the identification and correction of deficiencies in such systems. “Simple payback” is defined as the number of years it takes for the projected annual energy savings to equal the amount invested in an energy conservation measure.

Section 28-308.2 requires the owner to ensure that an energy audit is performed prior to the filing of an energy efficiency report as required by the bill. An audit shall include: 1) all reasonable measures, including capital improvements, that would, if implemented, reduce energy use and/or the cost of operating the building; 2) for each measure, the associated annual energy savings, the cost to implement, and the simple payback, calculated by a method determined by the Department; 3) the building’s benchmarking output as per the EPA Portfolio Manager tool or as otherwise established by the department; 4) a break-down for initial usage and predicted energy savings by system after implementation of proposed measures; and 5) a general assessment of how the major energy consuming equipment and systems used in tenant spaces affect the energy consumption of the base building systems. However, no energy audit is required if a building has received an EPA Energy Star label for two of the three years prior to the filing of the energy efficiency report; if there is no EPA Energy Star rating for the building type and a registered design professional certifies that the building’s performance is 25 points or more better than an average building of its type according to the LEED 2009 for Existing Buildings rating system for two out of the three years prior to filing an energy efficiency report; or if the building has received certification under the LEED for Existing Buildings rating system with the four years prior to filing an energy efficiency report. In addition, an energy audit will not be required if a building complies with efficiency standards relating to six out of the seven following items: individual heating controls, common area and exterior lighting, low flow faucets and shower heads, pipe insulation, domestic hot water insulation, front-loading washing machines, and cool roofing.

Section 28-308.2.1 describes the content of the acceptable audit report and mandates that it include the date on which the audit was completed and all information specified in Section 28-308.2.

Section 28-308.2.1.1 requires compliance with local, state and federal landmarks or historic buildings laws and mandates that cost estimates for covered buildings include the additional costs to comply with landmarks laws.

Section 28-308.2.2 requires that the energy audit be completed no earlier than four years prior to the date on which a building’s energy efficiency report is filed.

Section 28-308.3 mandates the owner of a covered building ensure that retro-commissioning is performed on base building systems prior to the date that such building’s energy efficiency report is filed. Except as provided in Section 28-308.7, retro-commissioning must be performed by or under the supervision of a retro-commissioning agent in accordance with rules promulgated by the Department. Those rules must ensure that base building systems meet criteria demonstrating efficient operation, within three broad categories: 1) operating protocols, calibration, and sequencing; 2) cleaning and repair; and 3) training and documentation. No retro-commissioning, however, is required if the building has received certification under the 2009 LEED for Existing Buildings rating system within two years prior to the filing of the energy efficiency report, and has earned the point for investigation and analysis and commissioning implementation under that system.

Section 28-308.3.1 requires that the retro-commissioning agent prepare and certify a retro-commissioning report which includes: 1) project and team information; 2) building information, including information about building systems and the building’s benchmarking output; 3) testing protocol, including types of tests and equipment tested; 4) a master list of findings; and 5) deficiencies corrected.

Section 28-308.3.2 provides that retro-commissioning shall be completed no earlier than four years prior to the due date on which the energy efficiency report is filed.

Section 28-308.3.3 requires that a copy of the latest up-to-date manuals and a copy of the most recent retro-commissioning report be maintained at each covered building, and made available for inspection by the Department on request.

Section 28-308.4 requires the submission of an energy efficiency report for a covered building, between January 1 and December 31 of the calendar year in which the report is due pursuant to this section, and between January 1 and December 31 every tenth calendar year thereafter. However, an extension of the time to file an energy efficiency report may be granted if the owner, despite documented good faith efforts, is unable to complete the required audit and retro-commissioning prior to the scheduled due date for the report. No more than two extensions of no more than one year each in length may be granted pursuant to this exception, and such extensions do not extend the scheduled due dates for subsequent energy efficiency reports. Annual extensions may also be granted based on financial hardship of the building.

Section 28-308.4.1 sets due dates, beginning in the calendar year 2013, for energy efficiency reports. Due dates are assigned on a staggered schedule according to the last digit of the tax block number, with approximately 10% of buildings coming due each year. Owners of covered buildings, however, that are less than 10 years old at the beginning of the first assigned calendar year or that have undergone substantial rehabilitation within the previous 10 years such that all base building systems are in compliance with the New York City Energy Conservation Code, may defer submitting an energy report until 10 years after the assigned calendar year.

Section 28-308.4.2 provides that nothing in this article shall prevent an owner from performing the audit and retro-commissioning in a combined process, provided that the requirements of sections 28-308.2 and 28-308.3 are met.

Section 28-308.5 describes the required content of the energy efficiency report and indicates that the energy audit report or documentation that an exception

applies, and the retro-commissioning report or documentation that an exception applies shall be included.

Section 28-308.6 directs the Department of Finance to notify the owner of each covered building of the requirements of this article three years before the due date of an energy efficiency report and during the year before the due date.

Section 28-308.7 provides that, regardless of the assigned due date of the energy efficiency report for a covered building, an owner may submit an energy efficiency report, including an energy audit report and a retro-commissioning report pursuant to sections 28-308.7.1 and 28-308.7.2, respectively, during the calendar year 2013 in order to achieve early compliance for the first required energy efficiency report. The next required energy efficiency report shall be due in the tenth calendar year after the first assigned due date.

Section 28-308.7.1 indicates that an energy audit report submitted for early compliance must include all information required in items 1 through 5 of section 28-308.2.

Section 28-308.7.1.1 requires that any audit completed after January 1, 2006 and prior to the effective date of this article shall have met the requirements of an ASHRAE Level II audit, shall have been performed under a New York Power Authority or NYSERDA contract or by a NYSERDA Flex Tech contractor, and shall be submitted along with certification by a registered design professional that the audit satisfies the criteria of this section. A partial audit completed after January 1, 2006 and prior to the effective date of this article shall only qualify for early compliance if the base building systems that were not audited are subsequently audited as required by this section.

Section 28-308.7.1.2 provides that an early compliance audit completed after the effective date of this article shall additionally be performed under the supervision of a registered design professional, shall meet the requirements of an ASHRAE Level II audit; shall have an auditing team with at least one member who holds one of a variety of acceptable professional certifications and at least one member with at least three years of professional experience performing energy audits on buildings larger than 50,000 square feet; shall include consultation with the building’s operations and maintenance staff at the start of and during the retro-commissioning process; and shall contain a certification that sufficient analysis and testing has been done and corrections performed so that the base building systems meet the criteria of section 28-308.3.1.

Subdivision (a) of Section 28-308.7.2 provides that retro-commissioning that is completed after the effective date of this article will be acceptable for early compliance if it meets 5 criteria. The retro-commissioning must: 1) be completed under a NYSERDA contract or certified by an individual not on the building’s staff who is a registered design professional, a certified Refrigerating System Operating Engineer, or a licensed High Pressure Boiler Operating Engineer; 2) be completed by a team that includes at least one individual who is either a Certified Commissioning Professional, a Certified Building Commissioning Professional, a Commissioning Process Management Professional, or an Accredited Commissioning Process Authority Professional, as certified by the relevant entity; 3) include an individual with at least one year of experience performing retro-commissioning on the mechanical systems of buildings over 50,000 gross square feet; 4) include consultation with the building’s operations and maintenance staff throughout the process; 5) contain certification that sufficient testing and analysis such that the building systems meet the criteria of Section 28-308.3.1, and includes all information specified in Section 28-308.3.1. Subdivision (b) of Section 28-308.3.1 states that nothing in this section shall be construed to determine which individuals shall perform the work necessary to correct deficiencies identified during the retro-commissioning process. This statement makes clear that individuals on a building’s staff may perform retro-commissioning work.

Section 28-308.8 provides that, for energy efficiency reports due during the calendar year 2013, audits, retro-commissioning, and energy efficiency reports may be performed either in accordance with the provisions for early compliance set forth in section 28-308.7 or in accordance with procedures set forth in the rules of the Department, provided rules are promulgated within one year prior to the due date of the report. If rules are not promulgated within one year prior to the due date of such report, energy efficiency reports shall be completed in accordance with the procedures for early compliance.

Section 28-308.9 provides that the Department of Buildings shall promulgate all necessary rules to carry out the provisions of this article in a timely manner, and that these rules may include fees for filing and review of applications and reports filed pursuant to this article.

Section 2 of the bill amends Chapter 9 of the New York City Charter by adding a new Section 224.2. Subdivision (a) specifies that the terms “base building systems,” “City building,” “energy audit,” “energy efficiency report,” and “simple payback” will have the same meanings as defined in Section 28-308.1 of the Administrative Code. Subdivision (b) requires that, no later than one year after the submission of an energy efficiency report for a City building pursuant to section 28-308 of the Administrative Code, all reasonable capital improvements recommended in the building’s energy audit shall be completed, including all improvements which, when combined, would yield a simple payback of seven years or less. Subdivision (c) provides that the Mayor shall promulgate rules necessary to carry out the provisions of this section.

Section 3 of the bill requires the Department of Citywide Administrative Services to submit annual reports to the Mayor and the Speaker of the Council on capital improvements of base building systems completed pursuant to Section 224.2 of the City Charter, as added by Section 2 of the bill, for each fiscal year starting with the fiscal year beginning on July 1, 2013. The first such report shall be submitted by December 31, 2014, and subsequent reports shall be due 6 months after the close of

the fiscal year covered by the report. The reports shall include the latest energy efficiency reports submitted for City buildings, an analysis of the most commonly recommended capital improvements, an analysis of the accuracy of the audits' projections of capital improvement costs and energy savings, and recommendations as to appropriate legislative or administrative actions.

Section 4 of the bill contains a severability provision.

Section 5 of the bill states that the local law takes effect immediately.

d. Proposed Int. No. 973-A

i. Background and Intent of Proposed Int. No. 973-A

Proposed Int. No. 973-A would require that lighting systems be upgraded to comply with the New York City Energy Code standards for new systems by January 1, 2025. Vast improvements have been made in recent years to the efficiency of lighting systems, and much higher standards for the efficiency of lighting systems have been set for new construction. The cost of lighting upgrades is low relative to the savings in energy costs they provide. Required upgrades to lighting systems will bring systems to the standards of the NYCECC. Because the NYCECC does not regulate lighting within individual residential units, lighting upgrades are not required within dwelling units. For common spaces of commercial buildings and commercial tenant spaces, elements that are regulated include lighting controls, tandem wiring, exit signs, and exterior lighting. Any area, for example, that is enclosed by floor-to-ceiling partitions must have its own lighting control under the Code, with the exception of emergency or security areas requiring continuous lighting, or stairways or corridors used for egress. For areas where individual controls are required, these controls must have automatic shutoffs and light reduction controls. Another important requirement of code-compliant lighting systems limits the total power density of spaces, measured in watts per square foot, depending on their use. An industrial work area will have a higher maximum power density, for example, than a parking garage. Lighting upgrades do not specify a required efficiency for light bulbs; the Code applies only to building elements.

Because a large amount of the equipment that uses energy is controlled by tenants rather than building owners, it is important for tenants to have accurate information about their energy use, and to have an incentive to lower their energy use. When tenants pay their own electricity bills, they have an incentive to conserve energy, but many buildings do not install sub-meters that measure tenant electricity use separately from the rest of the building. Proposed Int. No. 973-A would require that the owners of all buildings of 50,000 square feet or more install sub-meters for each commercial tenant space within the building, provided that the tenant space is over 10,000 square feet. No dwelling units are affected by the bill. The bill does not require building owners to charge tenants individually for their electricity use rather than including a flat fee in the lease, but the installation of sub-meters will give the building owner the ability to align electricity payments with actual use.

ii. Analysis of Proposed Int. No. 973-A

Section 1 of Proposed Int. No. 973-A, the Legislative Intent and Findings, states that the Council finds that upgrades to lighting systems have the potential to dramatically reduce energy consumption in New York City, that investments in such upgrades are typically recouped through operational savings, and that it is reasonable to require lighting upgrades during renovations. The Council further finds that tenants are frequently unaware of their patterns of electricity use, and that electricity use will likely be reduced if separate electrical measuring equipment is installed and data on usage is made available to commercial tenants.

Section 2 of the bill amends Chapter 3 of Title 28 of the Administrative Code of New York City by adding a new Article 310, "Required Upgrade of Lighting Systems," and a new Article 311, "Installation of Electrical Sub-meters in Tenant Spaces."

New section 28-310.1 states that lighting systems in covered buildings shall be upgraded as provided for in this article.

New section 28-310.2 provides definitions for terms used in this article. A "covered building" is defined as a building over 50,000 gross square feet, or two or more buildings on the same tax lot that together exceed 100,000 gross square feet, or two or more buildings held in the condominium form of ownership and managed by the same board of managers that together exceed 100,000 gross square feet. An "upgrade" means the installation or modification of a lighting system to comply with standards required for new systems, including lighting controls, tandem wiring, exit signs, interior lighting power requirements, and exterior lighting, as applicable.

New section 28-310.3 requires lighting systems within tenant spaces to be upgraded by January 1, 2025. The lighting must be upgraded such that it complies with the standards for new lighting systems as set forth in section 805 of the NYCECC, with certain exceptions. Exception 1 provides that upgrades are not required for systems that are in compliance with the standards of the New York City Energy Conservation Code or applicable standards for new systems installed on or after July 1, 2010, with respect to elements of the lighting system or lighting power density. Exception 2 states no upgrade is required for the lighting system within dwelling units classified in occupancy groups R-2 or R-3 or spaces serving such dwelling units such as hallways, laundry rooms, or boiler rooms. Exception 3 provides that no upgrade is required for the lighting system within a space classified in occupancy group A-3 (an assembly space) that is within a house of worship.

New section 28-311.1 requires the installation of sub-meters in covered buildings as provided in this article.

New section 28-311.2 defines terms used in this article, including "covered building," which has the same definition as specified for Article 310, except that real property classified as class one pursuant to subdivision one of section 1802 of the real property tax law is not included. Covered tenant space is defined as a tenant space within a covered building larger than 10,000 gross square feet let or sublet to the same person, or a floor of a covered building larger than 10,000 gross square feet let or sublet to two or more different persons, except that dwelling units are not included.

New section 28-311.3 requires that the electricity for covered tenant spaces be measured by one or more sub-meters on and after January 1, 2025.

New section 28-311.4 requires that each tenant or subtenant within a covered tenant space be provided with a monthly statement showing the amount of electricity measured by the sub-meter during the month and any amount charged to the tenant or subtenant for electricity.

New section 28-311.5 requires the owner of each covered building to file a report with the Department of Buildings on or prior to January 1, 2025, prepared by a registered design professional or a licensed master or special electrician certifying that sub-meters have been installed in all covered tenant spaces. The section provides that the Department may impose a fee for filing and processing such reports.

Section 3 of the bill contains a severability provision.

Section 4 of the bill provides that the local law shall take effect immediately.

IV. Conclusion

Reductions of greenhouse gas emissions as a result of energy efficiency improvements to existing building will improve local and regional air quality, improve public health and generate significant energy savings through improved energy efficiency, increase the value of buildings and contribute to an improved quality of life in New York City. Greening existing buildings in New York City will also bring with it the added benefits of the creation of new jobs, business opportunities and markets, economic benefits that are essential in the current economic climate.

(The following is from the text of the Fiscal Impact Statement for Int. No. 476-A:)

FISCAL IMPACT STATEMENT:

| | Effective FY 10 | FY Succeeding Effective FY 11 | Full Fiscal Impact FY 10 |
|------------------|-----------------|-------------------------------|--------------------------|
| Revenues (+) | \$0 | \$0 | \$0 |
| Expenditures (-) | \$250,000 | \$500,000 | \$250,000 |
| Net | \$250,000 | \$500,000 | \$250,000 |

IMPACT ON REVENUES: Fines for non-compliance have not yet been established.

IMPACT ON EXPENDITURES: There would be no impact on expenditures resulting from the enactment of this legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: Not Applicable

SOURCE OF INFORMATION: The Department of Citywide Administrative Services, the Mayors Office of Long term Planning and Sustainability and the City Council Finance Division.

ESTIMATE PREPARED BY: Jonathan Rosenberg, Deputy Director Nathan Toth, Assistant Director

HISTORY: Introduced as Int. 476 by Council and referred to the Committee on Environmental Protection on November 15th, 2006. On June 12th, 2008 the legislation was re-referred to the Committee. On June 27th, 2008 the Committee held a hearing, an amendment was proposed, and Int. 476 was laid over. On June 26th, 2009 the Committee held another hearing and Int. 476 was laid over. An amendment has been proposed, and the bill will be considered by Committee as Proposed Int. 476-A on December 8, 2009.

Accordingly, Your Committee recommends the adoption of Int. Nos. 476-A, 564-A, 967-A, and 973-A.

(For text of Int. No. 564-A, 967-A, and 973-A, please see, respectively, the Reports of the Committee on Environmental Protection for Int. No. 564-A, 967-A, and 973-A printed in these Minutes.)

(The following is the text of Int. No. 476-A:)

Int. No. 476-A

By Council Members Mark-Viverito, the Speaker (Council Member Quinn), Recchia, Avella, Brewer, Fidler, Gentile, James, Liu, Nelson, Seabrook, Weprin, White, Garodnick, Lappin, Yassky, Sears, Mendez, de Blasio, Katz, Mitchell, Vann, Gioia, Vacca, Vallone Jr., Jackson, Ferreras, Koppell, Comrie, Barron, Arroyo, Crowley, Gennaro, Mealy and Reyna.

A Local Law to amend the administrative code of the city of New York, in relation to benchmarking the energy and water efficiency of buildings.

Be it enacted by the Council as follows:

Section 1. Chapter 3 of title 28 of the administrative code of the city of New York is amended by adding a new article 309 to read as follows:

ARTICLE 309

BENCHMARKING ENERGY AND WATER USE

§ 28-309.1 **General.** The energy and water use of city buildings and covered buildings shall be benchmarked in accordance with this article.

§ 28-309.2 **Definitions.** As used in this article, the following terms shall have the following meanings:

BENCHMARK. To input and submit to the benchmarking tool the total use of energy and water for a building for the previous calendar year and other descriptive information for such building as required by the benchmarking tool.

BENCHMARKING TOOL. The internet-based database system developed by the United States environmental protection agency, and any complementary interface designated by the office of long-term planning and sustainability, to track and assess the energy and water use of certain buildings relative to similar buildings.

CITY BUILDING. A building that is more than 10,000 gross square feet, as it appears in the records of the department of finance, that is owned by the city or for which the city regularly pays all or part of the annual energy bills, provided that two or more buildings on the same tax lot shall be deemed to be one building.

Exception: The term "city building" shall not include:

1. Any building not owned by the city in which the city is a tenant and for which the city does not pay all the energy bills;
2. Any building owned by the city that participates in the tenant interim lease apartment purchase program; or
3. Any building owned by the city that (i) is 50,000 gross square feet or less, as it appears in the records of the department of finance, and (ii) participates in a program administered by the department of housing preservation and development.

COVERED BUILDING. As it appears in the records of the department of finance: (i) a building that exceeds 50,000 gross square feet, (ii) two or more buildings on the same tax lot that together exceed 100,000 gross square feet, or (iii) two or more buildings held in the condominium form of ownership that are governed by the same board of managers and that together exceed 100,000 gross square feet.

Exception: The term "covered building" shall not include:

1. Any building that is a city building.
2. Any building that is owned by the city.
3. Real property classified as class one pursuant to subdivision one of section 1802 of the real property tax law.

DATA CENTER. A room or rooms used primarily to house high density computing equipment, such as server racks, used for data storage and processing.

DWELLING UNIT. A single unit consisting of one or more habitable rooms, occupied or arranged to be occupied as a unit separate from all other units within a building, and used primarily for residential purposes and not primarily for professional or commercial purposes.

ENERGY. Electricity, natural gas, fuel oil and steam.

OWNER. The owner of record, provided that "owner" shall be deemed to include: (i) the net lessee in the case of a building subject to a net lease with a term of at least forty-nine years, inclusive of all renewal options, (ii) the board of managers in the case of a condominium, and (iii) the board of directors in the case of a cooperative apartment corporation.

TENANT. Any tenant, tenant-stockholder of a cooperative apartment corporation, condominium unit owner or other occupant.

§ 28-309.3 **Benchmarking required for city buildings.** No later than May 1, 2010, and no later than every May first thereafter, any city building shall be benchmarked by the agency or entity primarily responsible for the management of such building, in coordination with the department of citywide administrative services with respect to energy use, and with the department of environmental protection with respect to water use. Benchmarking of water use shall not be required unless the building was equipped with automatic meter reading equipment by the department of environmental protection for the entirety of the previous calendar year. The city shall maintain such documents as the department determines are necessary for the purpose of carrying out the provisions of this article.

§ 28-309.4 **Benchmarking required for covered buildings.** The owner of a covered building shall annually benchmark such covered building no later than May 1, 2011, and no later than every May first thereafter. Benchmarking of water use shall not be required unless the building was equipped with automatic meter reading equipment by the department of environmental protection for the entirety of the previous calendar year. The owner or the owner's representative performing the benchmarking shall consult with the operating staff of the building, as appropriate.

§ 28-309.4.1 **Obligation to request and to report information.** Where a unit or other space in a covered building, other than a dwelling unit, is occupied by a tenant and such unit or space is separately metered by a utility company, the owner of such building shall request from such tenant information relating to such tenant's separately metered energy use for the previous calendar year and such tenant shall report such information to such owner.

§ 28-309.4.1.1 **Owner solicitation of tenant information.** Such owner shall request information relating to such tenant's separately metered energy use for the previous calendar year no earlier than January first and

no later than January thirty-first of any year in which the owner is required to benchmark such building. The office of long-term planning and sustainability may require that such owner provide such tenant with a form designated by the office of long-term planning and sustainability to report such information.

§ 28-309.4.1.2 **Tenant reporting of information.** Such tenant shall report information relating to such tenant's separately metered energy use for the previous calendar year no later than February fifteenth of any year in which the owner is required to benchmark such building. Such information shall be reported in a form and manner determined by the office of long-term planning and sustainability.

§ 28-309.4.1.3 **Provision of information prior to vacating a unit or other space.** Where such owner receives notice that such tenant intends to vacate such unit or other space before reporting information in accordance with sections 28-309.4.1 and 28-309.4.1.2, such owner shall request information relating to such tenant's energy use for any period of occupancy relevant to such owner's obligation to benchmark. Any such tenant shall report such information to the owner of such building prior to vacating such unit or other space or, if such information is not available prior to vacating such unit or other space, as soon as practicable thereafter, regardless of whether such owner has requested information pursuant to this section. Such information shall be reported in a form and manner determined by the office of long-term planning and sustainability.

§ 28-309.4.1.4 **Continuing obligation to benchmark.** The failure of any or all tenants to report the information required by sections 28-309.4.1, 28-309.4.1.2, and 28-309.4.1.3 to the owner shall not relieve such owner of the obligation to benchmark pursuant to this article, provided that such owner shall not be required to benchmark such information not reported by a tenant unless otherwise available to such owner.

§ 28-309.4.2 **Preservation of documents, inspection, and audit.** Owners of covered buildings shall maintain such records as the department determines are necessary for carrying out the purposes of this article, including but not limited to energy and water bills and reports or forms received from tenants. Such records shall be preserved for a period of three years, provided that the commissioner may consent to their destruction within that period or may require that such records be preserved longer than such period. At the request of the department, such records shall be made available for inspection and audit by the department at the place of business of the owner or at the offices of the department during normal business hours.

§ 28-309.4.3 **Violations.** It shall be unlawful for the owner of a covered building to fail to benchmark pursuant to section 28-309.4. The commissioner shall classify such violation as a lesser violation.

§ 28-309.5 **Direct upload.** Information shall be directly uploaded to the benchmarking tool in accordance with the following:

§ 28-309.5.1 **Direct upload by a utility company or other source.** The office of long-term planning and sustainability shall encourage and facilitate any utility company or any other source authorized by the office of long-term planning and sustainability to upload directly to the benchmarking tool, as soon as practicable, information necessary to benchmark a building. Where information is uploaded directly to the benchmarking tool by a utility company or other authorized source, owners and tenants shall not be obligated to request and report such information pursuant to section 28-309.4.1.

§ 28-309.5.2 **Direct upload by the department of environmental protection.** The department of environmental protection shall upload directly to the benchmarking tool information on water use at all buildings that were equipped with automatic meter reading equipment by the department of environmental protection for the entirety of the previous calendar year and that are subject to the benchmarking requirements of this article.

§ 28-309.6 **Suspension.** The director of the office of long-term planning and sustainability may suspend all or part of the requirement to benchmark pursuant to this article upon a written finding that a technological deficiency in the benchmarking tool precludes compliance with this article. The director of the office of long-term planning and sustainability may lift all or part of any such suspension upon a written finding that such deficiency has been corrected. The office of long-term planning and sustainability shall notify the speaker of the city council, the department, the department of citywide administrative services, the department of environmental protection and the department of finance promptly upon issuing a suspension or lifting a suspension pursuant to this section.

§ 28-309.7 **Notification and transmission of information.** The department of finance shall:

1. Annually notify owners of covered buildings of their obligation to benchmark pursuant to section 28-309.4, provided that the failure of the department of finance to notify any such owner shall not affect the obligation of such owner to benchmark pursuant to such section.
2. Notify owners of covered buildings of any suspension or lifting of a suspension pursuant to section 28-309.6.
3. Make available to the department information regarding owners of covered buildings for which no benchmarking information was generated by the benchmarking tool.

§ 28-309.8 **Disclosure.** The department of finance shall make information generated by the benchmarking tool available to the public on the internet no later than September 1, 2011, and no later than every September first thereafter for city buildings, no later than September 1, 2012, and no later than every September first

thereafter for covered buildings whose primary use is not residential, as determined by the department of finance, and no later than September 1, 2013, and no later than every September first thereafter for covered buildings whose primary use is residential, as determined by the department of finance. Such information shall include, but need not be limited to: (i) the energy utilization index, (ii) the water use per gross square foot, (iii) where available, a rating that compares the energy and water use of the building to that of similar buildings, and (iv) a comparison of data across calendar years for any years such building was benchmarked. Information generated by the benchmarking tool for the 2009 calendar year for city buildings, for the 2010 calendar year for covered buildings, and for the 2011 calendar year for covered buildings whose primary use is residential, as determined by the department of finance, shall not be disclosed.

Exception: Ratings generated by the benchmarking tool for a covered building that contains a data center, television studio, and/or trading floor that together exceed ten percent of the gross square footage of any such building shall not be disclosed until the office of long-term planning and sustainability determines that the benchmarking tool can make adequate adjustments for such facilities. When the office of long-term planning and sustainability determines that the benchmarking tool can make such adjustments, it shall report such determination to the mayor and the speaker of the city council. Until such determination is made, the office of long-term planning and sustainability shall report biennially to the mayor and the speaker of the city council that the benchmarking tool is unable to make such adjustments.

§ 28-309.9 Report. No later than December 31 of 2011, 2012 and 2013, respectively, the office of long-term planning and sustainability shall prepare, submit to the mayor and the speaker of the city council, and post on the internet a report reviewing and evaluating the administration and enforcement of this article and analyzing data obtained from the benchmarking tool. Such report shall contain information regarding: (i) the energy and water efficiency of buildings in the city, (ii) the accuracy of benchmarked data and whether there is a need to train and/or certify individuals who benchmark, (iii) compliance with the requirements of this article, (iv) any administrative and legislative recommendations for strengthening the administration and enforcement of this article, (v) the effectiveness of the benchmarking tool in accounting for New York city conditions, including, but not limited to, high density occupancies, use of steam, large building size, and specific high-energy uses such as data centers, television studios, and trading floors, and (vi) such other information and analyses as the office of long-term planning and sustainability deems appropriate.

§ 28-309.10 Rules. The department, the department of finance and the office of long-term planning and sustainability may promulgate such rules as deemed necessary to carry out the provisions of this article.

§ 2. This local law shall take effect immediately.

JAMES F. GENNARO, Chairperson; BILL de BLASIO, G. OLIVER KOPPELL, DONEMIC M. RECCHIA JR., PETER F. VALLONE JR., MELISSA MARK-VIVERITO, THOMAS WHITE JR., MATHIEU EUGENE, ELIZABETH CROWLEY, ERIC A. ULRICH, Committee on Environmental Protection, December 8, 2009.

(The following is the text of a Message of Necessity from the Mayor for the Immediate Passage of Int No. 476-A:)

**THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007**

Pursuant to authority vested in me by section twenty of the Municipal Home Rule and by section thirty-seven of the New York City Charter, I hereby certify to the necessity for the immediate passage of a local law, entitled:

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to benchmarking the energy and water efficiency of buildings.

Given under my hand and seal this 9th day of December, 2009 at City Hall in the City of New York.

Michael R. Bloomberg
Mayor

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for Int. No. 564-A

Report of the Committee on Environmental Protection in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to establishing a New York city energy code.

The Committee on Environmental Protection, to which the annexed amended proposed local law was referred on April 23, 2007 (Minutes, page 1272), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Environmental Protection for Int No. 476-A printed above in these Minutes).

(The following is from the text of the Fiscal Impact Statement for Int. No. 564-A:)

FISCAL IMPACT STATEMENT:

| | Effective FY 10 | FY Succeeding Effective FY 11 | Full Fiscal Impact FY 10 |
|------------------|-----------------|-------------------------------|--------------------------|
| Revenues (+) | \$0* | \$0* | \$0* |
| Expenditures (-) | \$0 | \$0 | \$0 |
| Net | \$0 | \$0 | \$0 |

IMPACT ON REVENUES: There is potential revenue resulting from the enactment of this legislation in the form of filing fees and non-compliance fines. As of this time a filing fee amount has not been established nor has a fine amount or range been put forth. Until a fee and fine schedule are developed it will not be possible to estimate potential revenue generated by this legislation.

IMPACT ON EXPENDITURES: There would be no impact on expenditures resulting from the enactment of this legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: Not Applicable

SOURCE OF INFORMATION: The Department of Citywide Administrative Services, the Mayors Office of Longterm Planning and Sustainability and the City Council Finance Division.

ESTIMATE PREPARED BY: Jonathan Rosenberg, Deputy Director
Nathan Toth, Assistant Director

HISTORY: Introduced as Int. 564 by Council and referred to the Committee on Environmental Protection on April 23, 2007. On June 5th, 2008, Int. 564 was re-referred to the Committee by the Council. On June 26th, 2009 the Committee held a hearing and Int. 564 was laid over. An amendment has been proposed, and the bill will be considered by Committee as Proposed Int. 564-A on December 8, 2009.

Accordingly, Your Committee recommends the adoption of Int No. 564-A along with Int Nos. 476-A, 967-A, and 973-A.

(The following is the text of Int. No. 564-A:)

Int. No. 564-A

By Council Members Garodnick, the Speaker (Council Member Quinn), Brewer, Fidler, Gonzalez, James, Koppell, Sanders Jr., Seabrook, Weprin, White Jr., Gerson, Lappin, Yassky, Recchia, Sears, Liu, Mendez, de Blasio, Mitchell, Mark-Viverito, Katz, Vallone Jr., Nelson, Vann, Avella, Gioia, Vacca, Jackson, Ferreras, Comrie, Barron, Arroyo, Crowley, Gennaro, Mealy and Reyna.

A Local Law to amend the administrative code of the city of New York, in relation to establishing a New York city energy code.

Be it enacted by the Council as follows:

Section 1. Statement of findings and purpose. The Energy Conservation Construction Code of New York State (State Energy Code), authorized by article

eleven of the State Energy Law, sets standards for the energy performance of buildings throughout New York. For existing buildings, the State Energy Code only applies when an alteration leads to the replacement of at least fifty percent of a building's system or subsystem, meaning there are no energy efficiency requirements for many renovation projects of a lesser magnitude or lower threshold. As a result of this loophole, New York City is failing to reap the benefits of energy improvements as the building fabric is updated in those situations. The State Energy Law expressly permits a municipality to promulgate a local energy conservation construction code that is more stringent than the State Energy Code. Accordingly, the Council finds that it is reasonable and necessary to promulgate a New York City Energy Code in order to ensure the enforcement of the State Energy Code within New York City and to impose energy standards for renovation projects at a lower threshold than that mandated by the State Energy Code. If following the promulgation of the New York City Energy Code the State revises the State Energy Code, the more stringent provisions of the two codes shall apply until the New York City Energy Code is amended and made more stringent.

§2. Title 28 of the administrative code of the city of New York is amended by adding a new chapter 10 to read as follows:

CHAPTER 10
THE NEW YORK CITY ENERGY CONSERVATION CODE
ARTICLE 1001

ENACTMENT AND UPDATE OF THE NEW YORK CITY ENERGY
CONSERVATION CODE

§28-1001.1 Adoption of the energy code. *In accordance with section 11-109 of the energy law that permits any municipality to promulgate a local energy conservation construction code, the city of New York hereby adopts the 2007 energy conservation construction code of New York state in effect and any amendments thereto that are more stringent than such code adopted by the city of New York as the minimum requirements for the design, construction and alteration of buildings for the effective use of energy in the city. Such adoption shall be subject to amendments pursuant to local law and set forth in section 1001.2 of this chapter, which shall be known and cited as the "New York city amendments to the 2007 energy conservation construction code of New York state." Such edition of the 2007 energy conservation construction code of New York state with such New York city amendments shall together be known and cited as the "New York city energy conservation code."*

§28-1001.2 The New York city amendments to the 2007 energy conservation construction code of New York state. *The following New York city amendments to the 2007 energy conservation construction code of New York state are hereby adopted as set forth in this section:*

Section 101.1

Section 101.1 is revised to read as follows:

101.1 Title. *These provisions shall be known and cited as the "New York City Energy Conservation Code," "NYCECC" or "ECC." It is referred to herein as "this code." All section numbers in this code shall be deemed to be preceded by the designation "ECC."*

Section 101.2

Section 101.2, including subsections, is deleted in its entirety and a new section 101.2 is added to read as follows:

101.2 Scope. *This code applies to residential and commercial buildings as defined herein.*

1. *Where reference is made within this code to codes referenced in the Uniform Fire Prevention and Building Code of New York State or to the Residential Code of New York State, the reference shall be deemed to be to the analogous provision of the New York City Construction Codes, the 1968 building code of the city of New York, the New York City Fire Code and the New York City Electrical Code.*

2. *Where reference is made within this code to the New York City Building Code, the reference shall be deemed to be to the analogous provision of the New York City Construction Codes, the 1968 building code of the city of New York, the New York City Fire Code and the New York City Electrical Code.*

Section 101.4.3

Section 101.4.3 is revised to read as follows:

101.4.3 Historic buildings. *The following exceptions shall apply:*

1. *Any building or structure that is listed in the State or National Register of Historic Places; designated as an historic property under state designation law or survey; certified as a contributing resource within a National Register listed historic district; or with an opinion or certification that the property is eligible to be listed on the National or State Registers of Historic Places, either individually or as a contributing building to a historic district by the State Historic Preservation Officer or the Keeper of the National Register of Historic Places, is exempt from this code.*

2. *Any building or structure that is designated by the Landmarks Preservation Commission, either as an individual landmark or as within an historic district and is not listed, designated or certified as provided in subdivision one of this*

section; or that is calendared by the Landmarks Preservation Commission for consideration as an individual landmark or part of an historic district and is not certified to be eligible to be listed as provided in subdivision one of this section, is exempt from the envelope and exterior lighting requirements of this code. Any interior that is designated as a New York city landmark and is not listed, designated or certified as provided in subdivision one of this section; or that is calendared for consideration by the Landmarks Preservation Commission for designation as an interior landmark and is not certified to be eligible to be listed as provided in subdivision one of this subsection, is exempt from this code.

Section 101.4.4

Section 101.4.4, including subsections, is deleted in its entirety and a new section 101.4.4 is added to read as follows:

101.4.4 Additions, alterations, renovations and repairs. *Additions, alterations, renovations and repairs to an existing building, building system or portion thereof shall conform to the provisions of this code as such provisions relate to new construction without requiring the unaltered portion(s) of the existing building or building system to comply with this code. Additions, alterations, renovations or repairs shall not create an unsafe or hazardous condition or overload existing building systems.*

Exception: *The following need not comply with this code, provided the energy use of the building is not increased:*

1. *Storm windows installed over existing fenestration.*
2. *Glass only replacements in an existing sash and frame.*
3. *Existing ceiling, wall or floor cavities exposed during construction provided that these cavities are filled with insulation.*
4. *Construction where the existing roof, wall or floor cavity is not exposed.*

Section 101.5.1

Section 101.5.1 is deleted in its entirety and a new section 101.5.1 is added to read as follows:

101.5.1 Demonstration of compliance. *The following documentation, as further described in rules promulgated by the department, shall be required to demonstrate compliance with this code for any building application or applications related to a project required to be submitted to the department:*

101.5.1.1 Professional statement. *Any registered design professional or lead energy professional filing such application or applications shall provide, sign and seal the following statement: "To the best of my knowledge, belief and professional judgment, these plans and specifications are in compliance with the New York City Energy Conservation Code."*

101.5.1.2 Energy analysis. *For any project, an energy analysis comprising a sheet or sheets within the drawing set of the initial application for the project shall be provided. The energy analysis shall demonstrate how the project design complies with this code.*

1. *For any new building project, such analysis shall include the envelope, mechanical, service water heating, and lighting and power systems in accordance with this code, regardless of how the project may be broken down into separate jobs for filing or other purposes.*

2. *For any building alteration project or addition, such analysis shall compare the proposed design to prescriptive requirements of this code, except where alternate methods are provided in rules promulgated by the department.*

Exception: *An energy analysis shall not be required for work not required to have a permit as provided pursuant to section 28-105.4 of the Administrative Code.*

101.5.1.3 Supporting documentation. *Supporting documentation, which is the approved construction drawings for a project, shall demonstrate conformance of such approved drawings with the energy analysis for every element of the energy analysis. In addition, it shall demonstrate conformance with other mandatory requirements of this code, including but not limited to mechanical and lighting system controls.*

Exception: *Supporting documentation shall not be required for work not required to have a permit as provided pursuant to section 28-105.4 of the Administrative Code.*

Section 101.5.2.3

Section 101.5.2.3 - Delete section.

Section 105.1

A new subsection 105.1.2 is added to read as follows:

105.1.2 Reconciliation with Energy Conservation Construction Code of New York State. *Whenever any provision of the Energy Conservation Construction Code of New York State provides for a more stringent requirement than imposed by this code, the more stringent requirement shall govern.*

Section 202**General Definitions**

Revise the definition of "Addition" after the definition of "Accessible," to read as follows:

ADDITION. *An extension or increase in the conditioned space floor area or height of a building or structure.*

Delete the definition of "Agricultural buildings" after the definition of "Addition" in its entirety.

Add a new definition of "Alteration" before the definition of "Approved," to read as follows:

ALTERATION. *Any construction or renovation to an existing structure other than repair or addition that requires a permit. Also, a change in a mechanical system that involves an extension, addition or change to the arrangement, type or purpose of the original installation that requires a permit.*

Revise the definition of "Approved" before the definition of "Automatic," to read as follows:

APPROVED. *Approved shall have the meaning as such term is defined in section 28-101.5 of the Administrative Code.*

Add a new definition of "Project" before the definition of "Proposed design," to read as follows:

PROJECT. *A design and construction undertaking comprised of work related to one or more buildings and the site improvements. A project is represented by one or more plan/work applications, including construction documents compiled in accordance with Section 106 of the New York City Building Code, that relate either to the construction of a new building or buildings or to the demolition or alteration of an existing building or buildings. Applications for a project may have different registered design professionals and different job numbers, and may result in the issuance of one or more permits.*

Delete the definition of "Substantial Alteration" in its entirety.

Revise the definition of "System or Subsystem," to read as follows:

SYSTEM. *A building assembly made up of various components that serve a specific function including but not limited to exterior walls, windows, doors, roofs, ceilings, floors, lighting, piping, ductwork, insulation, HVAC system equipment or components, electrical appliances and plumbing appliances.*

Chapter 10

Chapter 10: Under ASHRAE, revise "*90.1-2001" to "90.1-2004."

28-1001.3 Periodic update.

28-1001.3.1 Periodic update. *The commissioner shall submit to the city council proposed amendments that he or she determines should be made to this code to bring it up to date with or exceed the latest edition of the energy conservation construction code of New York state. The commissioner shall, at a minimum, submit such proposed amendments (i) following any revision of the energy conservation construction code of New York state that establishes more stringent requirements than those imposed by this code and (ii) no later than the end of the third year after the effective date of this section and every third year thereafter. Prior to such submission, such proposed amendments shall be submitted to an advisory committee established by the commissioner pursuant to section 28-1003.2 for review and comment.*

28-1001.3.2 New York city energy advisory committee. *The commissioner shall establish a New York city energy conservation code advisory committee to provide advice and recommendations regarding such code and revisions thereto. Such committee shall include registered design professionals knowledgeable in energy efficiency, energy conservation, building design and construction; environmental advocates with expertise in energy efficiency and conservation; construction and real estate professionals; and representatives of appropriate labor organizations.*

§3. Section 28-101.1 of the administrative code of the city of New York, as added by local law number 33 for the year 2007, is amended to read as follows:

28-101.1 Title. The provisions of this chapter shall apply to the administration of the codes set forth in this title and the 1968 building code. The codes as set forth in this title shall be known and may be cited as the "New York city construction codes" and shall consist of:

The New York city plumbing code.

The New York city building code.

The New York city mechanical code.

The New York city fuel gas code.

The New York city energy conservation code.

§4. Section 28-101.4.3 of the administrative code of the city of New York is amended by adding a new item 8 to read as follows:

8. *All work related to energy efficiency shall be regulated by the New York city energy conservation code.*

§5. Section 28-104.7.9 of the administrative code of the city of New York, as added by local law number 33 for the year 2007, is amended to read as follows:

28-104.7.9 Energy conservation [construction] code. The application shall contain all information required to demonstrate compliance with the [energy conservation construction code of New York state] *New York city energy conservation code. This information shall include signed and sealed construction*

drawings to the extent that they demonstrate such energy code compliance in the energy analysis or the supporting documentation as required by such energy code and rules.

§6. Item 4 of section 28-104.8.1 of the administrative code of the city of New York, as added by local law number 33 for the year 2007, is amended to read as follows:

4. A statement certifying compliance with the [energy conservation construction code of New York state] *New York city energy conservation code.*

§7. Section 101.4.6 of the New York city building code, as added by local law number 33 for the year 2007, is amended to read as follows:

101.4.6 Energy. The provisions of the [Energy Conservation Construction Code of New York State] *New York City Energy Conservation Code* shall apply to matters governing the design, construction and alteration of buildings for energy efficiency.

§8. Section 106.6 of the New York city building code, as added by local law number 33 for the year 2007, is amended to read as follows:

106.6 Architectural plans. Construction documents for all buildings shall provide detailed drawings of all architectural elements of the building showing compliance with the code, including but not limited to doors, windows and interior finish schedules, [and other] details necessary to substantiate all required fire-protection characteristics, [as well as other] details demonstrating compliance with the *New York City Energy Conservation Code and details demonstrating compliance with all* accessibility requirements of this code. Site safety features shall be shown where applicable. Plans shall also provide details of the exterior wall envelope as required, including *but not limited to* flashing, insulation, vapor retarder, intersections with dissimilar materials, corners, end details, control joints, intersections at roof, eaves or parapets, means of drainage, water-resistive membrane and details around openings.

Exception: Where a curtain wall system is to be employed containing elements that are normally detailed on shop or working drawings, approval of construction documents shall be conditioned upon deferred submittal of such shop or working drawings showing the approval of the registered design professional who prepared the architectural construction documents, or of a signed statement by such registered design professional that such drawings were prepared to his or her satisfaction. In such cases, submittal of construction documents showing compliance with the [Energy Conservation Construction Code of New York State] *New York City Energy Conservation Code* related to such curtain wall may also be deferred. *Such deferred submittal of construction documents must demonstrate that the estimated annual energy use for the envelope in the energy analysis submitted as part of the initial filing is not exceeded.*

§9. Section 106.13 of the New York city building code, as added by local law number 33 for the year 2007, is amended to read as follows:

106.13 Energy efficiency. Construction documents shall include [a statement by the registered design professional of record that: "To the best of my knowledge, belief and professional judgment, these plans and specifications are in compliance with the *Energy Conservation Construction Code of New York State.*" In addition, the following requirements shall apply:

1. A lead energy professional shall be identified for each project, who shall draw the relevant information regarding envelope, mechanical systems, service water heating system and lighting and power systems from construction documents into an energy analysis. The energy analysis shall balance total energy consumption of all systems in accordance with the *Energy Conservation Construction Code of New York State* and shall be signed and sealed by the lead energy professional.
2. The format for the energy analysis shall be as established in the *Energy Conservation Construction Code of New York State*, or as approved by the department, and shall comprise a sheet within the drawing set. Supporting documentation shall be available within the drawing set or upon request of the department] *compliance documentation as required by the New York City Energy Conservation Code.*

§10. Section 1301.1.1 of the New York city building code, as added by local law number 33 for the year 2007, is amended to read as follows:

1301.1.1 Criteria. Buildings shall be designed and constructed in accordance with the [Energy Conservation Construction Code of New York State] *New York City Energy Conservation Code.*

§11. Section 106.10 of the New York city plumbing code, of chapter 6 of title 28 of the administrative code of the city of New York, as added by local law number 33 for the year 2007, is amended to read as follows:

106.10 Energy efficiency. Construction documents shall include [a statement by the registered design professional of record that: "To the best of my knowledge, belief and professional judgment, these plans and specifications are in compliance with the *Energy Conservation Construction Code of New York State.*" In addition, the following requirements shall apply:

1. A lead energy professional shall be identified for each project, who shall draw the relevant information regarding envelope, mechanical systems, service water heating system and lighting and power systems from construction documents into an energy analysis. The energy analysis shall balance total energy consumption of all systems in accordance with the *Energy Conservation Construction Code of New York State* and shall be signed and sealed by the lead energy professional.

2. The format for the energy analysis shall be as established in the *Energy Conservation Construction Code of New York State*, or as approved by the department, and shall comprise a sheet within the drawing set. Supporting documentation shall be available within the drawing set or upon request of the department] *compliance documentation as required by the New York City Energy Conservation Code*.

§12. Section 313.1 of the New York city plumbing code, as added by local law number 33 for the year 2007, is amended to read as follows:

313.1 General. Equipment efficiencies shall be in accordance with the [New York state energy conservation construction code] *New York City Energy Conservation Code*.

§13. Section 607.2 of the New York city plumbing code, as added by local law number 33 for the year 2007, is amended to read as follows:

607.2 Hot water supply temperature maintenance. Where the developed length of hot water piping from the source of hot water supply to the farthest fixture exceeds 20 feet (6096 mm), the hot water supply system shall be provided with a method of maintaining the temperature in accordance with the [New York state energy conservation construction code] *New York City Energy Conservation Code*.

§14. Section 607.2.1 of the New York city plumbing code, as added by local law number 33 for the year 2007, is amended to read as follows:

607.2.1 Piping insulation. Circulating hot water system piping shall be insulated in accordance with the [New York state energy conservation construction code] *New York City Energy Conservation Code*.

§15. Section 106.8 of the New York city fuel gas code, as added by local law number 33 for the year 2007, is amended to read as follows:

106.8 Energy efficiency. Construction documents shall include [a statement by the registered design professional of record that: "To the best of my knowledge, belief and professional judgment, these plans and specifications are in compliance with the *Energy Conservation Construction Code of New York State*."] In addition, the following requirements shall apply:

1. A lead energy professional shall be identified for each project, who shall draw the relevant information regarding envelope, mechanical systems, and service water heating system and lighting and power systems from construction documents into an energy analysis. The energy analysis shall balance total energy consumption of all systems in accordance with the *Energy Conservation Construction Code of New York State* and shall be signed and sealed by the lead energy professional.
2. The format for the energy analysis shall be as established in the *Energy Conservation Construction Code of New York State*, or as approved by the department, and shall comprise a sheet within the drawing set. Supporting documentation shall be available within the drawing set or upon request of the department] *compliance documentation as required by the New York City Energy Conservation Code*.

§16. Section 301.2 of the New York city fuel gas code, as added by local law number 33 for the year 2007, is amended to read as follows:

301.2 Energy utilization. Heating, ventilating and air-conditioning systems of all structures shall be designed and installed for efficient utilization of energy in accordance with the [Energy Conservation Construction Code of New York State] *New York City Energy Conservation Code*.

§17. Section 605.3 of the New York city fuel gas code, as added by local law number 33 for the year 2007, is amended to read as follows:

605.3 Combustion Air Supply. The requirements of the [Energy Conservation Construction Code of New York State] *New York City Energy Conservation Code* concerning combustion air supply shall be followed.

§18. Section 106.10 of the New York city mechanical code, as added by local law number 33 for the year 2007, is amended to read as follows:

106.10 Energy efficiency. Construction documents shall include [a statement by the registered design professional of record that: "To the best of my knowledge, belief and professional judgment, these plans and specifications are in compliance with the *Energy Conservation Construction Code of New York State*."] In addition, the following requirements shall apply:

1. A lead energy professional shall be identified for each project, who shall draw the relevant information regarding envelope, mechanical systems, service water heating system and lighting and power systems from construction documents into an energy analysis. The energy analysis shall balance total energy consumption of all systems in accordance with the *Energy Conservation Construction Code of New York State* and shall be signed and sealed by the lead energy professional.
2. The format for the energy analysis shall be as established in the *Energy Conservation Construction Code of New York State*, or as approved by the department, and shall comprise a sheet within the drawing set. Supporting documentation shall be available within the drawing set or upon request of the department] *compliance documentation as required by the New York City Energy Conservation Code*.

§19. The definition of Unusually Tight Construction in section 202 of the New York city mechanical code, as added by local law number 33 for the year 2007, is amended to read as follows:

UNUSUALLY TIGHT CONSTRUCTION. Construction meeting all of the following requirements:

1. Walls exposed to the outside atmosphere having a continuous water vapor retarder with a rating of 1 perm ($57 \text{ ng/s} \cdot \text{m} \cdot \text{Pa}$) or less with openings gasketed or sealed; and
2. Openable windows and doors meeting the air leakage requirements of the [Energy Conservation Construction Code of New York State] *New York City Energy Conservation Code*, Section 802.3.1; and
3. Caulking or sealants are applied to areas, such as joints around window and door frames, between sole plates and floors, between wall-ceiling joints, between wall panels, at penetrations for plumbing, electrical and gas lines, and at other openings.

§20. Section 301.2 of the New York city mechanical code, as added by local law number 33 for the year 2007, is amended to read as follows:

301.2 Energy utilization. Heating, ventilating and air-conditioning systems of all structures shall be designed and installed for efficient utilization of energy in accordance with the [Energy Conservation Construction Code of New York State] *New York City Energy Conservation Code*.

§21. Exception 3 of section 303.3 of the New York city mechanical code, as added by local law number 33 for the year 2007, is amended to read as follows:

3. Appliances installed in a dedicated enclosure in which all combustion air is taken directly from the outdoors, in accordance with Section 703. Access to such enclosure shall be through a solid door, weather-stripped in accordance with the exterior door air leakage requirements of the [Energy Conservation Construction Code of New York State] *New York City Energy Conservation Code* and equipped with an approved self-closing device.

§22. Section 312.1 of the New York city mechanical code, as added by local law number 33 for the year 2007, is amended to read as follows:

312.1 Load calculations. Heating and cooling system design loads for the purpose of sizing systems, appliances and equipment shall be determined in accordance with the procedures described in the ASHRAE Handbook of Fundamentals. Heating and cooling loads shall be adjusted to account for load reductions that are achieved when energy recovery systems are utilized in the HVAC system in accordance with the ASHRAE Handbook - HVAC Systems and Equipment. Alternatively, design loads shall be determined by an approved equivalent computation procedure, using the design parameters specified in Chapter 3 of the [Energy Conservation Construction Code of New York State] *New York City Energy Conservation Code*. Heating and cooling system design loads for the purpose of sizing systems, appliances and equipment shall also comply with the requirements of Section 1204 of the *New York City Building Code*.

§23. Section 514.1 of the New York city mechanical code, as added by local law number 33 for the year 2007, is amended to read as follows:

514.1 General. Energy recovery ventilation systems shall be installed in accordance with this section. Where required for purposes of energy conservation, energy recovery ventilation systems shall also comply with the [Energy Conservation Construction Code of New York State] *New York City Energy Conservation Code*.

§24. Section 603.9 of the New York city mechanical code, as added by local law number 33 for the year 2007, is amended to read as follows:

603.9 Joints, seams and connections. All longitudinal and transverse joints, seams and connections in metallic and nonmetallic ducts shall be constructed as specified in SMACNA *HVAC Duct Construction Standards-Metal and Flexible* and SMACNA *Fibrous Glass Duct Construction Standards* or NAIMA *Fibrous Glass Duct Construction Standards*. All longitudinal and transverse joints, seams and connections shall be sealed in accordance with the [Energy Conservation Construction Code of New York State] *New York City Energy Conservation Code*.

§25. Section 604.1 of the New York city mechanical code, as added by local law number 33 for the year 2007, is amended to read as follows:

604.1 General. Duct insulation shall conform to the requirements of Sections 604.2 through 604.13 and the [Energy Conservation Construction Code of New York State] *New York City Energy Conservation Code*.

§26. Section 903.5 of the New York city mechanical code, as added by local law number 33 for the year 2007, is amended to read as follows:

903.5 Combustion air supply. All installations of factory-built fireplaces shall comply with the requirements of the [Energy Conservation Construction Code of New York State] *New York City Energy Conservation Code* concerning combustion air supply.

§27. Section 905.4 of the New York city mechanical code, as added by local law number 33 for the year 2007, is amended to read as follows:

905.4 Combustion air supply. All fireplace stoves and room heaters shall comply with the requirements of the [Energy Conservation Construction Code of New York State] *New York City Energy Conservation Code* concerning combustion air supply.

§28. Section 1204.1 of the New York city mechanical code, as added by local law number 33 for the year 2007, is amended to read as follows:

1204.1 Insulation characteristics. Pipe insulation installed in buildings shall conform to the requirements of the [Energy Conservation Construction Code of New York State] *New York City Energy Conservation Code*, shall be tested in accordance with ASTM E 84 and shall have a maximum flame spread index of 25 and a smoke-developed index not exceeding 450. Insulation installed in an air plenum shall comply with Section 602.2.1.

§29. Section 1204.2 of the New York city mechanical code, as added by local law number 33 for the year 2007, is amended to read as follows:

1204.2 Required thickness. Hydronic piping shall be insulated to the thickness

required by the [Energy Conservation Construction Code of New York State] New York City Energy Conservation Code.

§30. If any section, subdivision, paragraph, item, sentence, clause, phrase or other portion of this local law is for any reason declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which remaining portions shall continue in full force and effect.

§31. This local law shall take effect on July 1, 2010 and shall apply to work for which applications for construction document approval are submitted to the department of buildings on and after such date; provided, that the commissioner of buildings shall take all actions necessary to implement this local law, including the promulgation of rules, on or before such effective date.

JAMES F. GENNARO, Chairperson; BILL de BLASIO, G. OLIVER KOPPELL, DONEMIC M. RECCHIA JR., PETER F. VALLONE JR., MELISSA MARK-VIVERITO, THOMAS WHITE JR., MATHIEU EUGENE, ELIZABETH CROWLEY, ERIC A. ULRICH, Committee on Environmental Protection, December 8, 2009.

(The following is the text of a Message of Necessity from the Mayor for the Immediate Passage of Int No. 564-A:)

**THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007**

Pursuant to authority vested in me by section twenty of the Municipal Home Rule and by section thirty-seven of the New York City Charter, I hereby certify to the necessity for the immediate passage of a local law, entitled:

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to establishing a New York city energy code.

Given under my hand and seal this 9th day of December, 2009 at City Hall in the City of New York.

Michael R. Bloomberg
Mayor

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for Int. No. 967-A

Report of the Committee on Environmental Protection in favor of approving and adopting, as amended, a Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to requiring energy audits and retro-commissioning of base building systems of certain buildings and retro-fitting of certain city-owned buildings.

The Committee on Environmental Protection, to which the annexed amended proposed local law was referred on April 22, 2009 (Minutes, page 1696), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Environmental Protection for Int No. 476-A printed above in these Minutes)

(The following is from the text of the Fiscal Impact Statement for Int. No. 967-A:)

FISCAL IMPACT STATEMENT:

| | Effective FY 10 | FY Succeeding Effective FY 11 | Full Fiscal Impact FY 10 |
|-------------------------|-----------------|-------------------------------|--------------------------|
| Revenues (+) | \$0 | \$0 | \$0 |
| Expenditures (-) | \$4,500,000 | \$34,350,000 | \$4,500,000 |
| Net | \$4,500,000 | \$34,350,000 | \$4,500,000 |

IMPACT ON REVENUES: Revenues resulting from the collection of filing fees will be designed to wholly fund the Division of Energy Management, and net to zero. As of this writing a fee schedule has not been finalized.

IMPACT ON EXPENDITURES: It estimated additional cost to the City from this legislation in Fiscal Year 2010 will be \$4.5 million in expense funding related to audits only, Fiscal Year 2011 will have a charge to the expense funds of \$13.3 million and a charge to capital funds of \$21.1 million, the average cost per year from 2012 through Fiscal 2017 is \$16.7 million in expense funds and \$40.4 million in capital funds. Within the charges to expense funds there is a \$5.3 million cost for waste water treatment plants, these plants fall under the Department of Environmental Protection are paid for using water rate revenue.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: The City of New York's General Fund and Capital Budget.

SOURCE OF INFORMATION: The Department of Citywide Administrative Services, the Mayors Office of Long Term Planning and the City Council Finance Division.

ESTIMATE PREPARED BY: Jonathan Rosenberg, Deputy Director
Nathan Toth, Assistant Director

HISTORY: Introduced as Int. 967 by Council and referred to the Committee on Environmental Protection on April 22nd, 2009. On June 26th, 2009 the Committee held a hearing and Int. 967 was laid over. An amendment has been proposed, and the bill will be considered by Committee as Proposed Int. 967-A on December 8, 2009.

Accordingly, Your Committee recommends the adoption of Int No. 967-A along with Int Nos. 476-A, 564-A, and 973-A.

(The following is the text of Int. No. 967-A:)

Int. No. 967-A

By Council Member Gennaro, the Speaker (Council Member Quinn), Brewer, Comrie, Dickens, Garodnick, Gioia, James, Koppell, Lappin, Mitchell, Palma, Recchia Jr., Reyna, Rivera, Stewart, Liu, Yassky, Sears, White, Mendez, de Blasio, Mark-Viverito, Vann, Avella, Vacca, Gerson, Jackson, Gonzalez, Ferreras, Vallone Jr., Barron, Arroyo, Crowley and Mealy.

A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to requiring energy audits and retro-commissioning of base building systems of certain buildings and retro-fitting of certain city-owned buildings.

Be it enacted by the Council as follows:

Section 1. Chapter 3 of title 28 of the administrative code of the city of New York is amended by adding a new article 308 to read as follows:

ARTICLE 308

ENERGY AUDITS AND RETRO-COMMISSIONING OF BASE BUILDING SYSTEMS

§28-308.1 Definitions. As used in this article, the following terms shall have the following meanings:

BASE BUILDING SYSTEMS. The systems or subsystems of a building that use energy and/or impact energy consumption including:

1. The building envelope.
2. The HVAC (heating ventilating and air conditioning) systems.
3. Conveying systems.
4. Domestic hot water systems.
5. Electrical and lighting systems.

Exception: The term "base building systems" shall not include:

1. Systems or subsystems owned by tenants (other than a net lessee for a term of 49 years or more, inclusive of renewal options), condominium unit owners or cooperative unit shareholders, or a system or subsystems for which a tenant bears full maintenance responsibility and that is within the tenant's leased space and/or exclusively serves such leased space.
2. Industrial processes that occur within a covered building.

BUILDING MANAGEMENT SYSTEM. A computer-based system that monitors and controls a building's mechanical and electrical equipment, such as HVAC, lighting, power, fire, and security systems, including, at a minimum, control of the heating equipment using interior temperature sensors.

CITY BUILDING. A covered building that is owned by the city and for which the city regularly pays all or part of the annual energy bills.

Exception: The term "city building" shall not include:

1. Any building that participates in the tenant interim lease apartment purchase program.
2. Any building that participates in a program administered by the department of housing preservation and development.
3. Any building managed by the New York city health and hospitals corporation.
4. Any senior college in the City University of New York system.
5. Any cultural institution that is in the Cultural Institutions Group as determined by the department of cultural affairs.

COVERED BUILDING. As it appears in the records of the department of finance: (i) a building that exceeds 50,000 gross square feet (4645 m²), (ii) two or more buildings on the same tax lot that together exceed 100,000 gross square feet (9290 m²), or (iii) two or more buildings held in the condominium form of ownership that are governed by the same board of managers and that together exceed 100,000 gross square feet (9290 m²).

Exception: The term "covered building" shall not include real property classified as class one pursuant to subdivision one of section 1802 of the real property tax law of the state of New York.

CURRENT FACILITY REQUIREMENTS. The owner's current operational needs and requirements for a building, including temperature and humidity set points, operating hours, filtration, and any integrated requirements such as controls, warranty review, and service contract review.

ENERGY AUDIT OR AUDIT. A systematic process of identifying and developing modifications and improvements of the base building systems, including but not limited to alterations of such systems and the installation of new equipment, insulation or other generally recognized energy efficiency technologies to optimize energy performance of the building and achieve energy savings, provided that such process shall not be less stringent than the Level II Energy Survey and Engineering Analysis of the 2004 edition of Procedures for Commercial Building Energy Audits published by the American Society of Heating, Refrigerating and Air-conditioning Engineers Inc. (ASHRAE).

ENERGY AUDITOR. An approved agency authorized by the department to perform energy audits and to certify audit reports required by this article. Until such time as there is a national standard establishing qualifications for persons performing energy audits and such standard has been adopted by the department, an energy auditor shall be a registered design professional with such other certification or qualification as the department deems to be appropriate. After the establishment of such a national standard, the department may adopt the qualifications of the national standard with such modifications as the department deems to be appropriate.

ENERGY MANAGEMENT SYSTEM. A system incorporating interior temperature sensors and a central processing unit and controls, which are used to monitor and control gas, steam and oil usage, as is applicable, based on the need for heating.

ENERGY EFFICIENCY REPORT. The report required to be filed pursuant to section 28-308.4.

FINANCIAL HARDSHIP (OF A BUILDING). A building shall be considered to be subject to financial hardship if the building:

1. Had arrears of property taxes or water or wastewater charges that resulted in the property's inclusion, within two years prior to the due date of an energy efficiency report, on the department of finance's annual New York city tax lien sale list;
2. Is exempt from real property taxes pursuant to sections 420-a, 420-b, 446 or 462 of the real property tax law and applicable local law and the owner had negative revenue less expenses during the two tax years prior to the due date of an energy efficiency report as certified to the department by a certified public accountant;
3. Had outstanding balances under the department of housing preservation and development's emergency repair program that resulted in the property's inclusion, within two years prior to the due date of an energy efficiency report, on the department of finance's annual New York city tax lien sale list; or
4. Has an active or effective commitment letter from a governmental agency that provides for the financing of the rehabilitation, within a period of 5 years or less, of such building by such government agency for the purposes of affordable housing for low or moderate income families.

OWNER. The owner of record of a covered building, except that in the case of a net lease of an entire building for a term of 49 years or more, inclusive of renewal options, the term owner shall refer to the net lessee and in the case of a covered building held in cooperative or condominium form of ownership, the term owner shall refer to the board of managers in the case of a condominium and the board of directors in the case of a cooperative apartment corporation.

RETRO-COMMISSIONING. A systematic process for optimizing the energy efficiency of existing base building systems through the identification and correction of deficiencies in such systems, including but not limited to repairs of defects,

cleaning, adjustments of valves, sensors, controls or programmed settings, and/or changes in operational practices.

RETRO-COMMISSIONING AGENT. An individual, who shall not be a certified refrigerating system operating engineer or a licensed high pressure boiler operating engineer on the staff of the building being retro-commissioned, authorized by the department to certify retro-commissioning reports required by this article. Until such time as there is a national standard establishing qualifications for persons who perform retro-commissioning and such standard has been adopted by the department, a retro-commissioning agent shall be a registered design professional, a certified refrigerating system operating engineer, or a licensed high pressure boiler operating engineer, with such other qualification or certification as determined by the department. After the establishment of such a national standard, the department may adopt the qualifications of the national standard with such modifications as the department deems to be appropriate.

SIMPLE BUILDING. A covered building with neither a central chilled water system nor a central cooling system that covers more than 10% of the building's gross area.

SIMPLE PAYBACK. The number of years for the projected annual energy savings to equal the amount invested in the energy conservation measure, as determined by dividing the investment by the annual energy savings.

SPACE. An area within a building enclosed by floor to ceiling walls, partitions, windows and doors.

SYSTEM OR SUBSYSTEM. Shall have the same definition as set forth in section 202 of the New York city energy conservation code.

§28-308.2 Energy audits required. The owner shall ensure that an energy audit is performed on the base building systems of a covered building prior to filing an energy efficiency report as required by this article. Except as otherwise provided in section 28-308.7, an energy audit shall be performed by or under the supervision of an energy auditor and shall be performed in accordance with rules promulgated by the department. The audit process shall cover the base building systems and shall identify at a minimum:

1. All reasonable measures, including capital improvements, that would, if implemented, reduce energy use and/or the cost of operating the building;
2. For each measure, the associated annual energy savings, the cost to implement, and the simple payback, calculated by a method determined by the department;
3. The building's benchmarking output consistent with the United States Environmental Protection Administration (EPA) Portfolio Manager tool or as otherwise established by the department;
4. A break-down of energy usage by system and predicted energy savings by system after implementation of the proposed measures; and
5. A general assessment of how the major energy consuming equipment and systems used within tenant spaces impact the energy consumption of the base building systems based on a representative sample of spaces.

Exceptions:

1. No energy audit is required if the building complies with one of the following as certified by a registered design professional:
 - 1.1. The covered building has received an EPA Energy Star label for at least two of the three years preceding the filing of the building's energy efficiency report.
 - 1.2. There is no EPA Energy Star rating for the building type and a registered design professional submits documentation, as specified in the rules of the department, that the building's energy performance is 25 or more points better than the performance of an average building of its type over a two-year period within the three-year period prior to the filing of an energy efficiency report consistent with the methodology of the Leadership in Energy and Environmental Design (LEED) 2009 rating system for Existing Buildings published by the United States Green Building Council (USGBC) or other rating system or methodology for existing buildings, as determined by the department.
 - 1.3. The covered building has received certification under the LEED 2009 rating system for Existing Buildings published by the USGBC or other rating system for existing buildings, as determined by the department, within four years prior to the filing of the building's energy efficiency report.
2. An energy audit shall not be required for the first energy efficiency report of a simple building that is in compliance with six out of seven of the following items as certified by a registered design professional:
 - 2.1. Individual heating controls. (i) Each dwelling unit in the building has one or more thermostatic controls controlling all the heating units within the dwelling unit and any heated space not within a dwelling unit has one or more thermostatic controls controlling all the heating units within the space, or (ii) the building has a central heating system controlled by an energy management system or a building management system that incorporates temperature sensors located in at least 10 percent of the dwelling units and 10 percent of the heated spaces, except that the total number of sensors required within the building shall not be less than 10 nor more than 30.

- 2.2. Common area and exterior lighting. Common area (lighting outside of tenant spaces) and exterior lighting, at a minimum, are in compliance with the provisions of the New York city energy conservation code as in effect for new systems installed on or after July 1, 2010.
- 2.3. Low flow faucets and shower heads. All faucets and showerheads within the building, at a minimum, meet the standards of table 604.4 of the New York city plumbing code as in effect for new systems installed on or after July 1, 2010.
- 2.4. Pipe insulation. All exposed pipes that are used to convey heat or hot water are insulated, at a minimum, in accordance with the standards of the New York city energy conservation code as in effect for new systems installed on or after July 1, 2010.
- 2.5. Domestic hot water. All domestic hot water tanks that do not have built-in insulation are insulated with a minimum insulation value of R-8.
- 2.6. Washing machines. All common area clothes washing machines are front loading.
- 2.7. Cool roof. The roof complies with section 1504.8 of the New York city building code as in effect for new buildings constructed on or after July 1, 2010.

§28-308.2.1 Contents of audit report. The energy auditor shall prepare and certify a report of the energy audit. Except as otherwise provided in section 28-308.7, the audit report shall include such information relating to the audit as shall be specified in the rules of the department, including but not limited to (i) the date that the audit was completed, and (ii) the information specified in section 28-308.2.

§28-308.2.1.1 Compliance with landmarks laws. The cost estimates for covered buildings that are regulated by any city, state or federal law regulating landmarks and historic buildings shall include all additional costs necessary for the proposed work to comply with such law.

§28-308.2.2 Timing of energy audit. Except as otherwise provided in section 28-308.7, the energy audit shall be completed no earlier than four years prior to the date on which a covered building's energy efficiency report is filed with the department pursuant to this article.

§28-308.3 Retro-commissioning required. The owner shall ensure that retro-commissioning is performed on the base building systems of a covered building prior to filing an energy efficiency report as required by this article. Except as otherwise provided in section 28-308.7, retro-commissioning shall be performed by or under the supervision of a retro-commissioning agent in accordance with rules promulgated by the department. Such rules, at a minimum, shall ensure that sufficient analysis, corrections and testing have been done so that the base building systems meet the following criteria demonstrating efficient operation:

1. Operating protocols, calibration, and sequencing:
 - 1.1. HVAC temperature and humidity set points and setbacks are appropriate and operating schedules reflect major space occupancy patterns and the current facility requirements.
 - 1.2. HVAC sensors are properly calibrated.
 - 1.3. HVAC controls are functioning and control sequences are appropriate for the current facility requirements.
 - 1.4. Loads are distributed equally across equipment when appropriate (i.e. fans, boilers, pumps, etc. that run in parallel).
 - 1.5. Ventilation rates are appropriate for the current facility requirements.
 - 1.6. System automatic reset functions are functioning appropriately, if applicable.
 - 1.7. Adjustments have been made to compensate for oversized or undersized equipment so that it is functioning as efficiently as possible.
 - 1.8. Simultaneous heating and cooling does not occur unless intended.
 - 1.9. HVAC system economizer controls are properly functioning, if applicable.
 - 1.10. The HVAC distribution systems, both air and water side, are balanced.
 - 1.11. Light levels are appropriate to the task.
 - 1.12. Lighting sensors and controls are functioning properly according to occupancy, schedule, and/or available daylight, where applicable.
 - 1.13. Domestic hot water systems have been checked to ensure proper temperature settings.
 - 1.14. Water pumps are functioning as designed.
 - 1.15. System water leaks have been identified and repaired.
2. Cleaning and repair:
 - 2.1. HVAC equipment (vents, ducts, coils, valves, soot bin, etc.) is clean.
 - 2.2. Filters are clean and protocols are in place to replace, as appropriate.
 - 2.3. Light fixtures are clean.

- 2.4. Motors, fans, and pumps, including components such as belts, pulleys, and bearings, are in good operating condition.
- 2.5. Steam traps have been replaced as required to maintain efficient operation, if applicable.
- 2.6. Manual overrides on existing equipment have been remediated.
- 2.7. Boilers have been tuned for optimal efficiency, if applicable.
- 2.8. Exposed hot and chilled water and steam pipes three (3) inches or greater in diameter with associated control valves are insulated in accordance with the standards of the New York city energy conservation code as in effect for new systems installed on or after July 1, 2010.
- 2.9. In all easily accessible locations, sealants and weather stripping are installed where appropriate and are in good condition.

3. Training and documentation:

- 3.1. Permits for all HVAC, electrical and plumbing equipment are in order.
- 3.2. Critical operations and maintenance staff have received appropriate training, which may include labor/management training, on all major equipment and systems and general energy conservation techniques.
- 3.3. Operational and maintenance record keeping procedures (log books, computer maintenance records, etc.) have been implemented.
- 3.4. The following documentation is on site and accessible to the operators: the operations and maintenance manuals, if such manuals are still available from the manufacturer, the maintenance contracts, and the most recent retro-commissioning report.

Exception: No retro-commissioning is required if the covered building has received certification under the LEED 2009 rating system for Existing Buildings published by the USGBC or other rating system for existing buildings, as determined by the department, within two years prior to the filing of the building's energy efficiency report and earned the LEED point for Existing Building Commissioning investigation and analysis and the LEED point for Existing Building Commissioning implementation.

§28-308.3.1 Contents of retro-commissioning report. The retro-commissioning agent shall prepare and certify a retro-commissioning report. The retro-commissioning report shall include such information relating to the retro-commissioning as shall be set forth in the rules of the department including, at a minimum:

1. Project and team information:

1.1 Building address.

1.2 Experience and certification of person performing retro-commissioning and any staff involved in the project.

1.3 Name, affiliation, and contact information for persons performing retro-commissioning and members of the retro-commissioning team, owner of building, and facility manager of building.

2. Building information:

2.1. List of all HVAC, domestic hot water, electrical equipment, lighting, and conveyance equipment types in the base building systems.

2.2. Benchmarking output.

3. Testing protocol:

3.1. List of all equipment types tested.

3.2. For each equipment type tested, a list of the sample rates (percent of each type of equipment tested), the testing methodology, including any diagnostic equipment used, and the test results.

3.3. List of integrated system testing performed.

4. Master list of findings, including for each, the name of the retro-commissioning measure and its assigned number, a brief description of the measure, recommended corrections, the benefits attained, estimated annual savings (energy and cost), the estimated implementation cost, and the simple payback.

5. Deficiencies corrected:

5.1. List of repairs completed during investigation.

5.2. List of deficiencies corrected, including, for each deficiency, the date corrected, by whom the correction was made, the actual cost, and projected savings.

§28-308.3.2 Timing of retro-commissioning. Except as otherwise provided in section 28-308.7, the retro-commissioning shall be completed no earlier than four years prior to the date on which a covered building's energy efficiency report is filed with the department pursuant to this article.

§28-308.3.3 Documentation of retro-commissioning. A copy of the latest up-to-date equipment manuals and the most recent retro-commissioning report shall be maintained at every covered building and shall be made available upon

request for inspection by the department.

§28-308.4 Energy efficiency report required. Except as otherwise provided in section 28-308.7, the owner of a covered building shall file an energy efficiency report for such building between January first and December thirty-first of the calendar year in which such report is due pursuant to this section and between January first and December thirty-first of every tenth calendar year thereafter.

Exceptions:

1. An owner may apply for an extension of time to file an energy efficiency report if despite such owner's good faith efforts, to be documented in such application, the owner is unable to complete the required energy audit and retro-commissioning prior to the scheduled due date for such report. The commissioner may grant no more than two such extensions of no more than one year each. Extensions granted pursuant to this provision shall not extend the scheduled due dates for subsequent energy efficiency reports.
2. An owner may receive annual extensions of time to file an energy efficiency report based on financial hardship of the building.

§28-308.4.1 Due dates. The first energy efficiency reports for covered buildings in existence on the effective date of this article and for new buildings shall be due, beginning with calendar year 2013, in the calendar year with a final digit that is the same as the last digit of the building's tax block number, as illustrated in the following chart:

| | | | | | | | | | | |
|--------------------------------|------|------|------|------|------|------|------|------|------|------|
| Last digit of tax block number | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
| Year first EER is due | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 |

Owners of covered buildings (i) that are less than 10 years old at the commencement of their first assigned calendar year or (ii) that have undergone substantial rehabilitation, as certified by a registered design professional, within the 10 year period prior to any calendar year in which an energy efficiency report is due, such that at the commencement of such calendar year all of the base building systems of such building are in compliance with the New York city energy conservation code as in effect for new buildings constructed on and after July 1, 2010, or as in effect on the date of such substantial rehabilitation, whichever is later, may defer submitting an energy efficiency report for such building until the tenth calendar year after such assigned calendar year.

Exception: The first due dates for city buildings shall be in accordance with a staggered schedule, commencing with calendar year 2013 and ending with calendar year 2022 for buildings in existence on the effective date of this article, to be submitted by the department of citywide administrative services to the department on or prior to December 31, 2011. A city building constructed after the effective date of this article shall be added to such schedule within 10 years after the issuance of the first certificate of occupancy for such building. Copies of energy efficiency reports submitted to the department with respect to city buildings that are not submitted by the department of citywide administrative services shall also be submitted to the department of citywide administrative services.

§28-308.4.2 Combined audit and retro-commissioning. Nothing in this article shall prevent an owner from performing the audit and the retro-commissioning in a combined process, provided that all the requirements of sections 28-308.2 and 28-308.3 are met.

§28-308.5 Content of energy efficiency report. Except as otherwise provided in section 28-308.7, the energy efficiency report shall include, in a format prescribed by the department, (i) the energy audit report or documentation substantiating that an exception as set forth in section 28-308.2 applies to such building, and (ii) the retro-commissioning report or documentation substantiating that an exception as set forth in section 28-308.3 applies to such building.

§28-308.6 Notification by the department of finance. The department of finance shall notify the owner of the requirements of this article three years prior to the calendar year in which the covered building's energy efficiency report is due and in the calendar year prior to the calendar year in which such report is due.

§28-308.7 Early compliance. Notwithstanding any other provision of this article, an owner may submit an energy efficiency report, including both an energy audit report pursuant to section 28-308.7.1 and a retro-commissioning report pursuant to section 28-308.7.2, in the calendar year commencing January 1, 2013 and ending December 31, 2013 in order to achieve early compliance with this section. An energy efficiency report submitted for early compliance shall be deemed to satisfy the first required energy efficiency report for the building as assigned pursuant to section 28-308.4.1. The next required energy efficiency report for such building shall be due in the tenth calendar year after the first assigned due date for such report.

§28-308.7.1 Early compliance energy audit report. An energy audit report for a covered building shall be acceptable for early compliance if it is completed after January 1, 2006 and it includes:

1. The address of the building, completion date of the audit, signature and credentials of the person performing or supervising the performance of the audit and of the audit team; and
2. The information required in items 1 through 5 of section 28-308.2.

§28-308.7.1.1 Early compliance audit completed after January 1, 2006 and prior to the effective date of this article. An early compliance audit completed after January 1, 2006 and prior to the effective date of this article shall have met the following additional criteria:

1. The audit shall have met the requirements of the Level II Energy Survey and Analysis of the 2004 edition of Procedures for Commercial Building Energy Audits published by ASHRAE; or
2. The audit shall have been performed under a New York Power Authority or New York State Energy Research and Development Authority (NYSERDA) contract or by a NYSERDA Flex Tech contractor; and
3. The audit report shall be submitted along with certification by a registered design professional that the audit satisfies the criteria of this section.
4. A partial audit completed after January 1, 2006 and prior to the effective date of this article shall qualify for early compliance only if the base building systems that were not subject to such audit are audited, after the effective date of this article, in the manner set forth in section 28-308.7.1.2.

§28-308.7.1.2 Early compliance audit completed after the effective date of this article. An early compliance audit completed after the effective date of this article shall meet the following additional criteria:

1. The audit shall be performed by or under the supervision of a registered design professional and shall meet the requirements of the Level II Energy Survey and Analysis of the 2004 edition of Procedures for Commercial Building Energy Audits published by ASHRAE;
2. The auditing team shall include an individual who is one of the following:
 - 2.1. A NYSERDA-approved Flex Tech contractor;
 - 2.2. A Certified Energy Manager (CEM) or Certified Energy Auditor (CEA), certified by the Association of Energy Engineers (AEE);
 - 2.3. A High-Performance Building Design Professional (HPBD) certified by ASHRAE; or
 - 2.4. For audits of multifamily residential buildings only, a Multi-family Building Analyst (MFBA), certified by the Building Performance Institute (BPI), or have such other qualification or certification as determined by the department;
3. An individual with at least three years of professional experience performing energy audits on buildings larger than 50,000 gross square feet (4645 m²) shall be a member of the auditing team;
4. The building's operations and maintenance staff shall be consulted at the start of and during the audit process; and
5. The registered design professional performing or supervising the audit shall certify that the audit satisfies the criteria of this section.

§28-308.7.2 Early compliance retro-commissioning. a. Retro-commissioning shall be acceptable for early compliance if it is completed after the effective date of this article and meets the following criteria:

1. The retro-commissioning shall be performed under a NYSERDA contract for base building retro-commissioning or certified by an individual who is not on the staff of the building and is (i) a registered design professional, (ii) a certified Refrigerating System Operating Engineer, or (iii) a licensed High Pressure Boiler Operating Engineer;
 2. The retro-commissioning team shall include an individual who is a Certified Commissioning Professional (CCP) certified by the Building Commissioning Association (BCA), a Certified Building Commissioning Professional (CBCP) certified by the AEE, a Commissioning Process Management Professional (CPMP) certified by ASHRAE, or an Accredited Commissioning Process Authority Professional (ACPAP) approved by the University of Wisconsin, or has such other certification as determined by the department;
 3. The retro-commissioning team shall include an individual with at least one year of professional experience performing retro-commissioning on the mechanical systems of buildings larger than 50,000 gross square feet (4645 m²);
 4. The building's operations and maintenance staff shall be consulted at the start of and during the retro-commissioning process; and
 5. The retro-commissioning report shall contain a certification that sufficient analysis and testing has been done and corrections have been performed so that the base building systems meet the criteria of section 28-308.3 and shall include the information specified in section 28-308.3.1.
- b. Nothing in this section shall be construed to determine which individuals may perform the work to correct deficiencies identified during the retro-commissioning process, except as otherwise provided by applicable law.

§28-308.8 Optional compliance for energy efficiency reports due in the calendar year commencing January 1, 2013. Notwithstanding any other provision of this article, audits and retro-commissioning for energy efficiency reports scheduled to be due in the calendar year commencing January 1, 2013 shall be

performed, at the option of the owner, in accordance with the provisions for early compliance as set forth in section 28-308.7 or in accordance with procedures set forth in the rules of the department, if such procedures are promulgated within one year prior to the due date of such report. If such procedures are not promulgated within one year prior to the due date of such report, audit and retro-commissioning for energy efficiency reports due in the calendar year commencing January 1, 2013 shall comply with the audit and retro-commissioning procedures for early compliance.

§28-308.9 Rules. The department shall promulgate such rules as are necessary to carry out the provisions of this article in a timely manner, which may include separate fees for filing and review of applications and reports filed pursuant to this article.

§2. Chapter 9 of the New York city charter is amended by adding a new section 224.2 to read as follows:

§224.2 *Required energy conservation projects in city buildings.* a. *Definitions.* For the purposes of this section, the terms ‘base building systems’, ‘city building’, ‘energy audit’, ‘energy efficiency report’, and ‘simple payback’ shall have the same meanings as defined in section 28-308.1 of the administrative code.

b. No later than one year after the submission, in accordance with article three hundred eight of chapter three of title twenty-eight of the administrative code, of an energy efficiency report for a city building, reasonable capital improvements to the building’s base building systems that are recommended in the building’s energy audit shall be completed, including, at a minimum, all those improvements of the base building systems having a simple payback of not more than seven years or capital improvements that, when combined, would equal or exceed the overall reduction in energy consumption of such recommended capital improvements having a simple payback of not more than seven years.

c. The mayor shall promulgate rules as may be necessary to carry out the provisions of this section.

§3. Report on capital improvements of base building systems. The department of citywide administrative services shall submit annual reports to the mayor and the speaker of the city council on capital improvements of base building systems completed pursuant to section 224.2 of the charter, as added by section 2 of this local law, for each city fiscal year commencing with the fiscal year beginning July 1, 2013. The first such report for the fiscal year commencing July 1, 2013 shall be submitted by December 31, 2014. Subsequent reports shall be due six months after the close of the fiscal year covered by the report. Each report shall include at a minimum:

a. The latest energy efficiency reports (including energy audit and retro-commissioning) submitted pursuant to article three hundred eight of chapter three of title twenty-eight of the administrative code for each building covered by the applicable report of the department of citywide administrative services.

b. An analysis of the most commonly recommended capital improvements of base building systems recommended in the energy audits of such buildings.

c. An analysis of the accuracy of such energy audits in predicting costs of the recommended capital improvements.

d. An analysis after one year of operation of the accuracy with which such audits predicted the actual saving achieved by the capital improvements.

e. Recommendations as to appropriate legislative or administrative actions or a statement as to why no legislative or administrative actions are needed.

§4. Severability. If any section, subsection, sentence, clause, phrase or other portion of this local law is for any reason declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this local law, which remaining portions shall continue in full force and effect.

§5. This local law shall take effect immediately.

JAMES F. GENNARO, Chairperson; BILL de BLASIO, G. OLIVER KOPPELL, DONEMIC M. RECCHIA JR., PETER F. VALLONE JR., MELISSA MARK-VIVERITO, THOMAS WHITE JR., MATHIEU EUGENE, ELIZABETH CROWLEY, ERIC A. ULRICH, Committee on Environmental Protection, December 8, 2009.

(The following is the text of a Message of Necessity from the Mayor for the Immediate Passage of Int No. 967-A:)

**THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007**

Pursuant to authority vested in me by section twenty of the Municipal Home Rule and by section thirty-seven of the New York City Charter, I hereby certify to the necessity for the immediate passage of a local law, entitled:

A LOCAL LAW

To amend the New York city charter and the administrative code of the city of New York, in relation to requiring energy audits and retro-commissioning of base building systems of certain buildings and retro-fitting of certain city-owned buildings.

Given under my hand and seal this 9th day of December, 2009 at City Hall in the City of New York.

Michael R. Bloomberg
Mayor

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for Int. No. 973-A

Report of the Committee on Environmental Protection in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to upgrading lighting systems in existing buildings greater than 50,000 gross square feet.

The Committee on Environmental Protection, to which the annexed amended proposed local law was referred on April 22, 2009 (Minutes, page 1713), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Environmental Protection for Int No. 476-A printed above in these Minutes)

(The following is from the text of the Fiscal Impact Statement for Int. No. 973-A:)

FISCAL IMPACT STATEMENT:

| | Effective FY 10 | FY Succeeding Effective FY 11 | Full Fiscal Impact FY 10 |
|-------------------------|-----------------|-------------------------------|--------------------------|
| Revenues (+) | \$0 | \$0 | \$0 |
| Expenditures (-) | \$7,500,000 | \$15,000,000 | \$15,000,000 |
| Net | \$7,500,000 | \$15,000,000 | \$15,000,000 |

IMPACT ON REVENUES: Fines for non-compliance have yet to be established Intro. 973-A 2

IMPACT ON EXPENDITURES: It estimated additional cost to the City from this legislation in \$15million per year in capital dollars.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: The City of New York’s Capital Budget.

SOURCE OF INFORMATION: The Department of Citywide Administrative Services, the Mayors Office of Long term Planning and Sustainability and the City Council Finance Division.

ESTIMATE PREPARED BY: Jonathan Rosenberg, Deputy Director
Nathan Toth, Assistant Director

HISTORY: Introduced as Int. 973 by Council and referred to the Committee on Environmental Protection on April 22nd, 2009. On June 26th, 2009 the Committee held a hearing and Int. 973 was laid over. An amendment has been proposed, and the bill will be considered by Committee as Proposed Int. 973-A on December 8, 2009.

Accordingly, Your Committee recommends the adoption of Int No. 967-A along with Int Nos. 476-A, 564-A, and 973-A.

(The following is the text of Int. No. 973-A:)

Int. No. 973-A

By Council Members Recchia, Jr., the Speaker (Council Member Quinn), Comrie, Dickens, Fidler, Garodnick, Gioia, James, Lappin, Mitchell, Nelson, Reyna, Rivera, Stewart, Liu, Yassky, Sears, White, Mendez, de Blasio, Mark-Viverito,

Katz, Vallone Jr., Gerson, Koppell, Vann, Avella, Vacca, Jackson, Brewer, Gonzalez, Ferreras, Barron, Arroyo, Crowley, Gennaro and Mealy.

A Local Law to amend the administrative code of the city of New York, in relation to upgrading lighting systems and the installation of sub-meters in certain buildings.

Be it enacted by the Council as follows:

Section 1. Declaration of legislative findings and intent. The Council finds that non-residential lighting is responsible for almost 18% of the energy used in New York City's buildings and roughly 18% of carbon emissions from buildings, that tenant electrical use can account for the majority of the electricity consumed in many large non-residential buildings, and that patterns of electrical consumption in tenant spaces are often not known by tenants. Rapid improvements in lighting technology in the past decades have made it feasible to dramatically reduce energy consumption by installing more efficient lighting systems, and any investments made to install such systems will typically be realized through operational savings. Furthermore, most large buildings have one master meter for electricity that measures building-wide usage, as opposed to separate meters that provide such information on a per tenant basis. The Council finds that the consumption of energy for lighting and other electrical equipment can be reduced if code-compliant lighting is installed in non-residential spaces and electrical measuring equipment is installed and data on electrical energy use is made available to commercial tenants.

§2. Chapter 3 of title 28 of the administrative code of the city of New York is amended by adding new articles 310 and 311 to read as follows:

ARTICLE 310

REQUIRED UPGRADE OF LIGHTING SYSTEMS

§28-310.1 General. Lighting systems in covered buildings shall be upgraded as provided for in this article.

§28-310.2 Definitions. As used in this article, the following terms shall have the following meanings:

COVERED BUILDING. As it appears in the records of the department of finance: (i) a building that exceeds 50,000 gross square feet (4645 m²), (ii) two or more buildings on the same tax lot that together exceed 100,000 gross square feet (9290 m²), or (iii) two or more buildings held in the condominium form of ownership that are governed by the same board of managers and that together exceed 100,000 gross square feet (9290 m²).

Exception: The term "covered building" shall not include real property classified as class one pursuant to subdivision one of section 1802 of the real property tax law.

UPGRADE. The installation or modification of the lighting system of a covered building to comply with the standards required for new systems, including all of the following elements: lighting controls (interior lighting controls, light reduction controls and automatic lighting shutoff), tandem wiring, exit signs, interior lighting power requirements and exterior lighting.

§28-310.3 Upgrade of lighting systems of covered buildings required. The lighting systems of covered buildings shall be upgraded to comply with the standards for new systems set forth in section 805 of the New York city energy conservation code and/or applicable standards referenced in such energy code on or prior to January 1, 2025. The owner of a covered building shall ensure that the upgrade of the lighting system of the entire covered building is completed on or prior to such date and shall file a report with the department, on or prior to such date, prepared by a registered design professional or a licensed master or special electrician certifying that such upgrade has been completed and that the work is in compliance with the technical standards of the New York city electrical code. The department may impose a fee for filing and review of such reports.

Exceptions:

1. No upgrade is required for (i) an element of a lighting system that is in compliance with the standards of the New York city energy conservation code and/or applicable standards referenced in such code as in effect for new systems installed on or after July 1, 2010, or (ii) lighting power densities in any space bounded by permanent floor-to-ceiling partitions and/or closable doors that are in compliance with the standards of the New York city energy conservation code and/or applicable standards referenced in such code as in effect for new systems installed on or after July 1, 2010.

2. No upgrade is required for the lighting system within dwelling units classified in occupancy group R-2 or R-3 or spaces serving such dwelling units, including but not limited to, hallways, laundry rooms, or boiler rooms.

3. No upgrade is required for the lighting system within

a space classified in occupancy group A-3 that is within a house of worship.

ARTICLE 311

INSTALLATION OF ELECTRICAL SUB-METERS IN TENANT SPACES

§28-311.1 General. Sub-meters shall be installed in covered buildings as provided in this article.

§28-311.2 Definitions. As used in this article, the following terms shall have the following meanings:

COVERED BUILDING. As it appears in the records of the department of finance: (i) a building that exceeds 50,000 gross square feet (4645 m²), (ii) two or more buildings on the same tax lot that together exceed 100,000 gross square feet (9290 m²), or (iii) two or more buildings held in the condominium form of ownership that are governed by the same board of managers and that together exceed 100,000 gross square feet (9290 m²).

Exception: The term "covered building" shall not include real property classified as class one pursuant to subdivision one of section 1802 of the real property tax law.

COVERED TENANT SPACE. (i) A tenant space larger than 10,000 gross square feet (929 m²) on one or more floors of a covered building let or sublet to the same person, or (ii) a floor of a covered building larger than 10,000 gross square feet (929 m²) consisting of tenant spaces let or sublet to two or more different persons.

Exception: The term "covered tenant space" shall not include dwelling units classified in occupancy group R-2 or R-3.

METER. A device installed by an electrical utility company or corporation that measures the flow of electricity supplied to a building or to a defined space within a building and used by the utility to bill consumers for electrical service.

SUB-METER. A device meeting the standards of the department or, where applicable, the public service commission, installed within a building's electrical distribution system that measures the flow of electricity within a defined space within the building and that may, but need not, be used for apportioning the cost of electricity among the building's tenants or subtenants.

TENANT SPACE. Space within a covered building that is let or sublet to another person by the owner or a lessee of such space.

§28-311.3 Sub-meters required for covered tenant spaces. On and after January 1, 2025, the electrical consumption of each covered tenant space shall be measured by one or more sub-meters. Sub-meters shall be installed in existing covered tenant spaces by the owner or the lessor of such space on or prior to January 1, 2025 and thereafter as new covered tenant spaces are created within the building. If the covered tenant space is a floor with multiple tenancies, each tenancy that is 10,000 gross square feet (929 m²) or less shall (i) have a separate sub-meter, (ii) share a sub-meter with other tenant spaces on the floor, or (iii) share a sub-meter covering the entire floor.

Exception: Covered tenant space for which the electrical consumption within such space is measured by a meter dedicated exclusively to that space.

§28-311.4 Monthly statements. Each tenant or subtenant within a covered tenant space that has a sub-meter or sub-meters to measure electrical consumption shall be provided with a monthly statement showing the amount of electricity measured by the sub-meter for such tenant or subtenant during the month, and any amount charged to the tenant or subtenant for electricity. If the covered tenant space is a floor with multiple tenancies and the tenant's sub-meter covers other tenant spaces, the statement for such tenant shall show the electrical consumption for the area covered by the sub-meter and the percentage of that area that is leased by the tenant.

§28-311.5 Reports. The owner of each covered building shall file a report with the department on or prior to January 1, 2025 prepared by a registered design professional or a licensed master or special electrician certifying that sub-meters have been installed in all covered tenant spaces in such building as required by this article or that covered tenant spaces are subject to the exception set forth in section 28-311.3. The department may impose a fee for filing and processing such reports.

§3. Severability. If any section, subsection, sentence, clause, phrase or other portion of this local law is for any reason declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this local law, which remaining portions shall continue in full force and effect.

§4. This local law shall take effect immediately.

JAMES F. GENNARO, Chairperson; BILL de BLASIO, G. OLIVER KOPPELL, DONEMIC M. RECCHIA JR., PETER F. VALLONE JR., MELISSA MARK-VIVERITO, THOMAS WHITE JR., MATHIEU EUGENE, ELIZABETH CROWLEY, ERIC A. ULRICH, Committee on Environmental Protection, December 8, 2009.

(The following is the text of a Message of Necessity from the Mayor for the Immediate Passage of Int No. 973-A:)

**THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007**

Pursuant to authority vested in me by section twenty of the Municipal Home Rule and by section thirty-seven of the New York City Charter, I hereby certify to the necessity for the immediate passage of a local law, entitled:

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to upgrading lighting systems and the installation of sub-meters in buildings greater than 50,000 gross square feet.

Given under my hand and seal this 9th day of December, 2009 at City Hall in the City of New York.

Michael R. Bloomberg
Mayor

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

At this point the Speaker (Council Member Quinn) announced that the following items had been reconsidered by the Committee on Environmental Protection and had been favorably reported for adoption.

Report for Res. No. 2289

Report of the Committee on Environmental Protection in favor of approving a Resolution pursuant to the New York State Environmental Quality Review Act setting forth findings of the Council concerning the environmental review conducted for Proposed Int. No. 476-A, Proposed Int. No. 564-A, Proposed Int. No. 967-A and Proposed Int. No. 973-A.

The Committee on Environmental Protection, to which the annexed resolution was referred on December 9, 2009, respectfully

REPORTS:

Preconsidered Res. No. 2289 is a determination that the Environmental Assessment Statement prepared by the Economic Development Corporation on behalf of the Office of the Mayor with respect to Proposed Int. No. 476-A, Proposed Int. No. 564-A, Proposed Int. No. 967-A, and Proposed Int. No. 973-A, dated December 7, 2009, satisfies the requirements of the State Environmental Quality Review Act. (Preconsidered Res. No. 2289 and the environmental analysis are annexed.)

Pursuant to the Rules of Procedure for City Environmental Quality Review §5-03(d), the Council, as a co-lead agency, has considered the relevant environmental issues attendant to such enactment and in making its findings and determinations under the State Environmental Quality Review Act (Environmental Conservation Law Article 8), the Council has relied on that Environmental Assessment Statement.

Accordingly, Your Committee recommends its adoption.

(The following is the text of Res. No. 2289:)

Res. No. 2289

Resolution pursuant to the New York State Environmental Quality Review Act setting forth findings of the Council concerning the environmental review conducted for Proposed Int. No. 476-A, Proposed Int. No. 564-A, Proposed Int. No. 967-A and Proposed Int. No. 973-A.

By Council Members Gennaro, Arroyo and Palma.

Whereas, The enactment of Proposed Int. No. 476-A, Proposed Int. No. 564-A, Proposed Int. No. 967-A and Proposed Int. No. 973-A is each an "action" as defined in section 617.2(b) of Title 6 of the Official Compilation of the Codes, Rules and Regulations of the State of New York; and

Whereas, The Mayor's Office of Environmental Coordination has prepared on behalf of the Office of the Mayor, a co-lead agency pursuant to section 5-03(d) of the Rules of Procedure for City Environmental Quality Review, an Environmental Assessment Statement, pursuant to Article 8 of the New York State Environmental Conservation Law, section 617.7 of Title 6 of the Official Compilation of the Codes, Rules and Regulations of the State of New York, and the Rules of Procedure for City Environmental Quality Review an Environmental Assessment Statement for these bills; and

Whereas, The Council, as a co-lead agency pursuant to section 5-03(d) of the Rules of Procedure for City Environmental Quality Review, has considered the relevant environmental issues as documented in the Environmental Assessment Statement attendant to such enactment and in making its findings and determinations under the Rules of Procedure for City Environmental Quality Review and the State Environmental Quality Review Act, the Council has relied on that Environmental Assessment Statement; and

Whereas, After such consideration and examination, the Council has determined that a Negative Declaration should be issued; and

Whereas, The Council has examined, considered and endorsed the Negative Declaration that was prepared; now, therefore, be it

Resolved, That the Council of the City of New York, having considered the Negative Declaration, hereby finds that:

- (1) the requirements of The State Environmental Quality Review Act, Part 617 of Title 6 of the Official Compilation of the Codes, Rules and Regulations of the State of New York, and the Rules of Procedure for City Environmental Quality Review have been met; and
- (2) as documented in the annexed Environmental Assessment Statement, the proposed action is one which will not result in any significant adverse environmental impacts; and
- (3) the annexed Negative Declaration constitutes the written statement of facts and conclusions that form the basis of this determination.

ATTACHMENT: Negative Declaration**NEGATIVE DECLARATION**

CFQR No. 09OOM001Y

Date Issued: December 8, 2009

NAME: "Greener, Greater Buildings" - Local laws to amend the Administrative Code of the City of New York, in relation to establishing a New York City energy code; benchmarking the energy and water efficiency of buildings; upgrading lighting systems and require sub-metering in large existing commercial buildings; and requiring energy audits and retro-commissioning of base building systems of certain buildings and retro-fitting of certain city-owned buildings.

LOCATION: Citywide

SEQR CLASSIFICATION: The project is classified as an Unlisted action pursuant to 6 NYCRR Part 617.2(ak)

DESCRIPTION:

The actions consist of the passage of the following 4 local laws, cumulatively entitled the "Greener, Greater Buildings" legislation that relate to the promotion of green buildings in New York City:

1. A local law to amend Title 28 of the administrative code of the city of New York by adding a new chapter 10 to establish a New York City Energy Code (hereinafter the "NYC Energy Code bill").
2. A local law to amend Chapter 3 of Title 28 of the administrative code of the city of New York by adding a new article 309 to require the benchmarking the energy and water efficiency of certain buildings (hereinafter the "Benchmarking bill").
3. A local law to amend Chapter 3 of Title 28 of the administrative code of the city of New York by adding new articles 310 and 311 to upgrade lighting systems and install sub-meters in existing single commercial buildings greater than 50,000 gross square feet or two or more buildings on a tax lot more than 100,000 gross square feet of built area (hereinafter the "Lighting Upgrade and Sub-metering bill").
4. A local law to amend both Chapter 3 of Title 28 of the administrative code of the city of New York by adding a new article 308 and the New York City Charter by adding a

new section 224.2 in order to require energy audits and retro-commissioning of base building systems of certain buildings and retro-fitting of certain city-owned buildings (hereinafter the "Audits and Retro-Commissioning bill").

Statement of No Significant Effect

Pursuant to Executive Order 91 of 1977, as amended, and the Rules of Procedure for City Environmental Quality Review, found at Title 62, Chapter 5 of the Rules of the City of New York, the Office of the Mayor and the New York City Council assumed the role of co-lead agencies for the purpose of conducting the environmental review pursuant to 62 RCNY §5-03(d). Based on an examination of information about the project contained in an Environmental Assessment Statement dated December 8, 2009 pursuant to Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617.7, the Office of the Mayor and the New York City Council have determined that the proposed action will not have a significant adverse effect on the environment.

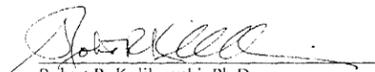
Reasons Supporting this Determination

The above determination is based on an Environmental Assessment Statement (EAS) dated December 8, 2009 and incorporated by reference herein. The EAS finds that:

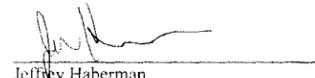
1. The proposed action is the passage of local laws to amend the Administrative Code of the city of New York, in relation to establishing a New York City energy code; benchmarking the energy and water efficiency of buildings; upgrading lighting systems and require sub-metering in large existing commercial buildings; and requiring energy audits and retro-commissioning of base building systems of certain buildings and retro-fitting of certain city-owned buildings. As such, the proposed action is generic in nature and would not be expected to result in site-specific changes that would affect the following technical areas:
 - Community Facilities and Services
 - Open Space
 - Shadows
 - Historic Resources
 - Urban Design/Visual Resources
 - Neighborhood Character
 - Natural Resources
 - Hazardous Materials
 - Infrastructure
 - Solid Waste and Sanitation Services
 - Traffic and Parking
 - Transit and Pedestrians
 - Noise
 - Construction Impacts.
2. Because the action is generic in nature, there would be no site-specific effects. The Greener, Greater Buildings legislation that encourages green building practices would be applicable to many existing buildings throughout the City. Two areas of analysis, Land Use, Zoning and Public Policy and Neighborhood Character, do not assess site-specific

effects, and instead, characterize the uses and development trends in the area or and define the characteristics of neighborhood character that may be affected by a proposed action. Because the Greener, Greater Buildings local laws do not involve a change in land use or zoning and focus upon improving the energy efficiency of existing buildings, no impact (positive or negative) to either land use, zoning and public policy or neighborhood character could result from the passage of this suite of four local laws.

3. The proposed Greener, Greater Buildings legislation would not cause new construction and affects existing buildings. In fact, the goal of this proposed legislation seeks to greatly reduce existing building energy consumption, as it is predicted that 85% of the City's current building stock will continue to operate in 2030. Therefore, the effect of the proposed legislation would positively affect the level of energy consumption citywide.
4. Because reductions in energy consumption directly correlate to reductions in stationary air emissions from power plants as well as the existing buildings covered under the proposed legislation, the proposed actions would reduce air emissions (criteria pollutants with established National Ambient Air Quality Standards as well as Greenhouse Gas Emissions), and therefore, would have a positive effect on the City's air quality.
5. No other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable.
6. This Negative Declaration was prepared in accordance with Article 8 of the New York State Environmental Conservation Law.


Robert R. Kulikowski, Ph.D.
Assistant to the Mayor

December 8, 2009
Date


Jeffrey Haberman
Deputy Director, Infrastructure Division

December 8, 2009
Date

ATTACHMENT to the Committee Report:



City Environmental Quality Review ENVIRONMENTAL ASSESSMENT STATEMENT PART I, GENERAL INFORMATION

Reference Numbers

Lead Agency & Applicant Information

Action Description

Required Action or Approvals

Action Type

Analysis Year

Directly Affected Area

Form sections 1 through 13d containing project details, applicant information, and action descriptions.

Site Description

EXCEPT WHERE OTHERWISE INDICATED, ANSWER THE FOLLOWING QUESTIONS WITH REGARD TO THE DIRECTLY AFFECTED AREA. THE DIRECTLY AFFECTED AREA CONSISTS OF THE PROJECT SITE AND THE AREA SUBJECT TO ANY CHANGE IN REGULATORY CONTROLS.

PART II, SITE AND ACTION DESCRIPTION

Form sections 1 through 10 containing graphics, physical setting, present land use, existing parking, existing storage tanks, historic resources, waterfront revitalization program, and proposed land use.

Project Description

Publicly accessible open space
Is there any existing publicly accessible open space to be removed or altered? Yes No
If yes, describe briefly:

Is there any existing publicly accessible open space to be added? Yes No
If yes, describe briefly:

Other land use
Gross floor area (sq. ft.) _____ No. of stories _____ Type of use _____

11. PROPOSED PARKING N/A
Garages
No. of public spaces _____ No. of accessory spaces _____
Operating hours _____ Attended or non-attended? _____

Lots
No. of public spaces _____ No. of accessory spaces _____
Operating hours _____ Attended or non-attended? _____

Other (including street parking) - please specify and provide same data as for lots and garages, as appropriate. No. and location of proposed curb cuts:

12. PROPOSED STORAGE TANKS N/A
Gas or service stations? Yes No Oil storage facility? Yes No Other? Yes No
If yes, specify: _____ Location and depth of tanks _____

13. PROPOSED USERS N/A
No. of residents _____ No. and type of businesses _____
No. and type of workers by businesses _____ No. and type of non-residents who are not workers _____

14. HISTORIC RESOURCES (ARCHITECTURAL AND ARCHAEOLOGICAL RESOURCES) N/A
Will the action affect any architectural or archaeological resource identified in response to either of the two questions at number 7 in the Site Description section of the form? Yes No
If yes, describe briefly:

15. DIRECT DISPLACEMENT
Will the action directly displace specific business or affordable and/or low income residential units? Yes No
If yes, describe briefly:

16. COMMUNITY FACILITIES
Will the action directly eliminate, displace, or alter public or publicly funded community facilities such as educational facilities, libraries, hospitals and other health care facilities, day care centers, police stations, or fire stations? Yes No
If yes, describe briefly:

17. What is the zoning classification(s) of the directly affected area? N/A

18. What is the maximum amount of floor area that can be developed in the directly affected area under the present zoning? Describe in terms of bulk for each use.
N/A

19. What is the proposed zoning of the directly affected area?
N/A

20. What is the maximum amount of floor area that could be developed in the directly affected area under the proposed zoning? Describe in terms of bulk for each use.
N/A

21. What are the predominant land uses and zoning classifications within a 1/4 mile radius of the proposed action?
N/A

SEE CEQR TECHNICAL MANUAL CHAPTER III B. SOCIO-ECONOMIC CONDITIONS
SEE CEQR TECHNICAL MANUAL CHAPTER III C. COMMUNITY FACILITIES & SERVICES
Zoning Information

Impact Significance

PART III, ENVIRONMENTAL ASSESSMENT AND DETERMINATION TO BE COMPLETED BY THE LEAD AGENCY

The lead agency should complete this Part after Parts I and II have been completed. In completing this Part, the lead agency should consult 6 NYCRR 617.7 which contains the State Department of Environmental Conservation's criteria for determining significance. The lead agency should ensure the creation of a record sufficient to support the determination in this Part. The record may be based upon analysis submitted by the applicant (if any) with Part II of the EAS. The CEQR Technical Manual sets forth methodologies developed by the City to be used in analyses prepared for the listed categories. Alternative or additional methodologies may be utilized by the lead agency.

- For each of the impact categories listed below, consider whether the action may have a significant adverse effect on the environment with respect to the impact category. If it may, answer yes.

| | |
|-------------------------------------|----|
| LAND USE, ZONING, AND PUBLIC POLICY | No |
| SOCIO-ECONOMIC CONDITIONS | No |
| COMMUNITY FACILITIES AND SERVICES | No |
| OPEN SPACE | No |
| SHADOWS | No |
| HISTORIC RESOURCES | No |
| URBAN DESIGN/VISUAL RESOURCES | No |
| NEIGHBORHOOD CHARACTER | No |
| NATURAL RESOURCES | No |
| HAZARDOUS MATERIALS | No |
| WATERFRONT REVITALIZATION PROGRAM | No |
| INFRASTRUCTURE | No |
| SOLID WASTE AND SANITATION SERVICES | No |
| ENERGY | No |
| TRAFFIC AND PARKING | No |
| TRANSIT AND PEDESTRIANS | No |
| AIR QUALITY | No |
| NOISE | No |
| CONSTRUCTION IMPACTS | No |
| PUBLIC HEALTH | No |
- Are there any aspects of the action relevant to the determination whether the action may have a significant impact on the environment, such as combined or cumulative impacts, that were not fully covered by other responses and supporting materials? If there are such impacts, explain them and state where, as a result of them, the action may have a significant impact on the environment.
- If the lead agency has determined in its answers to questions 1 and 2 of this Part that the action will have no significant impact on the environment, a negative declaration is appropriate. The lead agency may, in its discretion, further elaborate here upon the reasons for issuance of a negative declaration.
- If the lead agency has determined in its answers to questions 1 and 2 of this part that the action may have a significant impact on the environment, a conditional negative declaration (CND) may be appropriate if there is a private applicant for the proposed action so that no significant adverse environmental impacts will result. If a CND is appropriate, the lead agency should describe here the conditions to the action that will be undertaken and how they will mitigate potential significant impacts.
- If the lead agency has determined that the action may have a significant impact on the environment, and if a conditional negative declaration is not appropriate, then the lead agency should issue a positive declaration. Where appropriate, the lead agency may, in its discretion, further elaborate here upon the reasons for issuance of a positive declaration. In particular, if supporting materials do not make clear the basis for a positive declaration, the lead agency should describe briefly the impact(s) it has identified that may constitute a significant impact on the environment.

Lead Agency Certification

| | |
|-----------------------|--|
| Katie Kendall | Robert R. Kulikowski, PhD/Jeffrey Haberman |
| PREPARED BY | NAME OF LEAD AGENCY REPRESENTATIVE |
| General Counsel, MOEC | Assistant to the Mayor/Deputy Director |
| PREPARED TITLE | TITLE OF LEAD AGENCY REPRESENTATIVE |
| <i>Katie Kendall</i> | <i>Robert R. Kulikowski</i> |
| PREPARED SIGNATURE | SIGNATURE OF LEAD AGENCY REPRESENTATIVE |
| December 08, 2009 | December 08, 2009 |
| DATE | DATE |

ATTACHMENT A ENVIRONMENTAL ASSESSMENT STATEMENT

Re: Local laws to amend the Administrative Code of the city of New York, in relation to establishing a New York City energy code; benchmarking the energy and water efficiency of buildings; upgrading lighting systems and require sub-metering in large existing commercial buildings; and requiring energy audits and retro-commissioning of base building systems of certain buildings and retro-fitting of certain city-owned buildings.

CEQR Number 0900M001Y

Location: Citywide

Type of Action: Unlisted

3b. PROJECT DESCRIPTION:

The actions consist of the passage of the following 4 local laws, cumulatively entitled the "Greener, Greater Buildings" legislation that relate to the promotion of green buildings in New York City:

- A local law to amend Title 28 of the administrative code of the city of New York by adding a new chapter 10 to establish a New York City Energy Code (hereinafter the "NYC Energy Code bill").
- A local law to amend Chapter 3 of Title 28 of the administrative code of the city of New York by adding a new article 309 to require the benchmarking the energy and water efficiency of certain buildings (hereinafter the "Benchmarking bill").
- A local law to amend Chapter 3 of Title 28 of the administrative code of the city of New York by adding new articles 310 and 311 to upgrade lighting systems and install sub-meters in existing single commercial buildings greater than 50,000 gross square feet or two or more buildings on a tax lot more than 100,000 gross square feet of built area (hereinafter the "Lighting Upgrade and Sub-metering bill").
- A local law to amend both Chapter 3 of Title 28 of the administrative code of the city of New York by adding a new article 308 and the New York City Charter by adding a new section 224.2 in order to require energy audits and retro-commissioning of base building systems of certain buildings and retro-fitting of certain city-owned buildings (hereinafter the "Audits and Retro-commissioning bill").

Additional Information

22. Attach any additional information as may be needed to describe the action. If your action involves changes in regulatory controls that affect one or more sites not associated with a specific development, it is generally appropriate to include here one or more maps showing the pertinent locations for such sites and, to the extent possible, to provide information about such locations similar to that requested in the Project Description questions 9 through 16.

Analyses

- 23.** Attach analyses for each of the impact categories listed below (or indicate where an impact category is not applicable):
- | | |
|--|--|
| a. LAND USE, ZONING, AND PUBLIC POLICY | See CEQR Technical Manual Chapter III A. |
| b. SOCIO-ECONOMIC CONDITIONS | See CEQR Technical Manual Chapter III B. |
| c. COMMUNITY FACILITIES AND SERVICES | See CEQR Technical Manual Chapter III C. |
| d. OPEN SPACE | See CEQR Technical Manual Chapter III D. |
| e. SHADOWS | See CEQR Technical Manual Chapter III E. |
| f. HISTORIC RESOURCES | See CEQR Technical Manual Chapter III F. |
| g. URBAN DESIGN/VISUAL RESOURCES | See CEQR Technical Manual Chapter III G. |
| h. NEIGHBORHOOD CHARACTER | See CEQR Technical Manual Chapter III H. |
| i. NATURAL RESOURCES | See CEQR Technical Manual Chapter III I. |
| j. HAZARDOUS MATERIALS | See CEQR Technical Manual Chapter III J. |
| k. WATERFRONT REVITALIZATION PROGRAM | See CEQR Technical Manual Chapter III K. |
| l. INFRASTRUCTURE | See CEQR Technical Manual Chapter III L. |
| m. SOLID WASTE AND SANITATION SERVICES | See CEQR Technical Manual Chapter III M. |
| n. ENERGY | See CEQR Technical Manual Chapter III N. |
| o. TRAFFIC AND PARKING | See CEQR Technical Manual Chapter III O. |
| p. TRANSIT AND PEDESTRIANS | See CEQR Technical Manual Chapter III P. |
| q. AIR QUALITY | See CEQR Technical Manual Chapter III Q. |
| r. NOISE | See CEQR Technical Manual Chapter III R. |
| s. CONSTRUCTION IMPACTS | See CEQR Technical Manual Chapter III S. |
| t. PUBLIC HEALTH | See CEQR Technical Manual Chapter III T. |

The CEQR Technical Manual sets forth methodologies developed by the City to be used in analyses prepared for the above-listed categories. Other methodologies developed or approved by the lead agency may also be utilized. If a different methodology is contemplated, it may be advisable to consult with the Mayor's Office of Environmental Coordination. You should also attach any other necessary analyses or information relevant to the determination whether the action may have a significant impact on the environment, including, where appropriate, information on combined or cumulative impacts, as might occur, for example, where actions are interdependent or occur within a discrete geographical area or time frame.

Applicant Certification

| | |
|-----------------------|--|
| Katie Kendall | Robert R. Kulikowski, PhD/Jeffrey Haberman |
| PREPARED NAME | PREPARED NAME |
| General Counsel, MOEC | <i>Robert R. Kulikowski</i> |
| PREPARED TITLE | NAME OF PRINCIPAL REPRESENTATIVE |
| <i>Katie Kendall</i> | Assistant to the Mayor/Deputy Director |
| December 08, 2009 | TITLE OF PRINCIPAL REPRESENTATIVE |
| DATE | SIGNATURE OF PRINCIPAL REPRESENTATIVE |
| | December 08, 2009 |
| | DATE |

NOTE: Any person who knowingly makes a false statement or who knowingly falsifies any statement on this form or allows any such statement to be falsified shall be guilty of an offense punishable by fine or imprisonment or both, pursuant to Section 10-154 of the New York City Administrative Code, and may be liable under applicable laws.

Discretionary actions that require environmental review include passage of each law by the City Council and approval of the law by the Mayor of the City of New York, or in the case of a mayoral veto, an override of such veto by the Council.

Each piece of proposed legislation will be discussed in turn.

NYC Energy Code Bill

The proposed legislation would create the New York City Energy Conservation Code (NYCECC) by adopting the New York State Energy Conservation Construction Code without the 50% exclusion rule, which exempts renovations impacting less than 50% of a building system or subsystem from complying with the Energy Code. New York State Energy Law allows municipalities to adopt their own energy code as long as it is more stringent than the State's code. By closing this loophole in the existing code, new construction, additions, and renovations in New York City would be required to comply with the Energy Code.

Only those elements being renovated or altered would be affected by this change, and unaltered portions will not need to be upgraded. The Department of Buildings would develop rules with examples outlining how the code would be applied to different types of renovations. In general, if a discrete component, such as a window or a hot water heater, is being replaced the new unit must be code-compliant. For replacements of continuous systems, such as insulated roofs or walls or curtain walls, the Department of Buildings will develop rules based on scale, practicality, and technical feasibility.

In addition, renovations for any building or structure that is listed in, or determined to be eligible for, the State or National Register of Historic Places; designated as an historic property under state designation law or survey; certified as a contributing resource within a National Register listed historic district; or designated or calendared individual New York City landmark (interior, exterior, or a building within a historic district) would be exempt from the NYCECC, or provisions thereof.

The proposed legislation would take effect on July 1, 2010 and would apply to work for which applications for construction document approval are submitted to the department of buildings on and after that date.

Benchmarking bill

Under this proposed legislation, buildings on tax lots with more than 50,000 gross square feet of built area, two or more buildings on tax lots of more than 100,000 gross square feet of built area, and City-owned buildings on tax lots with more than 10,000 gross square feet of built area would be required to annually document energy and water use. Building owners would input data—including metered energy use, building square footage, water use per square foot, and hours of use—into a free online benchmarking portal. Commercial buildings would need to submit tenant information as well, while residential buildings do not. Building owners would be responsible for maintaining all

A-2

documentation related to benchmarking, including, but not limited to, energy bills and reports from tenants.

The Department of Finance would annually post the benchmarking information on their Assessment Roll, which is publicly accessible, beginning in:

- September 1, 2011 for City buildings,
- September 1, 2012 for private non-residential buildings, and
- September 1, 2013 for multi-family residential buildings.

Information displayed would include:

- An energy utilization index (EUI: energy use per square foot)
- Water use per square foot
- Where available, a rating that indicates comparative energy use, measured against similar buildings
- And, when available, may include a comparison of data across calendar years

Lighting Upgrade and Sub-metering bill

The proposed legislation would require that lighting systems in large buildings—those with single buildings on tax lots with more than 50,000 gross square feet of built area or two or more buildings on tax lots of more than 100,000 gross square feet—meet the requirements of the New York City Energy Conservation Code by January 1, 2025. Lighting systems include lighting controls (interior lighting controls, light reduction controls and automatic lighting shutoff), tandem wiring, exit signs, interior lighting power requirements and exterior lighting.

If a building meets the energy code or has upgraded its lighting system since July 1, 2010, then the lighting requirements would not apply. In addition, the proposed legislation would require installation of electrical sub-meters for each non-residential tenant space larger than 10,000 square feet or a floor larger than 10,000 gross square feet consisting of one or more tenant spaces let or sublet to one or more persons. Sub-metering is required for tenant spaces and must be installed by January 1, 2025. If new tenant spaces are created within the building, then sub-meters would need to be installed. If the electricity in a tenant space is currently measured by a meter, the owner would not be required to also install a sub-meter. Multi-family residential units would be excluded from both the lighting and sub-metering requirements.

Each tenant or subtenant that has a sub-meter would be provided with a monthly statement showing the amount of electricity consumed by such tenant or subtenant during the month and any amount charged to the tenant for electricity.

Audits and Retro-Commissioning bill

This proposed legislation would require owners of large existing buildings—those with single buildings on tax lots with more than 50,000 gross square feet of built area or two or more buildings on tax lots of more than 100,000 gross square feet of built area, --in

A-3

New York City to ensure that their buildings undergo an energy audit and the appropriate retro-commissioning once every decade. This bill would apply to all classes of buildings, both private and City-owned. For City buildings, any building that participates in the tenant interim lease apartment purchase program or a program administered by the Department of Housing Preservation and Development; any building managed by the NYC Health and Hospitals Corporation; any senior college in the City University of New York System; and any cultural institution that is in the Cultural Institutions Group as determined by the Department of Cultural Affairs would not be subject to the requirements of the proposed legislation.

Under the proposed legislation, building owners must ensure that their buildings undergo an energy audit and the appropriate retro-commissioning measures once every ten years. The energy audit would be conducted for central systems only -- building systems (i.e., HVAC, exterior envelope, etc.) that use energy or impact the energy consumption in the common spaces or systems that supply or distribute heat, cooling, etc. to other spaces where energy bills are paid by the owner of the building.

The audit process must be equivalent to a Level II Energy Survey and Engineering Analysis of the 2004 edition of Procedures for Commercial Building Energy Audits published by the American Society of Heating, Refrigerating and Air-conditioning Engineers Inc. (ASHRAE). The audit would identify all reasonable measures, including capital improvements, that would, if implemented, reduce energy use and/or the cost of operating the building; estimate the cost and energy savings associated with these measures; and may also identify retro-commissioning and retrofit measures that, when combined, equal or exceed the overall reduction in energy consumption as determined for the group of identified "reasonable measures" described above. This alternative gives building owners the leeway to select energy improvement measures that fit within their other goals. In addition, City buildings over 50,000 gross square feet will perform bundled retrofits that have a simple payback (pay for themselves) within 7 years.

Retro-commissioning shall be performed on the base building systems of a covered building prior to filing an energy efficiency report to ensure efficient operation regarding the following overall criteria:

1. Operating protocols, calibration, and sequencing;
2. Cleaning and repair; and
3. Training and documentation.

A retro-commissioning report shall be prepared that includes information relating to the retro-commissioning. Both the energy audit and retro-commissioning must be performed within four years of the submission date of a building's energy efficiency report. The audit and retro-commissioning can be done as a combined process.

Early compliance has been outlined in the legislation allowing buildings to comply in 2013 regardless of their due date in the first ten year cycle, so long as this early audit is equivalent to an ASHRAE Level II audit and provides a detailed check-list for the necessary retro-commissioning measures.

A-4

Buildings that have received 1) LEED EB within the previous four years, 2) have two years as an EPA EnergyStar rated building, or 3) have two years of EPA EnergyStar benchmarking data that would make it equivalent to an EnergyStar rated building may submit proof of such status to be exempted from that year's energy audit. Buildings that have received certification under LEED EB and received the two points for Existing Building Commissioning investigation and Existing Building Commissioning implementation may submit proof of such status to be exempted from that year's retro-commissioning.

In order to demonstrate compliance, a building owner must submit an energy efficiency report to New York City Department of Buildings (DOB). Buildings will come due the calendar year with a final digit that is the same as the last digit of the building's tax block number and repeat on the same ten year cycle. For example, those buildings on a tax block ending in the number 1 would be required to submit its first energy efficiency to DOB within the building's due year—here, 2021. The energy efficiency report will include the following:

1. The energy audit report or documentation substantiating that an exception applies;
2. The retro-commissioning report or documentation substantiating that an exception applies, and
3. Other information relating to energy consumption required by DOB.

Certain buildings may receive an extension to comply with some of the requirements of the proposed legislation. Building owners who cannot complete the retro-commissioning by the due date, despite good faith efforts, can receive a maximum of two extensions of up to one year each. Owners who can document that their buildings are financially distressed may apply to DOB for extensions of one year. A financially distressed building is defined as any building that meets a list of quantitative thresholds (such as arrears on property taxes or water charges) or that participates in a city-managed financial assistance program. In addition, a building that is less than ten years old may defer submission of energy efficiency report for 10 years from the date of its first assigned due date.

3c. STATEMENT OF PURPOSE AND NEED

There is a consensus that current levels of energy use are problematic. Burning fossil fuel for power harms the environment by contributing to global warming and polluting the air. Additionally there are economic reasons to reduce consumption: given the current economic climate and the high cost of energy, reducing energy consumption is imperative if New York City is to maintain its competitive edge. For these reasons, and the specific reasons stated below, the Greener, Greater Buildings legislation is proposed for passage.

NYC Energy Code Bill

New York State is one of 42 states that utilize the International Energy Conservation Code (IECC). The Energy Conservation Construction Code of New York State (State

A-5

Energy Code), authorized by article eleven of the State Energy Law, sets standards for the energy performance of buildings throughout New York. However, New York is the only state that amends the IECC with a 50% exclusion rule, which exempts renovations impacting less than 50% of a building system or subsystem from complying with the energy code. Since renovations in New York City's large buildings typically occur on individual floors or tenant spaces, this exemption means that the city is not accruing energy efficiency improvements as our buildings are renovated. The State Energy Law expressly permits a municipality to promulgate a local energy conservation construction code that is more stringent than the State Energy Code. Removing this exemption will reduce carbon emissions and decrease emissions of criteria pollutants from boilers, furnaces, and power plants.

Benchmarking bill

Benchmarking energy and water consumption—by documenting and publicly posting annual building data—will allow building owners and operators to better understand how their building functions. By using this tool, building owners can track the efficiency of their building and compare their performance to other similar buildings. Benchmarking is also useful for prospective buyers and renters to assess the relative efficiency of multiple buildings. This type of transparency will create market demand for efficient buildings and incentivize owners to improve their energy performance.

Lighting Upgrade and Sub-metering bill

Lighting is responsible for almost 20% of the energy used in New York City's buildings and roughly 20% of a building's carbon emissions. Consequently, tenant electrical use can account for the majority of the electricity consumed in many large commercial buildings, and the patterns of electrical consumption in tenant spaces are often not known by tenants. Rapid improvements in lighting technology in the past decades have made it feasible to dramatically reduce energy consumption by installing more efficient lighting systems, and any investments made to install such systems will typically be realized through operational savings. Furthermore, most large buildings have one master meter for electricity that measures building-wide usage, as opposed to separate meters that provide such information on a per tenant basis. The consumption of energy for lighting and other electrical equipment can be reduced if code-compliant lighting and electrical measuring equipment is installed and data on electrical energy use is provided to commercial tenants. Investments in lighting are some of the most cost-effective ways to reduce energy consumption; lighting upgrades generally pay for themselves within 18 to 24 months.

Audits and Retro-Commissioning bill

While the New York State Energy Conservation Code addresses efficiency in new buildings, 85% of the buildings that will be in New York City in 2030 already exist today. These buildings are often inefficient and waste energy and money, but building owners are reluctant to invest in efficiency measures because of "split incentives" where a building owner can own equipment but the tenant pays the energy bill. Here, the owner

A-6

will not reap the benefits that result from his investments. However not all building systems are subject to this complication. The central systems of the building, including such equipment as hallway lights and boilers, are owned, operated, and paid for by the building owner. Consequently this legislation will require building owners to perform energy audits and retro-commissioning. Additionally, City buildings will be required to implement bundled retrofits that are good investments, namely those that have a simple payback (pay for themselves) within 7 years.

A-7

23. ANALYSES

The proposed actions consist of the passage of 4 local laws as part of the Greener, Greater Buildings Plan. As such, the proposed action is generic in nature and would not be expected to result in site-specific changes that would affect the following technical areas:

- Community Facilities and Services
- Shadows
- Open Space
- Urban Design/Visual Resources
- Neighborhood Character
- Natural Resources
- Hazardous Materials
- Solid Waste and Sanitation Services
- Traffic and Parking
- Transit and Pedestrians
- Noise
- Construction Impacts

Given the generic nature of the proposed action, there would be no site-specific effects. The Greener, Greater Buildings legislation that encourages green building practices would be applicable to many existing buildings throughout the City. Two areas of analysis, Land Use, Zoning and Public Policy and Neighborhood Character, do not assess site-specific effects, and instead, characterize the uses and development trends in the area or and define the characteristics of neighborhood character that may be affected by a proposed action. Because the Greener, Greater Buildings local laws do not involve a change in land use or zoning and focus upon improving the energy efficiency of existing buildings, no impact (positive or negative) to either land use, zoning and public policy or neighborhood character could result from the passage of this suite of four local laws, and therefore, further analysis in these technical areas is inappropriate for this generic action.

However, the passage of the suite of Greener, Greater Buildings local laws may have the potential to affect the following technical areas: Energy, Air Quality, Public Health Historic Resources, Socioeconomic Conditions, the Waterfront Revitalization Program (WRP), and Infrastructure. As discussed below, the actions would not result in significant adverse impacts to any technical area of analysis, and, in general, the effects in these areas would be expected to be positive.

23.a Energy

CEQR requires the assessment of energy consumption during environmental review. In general, actions that would result in new construction or substantial renovation in buildings would not create adverse energy impacts because all new structures must comply with the New York State Energy Conservation Code. As stated above, the proposed Greener, Greater Buildings legislation would not cause new construction and affects existing buildings. In fact, the goal of this proposed legislation seeks to greatly

A-8

reduce existing building energy consumption, as it is predicted that 85% of the City's current building stock will continue to operate in 2030. Therefore, the effect of the proposed legislation would positively affect the level of energy consumption citywide. The energy savings of each specific proposed local law are discussed in turn below.

NYC Energy Code Bill

Space in New York City is constantly being renovated and improved. In fact, it is estimated that most construction projects in the city are renovations rather than new construction. Accordingly, removing the 50% exemption in the New York State Energy Conservation Code and instead adopting a New York City Energy Conservation Code means that a larger percentage of properties in the city would be made more energy efficient. Since 85% of New York City's buildings in 2030 will be buildings that exist today, ensuring that renovations comply with the energy code is essential to reducing our energy use. Based upon estimates calculated by the Mayor's Office of Long Term Planning and Sustainability (MOLTPS), the proposed legislation is expected to reduce citywide carbon emissions by 1% to 1.5% over the next 20 years.

Benchmarking bill

Benchmarking is expected to move the market toward greater efficiency by making energy consumption patterns more transparent to building owners and prospective purchasers or renters. Unlike the other legislative proposals which have direct energy impacts, benchmarking has not been explicitly credited with energy use reductions. Nonetheless, making building energy consumption more visible is expected to have an impact similar to the way that comparative energy use tags increase the purchase of energy efficient appliances.

Lighting Upgrade and Sub-metering bill

Lighting is responsible for almost 20% of the energy used in New York City's buildings and roughly 20% of a building's carbon emissions. Furthermore, most large buildings have one master meter for electricity that measures building-wide usage, as opposed to separate meters that provide such information on a per tenant basis. The consumption of energy for lighting and other electrical equipment could be reduced if code-compliant lighting and electrical measuring equipment is installed and data on electrical energy use is provided to commercial tenants. Therefore, the proposed legislation, by requiring lighting upgrades by 2025 and electrical sub-metering by 2025, would greatly reduce energy consumption in existing buildings.

Audits and Retro-Commissioning bill

As stated previously, 85% of the buildings that will be in New York City in 2030 already exist today. These buildings are often inefficient and waste energy and money, but building owners are reluctant to invest in efficiency measures because of "split incentives" where building owners can own equipment but the tenant pays the energy bill. Consequently, the audit and retro-commissioning requirement would require an

A-9

assessment of the energy efficiency of the central systems of the building, including such equipment as hallway lights and boilers, that are owned, operated, and paid for by the building owner so that the owner may realize the energy savings from his or her investment and the overall energy consumption would be reduced.

23.b Air Quality and Greenhouse Gas Emissions

For air quality, the goal of CEQR is to determine a proposed action's effects on ambient air quality. As stated above in section 2.4, "Energy," the proposed Greener, Greater Buildings legislation would not result in new construction or increase energy consumption. In fact, the proposed legislation would have positive energy effects and energy reductions over the next 20 years and beyond. Each proposed local law, the NYC Energy Code Bill, Benchmarking bill, Lighting Upgrade bill, and Audits and Retro-Commissioning bill seek to reduce energy consumption (outlined specifically above in Section 2.4). Consequently, because reductions in energy consumption directly correlate to reductions in stationary air emissions from power plants as well as the existing buildings covered under the proposed legislation, the proposed actions would reduce air emissions (criteria pollutants with established National Ambient Air Quality Standards as well as Greenhouse Gas Emissions), and therefore, would have a positive effect on the City's air quality.

Based upon estimates calculated by the MOLTIPS, investing in lighting upgrades could reduce citywide carbon emissions by at least 2.5% and the proposed Audit and Retrocommissioning legislation is expected to reduce citywide carbon emissions by approximately 1.3% over the next 20 years. Consequently, both proposed bills would also reduce the criteria pollutants emitted from creating electricity by reducing buildings' energy consumption.

23.c Public Health

A CEQR assessment of public health examines potential impacts on public health citywide, and is often needed only when a significant impact is found on specific technical areas, such as air quality, traffic, or water quality. As stated above, there is no potential for significant impact in any technical area, and in fact, the proposed actions would have a positive effect on energy and air quality. For similar reasons, these proposed local laws, by reducing energy usage and resultant criteria pollutants through energy efficiency, would have a beneficial impact on air quality, and consequently, have the potential for a positive effect on public health.

23.d Historic Resources

The proposed actions would affect existing buildings, which include historic resources. For the purposes of CEQR, historic resources are defined as:

- Designated New York City Landmarks, Interior Landmarks, Scenic Landmarks, and properties within designated New York City Historic Districts.
- Resources calendared for consideration as one of the above by the New York City Landmarks Preservation Commission (LPC).

A-10

- Resources listed on or formally determined eligible for inclusion on the State and/or National Register of Historic Places, or contained within a district listed on or formally determined eligible for the State and/or National Register of Historic Places.
- Resources recommended by the New York State Board for listing on the State and/or National Registers of Historic Places.
- National Historic Landmarks.
- Resources not identified by one of the programs listed above, but that meet their eligibility requirements.

Because of the additional restrictions on renovating historic structures, many of the requirements of the proposed actions would not apply. Furthermore, the proposed actions do not preclude, and in fact state, that all regulations and laws protecting such historic resources must also be followed. Described below are descriptions as to when a proposed local law would apply to a historic resource. If the local law applies to historic resources, the effect of such applicability is discussed.

NYC Energy Code Bill

Renovations for any building or structure that is listed as a historic resource, as defined in the *CEQR Technical Manual*, would be exempt from the NYCECC, or provisions thereof. For example, a building designated, or calendared for consideration, as a New York City Landmark, would be exempt from the envelope and exterior lighting requirements of the proposed New York City Energy Conservation Code because the New York City Landmarks Preservation Commission regulates only the exterior. For all other historic resources listed above, including interiors designated, or calendared for consideration, as New York City Landmarks, are exempted from all provisions of the proposed code.

Benchmarking bill

Under this proposed legislation, single buildings on tax lots with more than 50,000 gross square feet of built area, two or more buildings on tax lots of more than 100,000 gross square feet of built area, and City buildings on tax lots with more than 10,000 gross square feet of built area would be required to annually document energy and water use. Therefore, all historic resources of this size would be required to benchmark its energy and water use. This would only require benchmarking, and would not physically affect any structure, and therefore, no impact to the historic resources in the City would result.

Lighting Upgrade and Sub-metering bill

Under this proposed legislation, single buildings on tax lots with more than 50,000 gross square feet of built area and two or more buildings on tax lots of more than 100,000 gross square feet of built area would be required to upgrade lighting systems by 2025 and install sub-metering in tenant spaces and floors of 10,000 gross square feet by 2025. This would include buildings of this size that are considered historic resources. For those designated a New York City Landmark (by virtue of its exterior or its location within a

A-11

historic district), the proposed legislation would have no impact whatsoever, as all required upgrades and sub-meters would be located in the interior. Similarly, the installation of a sub-meter would not be anticipated to affect the aesthetics of a historic resource due to the fact that this would be a mechanical installation and not an aesthetic change. With regard to those historic structures where the interior is of significance, the requirement of this proposed legislation to upgrade the lighting system to the proposed New York City Energy Conservation Code does not apply, as such buildings are exempt from that code. Therefore, no significant impacts to historic resources would result from the proposed legislation.

Audits and Retro-Commissioning bill

This proposed legislation would require owners of large existing buildings—those with single buildings on tax lots with more than 50,000 gross square feet of built area or two or more buildings on tax lots of more than 100,000 gross square feet of built area --in New York City to ensure that their buildings undergo an energy audit and the appropriate retro-commissioning once every decade. This bill would apply to all classes of buildings, both private and City-owned. This would include historic buildings.

A covered historic resource would be required to perform an energy audit that, similar to the Benchmarking bill, requires documentation of energy use and highlights energy efficiency improvement opportunities. However, the proposed legislation states that compliance with the laws regulating and governing the protection of historic resources must not only be followed, but their costs should be factored into the recommendations for energy efficiency improvements. Consequently, historic resources would continue to be protected and the proposed legislation would not adversely affect historic resources.

23.e Socioeconomic Conditions

Socioeconomic changes may occur when an action would directly or indirectly change population, housing stock, or economic activities in an area. The objective of the CEQR analysis is to disclose changes that would be created by the action and assess whether such changes would significantly affect the socioeconomic character of an area, defined in terms of its *population and housing* and its *economic activities*. Actions can affect socioeconomic character in the following ways: they may directly displace residents or businesses; or they may alter one or more of the underlying forces that shape socioeconomic conditions in an area and thus indirectly displace residents or businesses. As such, the proposed actions do not fit the profile of a typical socioeconomic conditions assessment under CEQR. The proposed actions would not directly displace any residents or businesses, and further assessment of these areas is unnecessary. However, the energy efficiency requirements of the proposed actions would require a building owner to invest money into his or her building, and therefore, it is appropriate to assess the potential indirect effect to residents or businesses (both positive and negative) in the area as a result of these actions. Based upon the following assessment, no significant adverse impacts to the socioeconomic character of the City would result from the passage of the proposed Greener, Greater Buildings legislation.

The proposed local laws are discussed below.

A-12

NYC Energy Code Bill and Benchmarking bill

This proposed legislation creating a New York City Energy Conservation Code would only represent small incremental costs because it would apply to work that was already going to take place and equipment would likely be replaced. It simply requires that the work be done to code standards. While costs would slightly increase for complying with the Energy Code, code compliant equipment is widely available at competitive prices because the 42 other states using the same international energy code already have this in place.

The benchmarking legislation utilizes a free online tool provided for and maintained by the U. S. Environmental Protection Agency. Existing building staff are capable of the benchmarking process, and therefore the hiring of additional employees to do this work would not be required. Consequently, cost of compliance with both proposed bill is not expected to be passed onto tenants and subsequently create a socioeconomic impact.

Audits and Retro-Commissioning bill and Lighting Upgrade and Sub-metering bill

Costs

Generally, the costs of implementation of the requirements for audits and retro-commissioning and lighting upgrades and sub-metering would represent a small cost to the building owner.

Cost estimates for implementation were compiled by the MOLTIPS. The cost estimates were arrived at in the following manner. The costs of the Audits are based on 29 sample NYC residential multi-family residential (MFR) projects completed by NYSEERDA prior to August 2008. The same cost was assumed regardless of building type. The costs of retro-commissioning are based on a Lawrence Berkeley Lab study from 2005. The cost estimates of the lighting upgrades were developed by the MOLTIPS in consultation with lighting experts. Similarly, the cost estimates of the installation of sub-meters were developed by the MOLTIPS in consultation with developers within New York City.

Table 1. Cost of Energy Efficiency Measures

| | \$/sq ft or Unit |
|--------------------|------------------|
| Audit | \$0.15 |
| Retrocommissioning | \$0.20 |
| Lighting Upgrades | \$2.50 |
| Sub-Metering | \$5000.00 |

Please note that cost estimates may vary depending on individual building designs, conditions, and configurations.

As shown above, the costs for the audit and retro-commissioning are generally low, and should not adversely affect a building owner. In addition, the New York State Energy Research and Development Authority (NYSEERDA) offers funding for conducting audits.

A-13

Therefore, many building owners' cost may be offset by this funding or many other types of state, federal, and utility-based incentives and subsidies targeted at improving existing buildings' energy efficiency. Consequently, the costs of these measures should not be passed on to tenants in any meaningful way to risk indirectly displacing tenants or businesses due to increased rents.

With regard to the lighting upgrades and sub-metering, the cost is greater, but can still be considered low. In addition, the lighting upgrade and sub-metering requirement affects only commercial buildings, so no indirect residential displacement is possible as a result of this requirement. Further, because a building's energy consumption would be reduced as a result of the proposed legislation, a building owner's electrical bills are expected to be reduced. Therefore, the investment in the audit and retro-commissioning, and especially the lighting upgrades, should be somewhat offset by the energy cost savings resulting from the reduction in building energy consumption paid for by the building owner. Consequently, the net cost to the owner, if any, would likely not be passed onto a tenant in any meaningful way so as to result in any indirect residential or business displacement. Even if the possibility of indirect displacement were to occur, not only would be in a rare instance, but it would not rise to a level of altering the socioeconomic character of a neighborhood as a result.

In addition to the above requirements, City buildings would be required to retrofit their buildings with energy efficiency measures so long as the simple payback for implementation of these measures is 7 years or less. As a result, the requirements on City buildings would not cause financial stress to the City.

Financial Benefits

Because a building's energy consumption would be reduced as a result of the proposed legislation, a building owner's electrical bills are expected to be reduced. Therefore, the investment in the audit and retro-commissioning, and especially the lighting upgrades, should be somewhat offset by the energy cost savings resulting from the reduction in building energy consumption paid for by the building owner.

With regard to the sub-metering requirement, tenants will have the opportunity to assess their energy use and seek to reduce such use through efficiency measures or altered behavior with regard to energy consumption. As a direct result of the installation of the sub-meter, a tenant may reduce its energy consumption, and consequently, its energy costs.

Furthermore, according to the MOLTPS, the audit and retro-commissioning and the lighting upgrade and sub-metering requirements would directly result in the creation jobs. The table below outlines the job estimates that could result from passage of the proposed legislation.

Table 2. Job Estimates resulting from implementation of Energy Efficiency Measures

| | # of Direct Jobs (in Person-Years) |
|------|------------------------------------|
| A-14 | |

A-14

| | |
|---------------------|--------|
| Audit | 1,739 |
| Retrocommissioning | 2,778 |
| Lighting Upgrades | 12,400 |
| Sub-Metering | 963 |
| Total over 10 years | 17,880 |
| Total per year | 1,788 |

Consequently, it is estimated that the proposed legislation would have a positive effect on job creation, which has some potential to positively affect the socioeconomic character of a neighborhood.

Overall, the Greener, Greater Buildings legislation is estimated to save \$700 million citywide.

23.f Infrastructure

The Benchmarking bill requires building owners to benchmark energy and water consumption. Benchmarking is expected to move the market toward greater efficiency by making energy and water consumption patterns more transparent to building owners and prospective purchasers or renters. Unlike the other legislative proposals which have direct energy impacts, benchmarking has not been explicitly credited with energy or water reductions. Nonetheless, making building consumption more visible is expected to have an impact similar to the way that comparative energy use tags or water usage information increase the purchase of energy efficient appliances or low flow fixtures.

23.g Waterfront Revitalization Program

The local law would create energy efficiency building requirements that would be applicable citywide, including in the Coastal Zone. Because this action is not a site-specific action, much of the WRP Consistency Form is not applicable because it addresses specific site issues. For the remainder of the WRP, the proposed Greener Greater Buildings legislation affects existing buildings and would not cause nor prevent new construction. Therefore, the remainder of the WRP Consistency Form is also not applicable. Consequently, the proposed actions would not be inconsistent with Waterfront Revitalization Program.

A-15

JAMES F. GENNARO, Chairperson; BILL de BLASIO, G. OLIVER KOPPELL, DONEMIC M. RECCHIA JR., PETER F. VALLONE JR., MELISSA MARK-VIVERITO, THOMAS WHITE JR., MATHIEU EUGENE, ELIZABETH CROWLEY, ERIC A. ULRICH, Committee on Environmental Protection, December 8, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Reports of the Committee on Land Use

Report for L.U. No. 1227

Report of the Committee on Land Use in favor of approving Uniform Land Use Review Procedure application no. C 090413 ZMK pursuant to §197-c and §197-d of the New York City Charter, concerning changes to the zoning map, Section No.13b, Borough of Brooklyn, Council District no. 33.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on September 30, 2009 (Minutes, page 5249), respectfully

REPORTS:

SUBJECT

BROOKLYN CB - 1

C 090413 ZMK

City Planning Commission decision approving an application submitted by the New York City Department of Housing Preservation and Development pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 13b.

INTENT

To facilitate the development of six sites containing residential, commercial and community facility uses within the Broadway Triangle Urban Renewal Area.

Report Summary

COMMITTEE RECOMMENDATION AND ACTION

DATE: December 7, 2009

The Committee recommends that the Council approve the prepared resolution and thereby approve the decision of the City Planning Commission with modification. The proposed modification is to be filed with the City Planning Commission to determine whether the proposed modification is subject to additional environmental review or additional review pursuant to Section 197-c of the City Charter.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, LEROY G. COMRIE, SIMCHA FELDER, LARRY B. SEABROOK, HELEN SEARS, ALBERT VANN, SARA MA. GONZALEZ, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ELIZABETH CROWLEY, Committee on Land Use, December 7, 2009.

Approved with Modifications and Referred to the City Planning Commission pursuant to Rule 11.70(b) of the Rules of the Council and Section 197-(d) of the New York City Charter.

Report for L.U. No. 1228

Report of the Committee on Land Use in favor of approving Zoning resolution amendment application no. N 090414 ZRK, pursuant to Sections 197-d and 200 of the New York City Charter, respecting changes in the text of the Zoning Resolution, relating to Article II, Chapter 3, Sections 23-90, inclusive.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on September 30, 2009 (Minutes, page 5249), respectfully

REPORTS:

SUBJECT**BROOKLYN CB - 1****N 090414 ZRK**

City Planning Commission decision approving an application submitted by the Department of Housing Preservation and Development pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, relating to Article II, Chapter 3 (Bulk regulations for Residential Buildings in Residence Districts), Section 23-90, inclusive, relating to the extension of the Inclusionary Housing Program to proposed R6A and R7A districts, in Community District 1, Borough of Brooklyn.

INTENT

To facilitate the development of six sites containing residential, commercial and community facility uses within the Broadway Triangle Urban Renewal Area.

Report Summary:**COMMITTEE RECOMMENDATION AND ACTION****DATE:** December 7, 2009

The Committee recommends that the Council approve the prepared resolution and thereby approve the decision of the City Planning Commission with modification. The proposed modification is to be filed with the City Planning Commission to determine whether the proposed modification is subject to additional environmental review or additional review pursuant to Section 197-c of the City Charter.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, LEROY G. COMRIE, SIMCHA FELDER, LARRY B. SEABROOK, HELEN SEARS, ALBERT VANN, SARA MA. GONZALEZ, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ELIZABETH CROWLEY, Committee on Land Use, December 7, 2009.

Approved with Modifications and Referred to the City Planning Commission pursuant to Rule 11.70(b) of the Rules of the Council and Section 197-(d) of the New York City Charter.

Report for L.U. No. 1229

Report of the Committee on Land Use in favor of approving Uniform land use review procedure, application no. C 090415 HUK pursuant to §197-c and §197-d of the Charter of the City of New York and §505 of the General Municipal Law concerning the approval of an amendment to the Broadway Triangle Urban Renewal Plan, Borough of Brooklyn, Council District no. 33.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on September 30, 2009 (Minutes, page 5250), respectfully

REPORTS:**SUBJECT****BROOKLYN CB - 1****C 090415 HUK**

City Planning Commission decision approving an application submitted by the Department of Housing Preservation and Development (HPD), pursuant to Section 505 of Article 15 of the General Municipal (Urban Renewal) Law of New York State and Section 197-c of the New York City Charter, for the First Amended Broadway Triangle Urban Renewal Plan for the Broadway Triangle Urban Renewal Area.

INTENT

To facilitate the development of six sites containing residential, commercial and community facility uses within the Broadway Triangle Urban Renewal Area.

Report Summary:**COMMITTEE RECOMMENDATION AND ACTION****DATE:** December 7, 2009

The Committee recommends that the Council approve the prepared resolution and thereby approve the decision of the City Planning Commission with modification. The proposed modification is to be filed with the City Planning Commission to determine whether the proposed modification is subject to additional environmental review or additional review pursuant to Section 197-c of the City Charter.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, LEROY G. COMRIE, SIMCHA FELDER, LARRY B. SEABROOK, HELEN SEARS, ALBERT VANN, SARA MA. GONZALEZ, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ELIZABETH CROWLEY, Committee on Land Use, December 7, 2009.

Approved with Modifications and Referred to the City Planning Commission pursuant to Rule 11.70(b) of the Rules of the Council and Section 197-(d) of the New York City Charter.

Report for L.U. No. 1230

Report of the Committee on Land Use in favor of approving Uniform land use review procedure application no. C 090416 HAK, an Urban Development Action Area Designation and Project, located within the Broadway Triangle URA, and the disposition of such property, Borough Brooklyn, Council District no. 34. This matter is subject to Council Review and action pursuant to §197-c and §197-d of the New York City Charter and Article 16 of the General Municipal Law.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on September 30, 2009 (Minutes, page 5250), respectfully

REPORTS:**SUBJECT****BROOKLYN CB - 1****C 090416 HAK**

City Planning Commission decision approving an application submitted by the Department of Housing Preservation and Development (HPD):

1) pursuant to Article 16 of the General Municipal Law of New York State for:

a) the designation of various properties as an Urban Development Action Area; and

b) an Urban Development Action Area Project for such area; and

2) pursuant to Section 197-c of the New York City Charter for the disposition of such property to a developer to be selected by HPD.

INTENT

To facilitate the development of six sites, tentatively known as Broadway Triangle, with approximately 488 residential units, commercial and community facility uses Community District 1, Borough of Brooklyn.

Report Summary:**COMMITTEE RECOMMENDATION AND ACTION****DATE:** December 7, 2009

The Committee recommends that the Council approve the prepared resolution and thereby approve the decision of the City Planning Commission with modification. The proposed modification is to be filed with the City Planning Commission to determine whether the proposed modification is subject to additional environmental review or additional review pursuant to Section 197-c of the City Charter.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, LEROY G. COMRIE, SIMCHA FELDER, LARRY B. SEABROOK, HELEN SEARS, ALBERT VANN, SARA MA. GONZALEZ, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ELIZABETH CROWLEY, Committee on Land Use, December 7, 2009.

Approved with Modifications and Referred to the City Planning Commission pursuant to Rule 11.70(b) of the Rules of the Council and Section 197-(d) of the New York City Charter.

Report for L.U. No. 1255

Report of the Committee on Land Use in favor of approving Application no. C 080039 ZMM submitted by West 129th Street Realty I LLC and West 129th Street Realty II LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section 6a, changing from an R7-2 District to an R7A District and changing from an M1-1 District to an R7A.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on October 28, 2009 (Minutes, page 5524), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 9

C 080039 ZMM

City Planning Commission decision approving an application submitted by West 129th Street Realty I LLC and West 129th Street Realty II LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 6a:

1. changing from an R7-2 District to an R7A District property bounded by:
 - a. West 130th Street, a line 100 feet easterly of Amsterdam Avenue, West 129th Street, and Amsterdam Avenue; and
 - b. West 130th Street, Convent Avenue, West 129th Street, a line 100 feet westerly of Convent Avenue; and
2. changing from an M1-1 District to an R7A District property bounded by West 130th Street, a line 100 feet westerly of Convent Avenue, West 129th Street, and a line 100 feet easterly of Amsterdam Avenue;

as shown on a diagram (for illustrative purposes only) dated June 1, 2009, and subject to the conditions of CEQR Declaration E-239.

INTENT

To rezone part of Block 1969 from R7-2 and M1-1 to an R7A District in order to facilitate the development of two nine-story residential buildings within the proposed rezoning area.

Report Summary

COMMITTEE RECOMMENDATION AND ACTION

DATE: December 7, 2009

The Committee recommends that the Council approve the prepared resolution and thereby approve the decision of the City Planning Commission.

In connection herewith, Council Members Katz and Avella offered the following resolution:

Res. No. 2292

Resolution approving the decision of the City Planning Commission on ULURP No. C 080039 ZMM, a Zoning Map amendment (L.U. No. 1255).

By Council Members Katz and Avella.

WHEREAS, the City Planning Commission filed with the Council on October 23, 2009 its decision dated October 21, 2009 (the "Decision"), on an application submitted by West 129th Street Realty I LLC and West 129th Street Realty II LLC, pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment to the Zoning Map to rezone part of Block 1969 from R7-2 and M1-1 to an R7A District to facilitate the development of two nine-story residential buildings within the proposed rezoning area (ULURP No. C 080039 ZMM) (the "Application");

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on November 17, 2009;

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues and the Conditional Negative Declaration, issued on May 28, 2009 (CEQR No. 07DCP076M);

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, the Council approves the Decision.

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No 6a;

1. changing from an R7-2 District to an R7A District property bounded by:
 - a) West 130th Street, a line 100 feet easterly of Amsterdam Avenue, West 129th Street, and Amsterdam Avenue; and
 - b) West 130th Street, Convent Avenue, West 129th Street, a line 100 feet westerly of Convent Avenue; and
2. changing from an M1-1 District to an R7A District property bounded by West 130th Street, a line 100 feet westerly of Convent Avenue, West 129th Street, and a line 100 feet easterly of Amsterdam Avenue;

as shown on a diagram (for illustrative purposes only) dated June 1, 2009, and subject to the conditions of CEQR Declaration E-239, Community District 9, Borough of Manhattan.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, LEROY G. COMRIE, SIMCHA FELDER, LARRY B. SEABROOK, HELEN SEARS, ALBERT VANN, SARA MA. GONZALEZ, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ELIZABETH CROWLEY, Committee on Land Use, December 7, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1269

Report of the Committee on Land Use in favor of approving Uniform land use review procedure application no. C 100014 HAK an Urban Development Action Area Designation and Project and the disposition of such property, located at 371 Van Siclen Avenue, Borough of Brooklyn, Council District no. 37. This matter is subject to Council Review and action pursuant to §197-c and §197-d of the New York City Charter and Article 16 of the General Municipal Law.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on October 28, 2009 (Minutes, page 5529), respectfully

REPORTS:

SUBJECT

BROOKLYN CB - 5

C 100014 HAK

City Planning Commission decision approving an application submitted by the Department of Housing Preservation and Development (HPD):

- 1) pursuant to Article 16 of the General Municipal Law of New York State for:
 - a) the designation of property located at 371 Van Siclen Avenue (Block 4026, Lot 2), as an Urban Development Action Area; and
 - b) an Urban Development Action Area Project for such area; and

2)pursuant to Section 197-c of the New York City Charter for the disposition of such property to a developer to be selected by HPD.

INTENT

To facilitate development of a four-story building, tentatively known as Cypress Village, with approximately 8 residential units.

Report Summary

COMMITTEE RECOMMENDATION AND ACTION

DATE: December 3, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the disposition, designation and project, make the findings required by Article 16 and approve the decision of the City Planning Commission.

In connection herewith, Council Members Katz and Garodnick offered the following resolution:

Res. No. 2293

Resolution approving the decision of the City Planning Commission on an application submitted by the Department of Housing Preservation and Development (“HPD”), No. C 100014 HAK, approving the designation of property located at 371 Van Siclen Avenue (Block 4026, Lot 2), Borough of Brooklyn, as an Urban Development Action Area (the “Area”), approving the project for the area as an Urban Development Action Area Project, and approving the disposition of such property to a developer selected by the Department of Housing Preservation and Development (L.U. No. 1269; C 100014 HAK).

By Council Members Katz and Garodnick.

WHEREAS, the City Planning Commission filed with the Council on October 23, 2009 its decision dated October 21, 2009 (the "Decision"), on the application submitted by the New York City Department of Housing Preservation and Development pursuant to Article 16 of the General Municipal Law of New York State regarding:

- a. the designation of property located at 371 Van Siclen Avenue (Block 4026, Lot 2), as an Urban Development Action Area (the “Area”); and
- b. an Urban Development Action Area Project for such area (the “Project”); and

pursuant to Section 197-c of the New York City Charter for the disposition of such property to a developer selected by the Department of Housing Preservation and Development to facilitate development of a four-story building, tentatively known as Cypress Village, with approximately 8 residential units, to be developed under the Department of Housing Preservation and Development’s New Foundations Program (C 100014 HAK), Community District 5, Borough of Brooklyn (the "Application");

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, the Application and Decision are subject to review and action by the Council pursuant to Article 16 of the General Municipal Law of New York State;

WHEREAS, the New York City Department of Housing Preservation and Development submitted to the Council its recommendations regarding the Application on October 29, 2009;

WHEREAS, upon due notice, the Council held a public hearing on the Application and Decision on December 2, 2009;

WHEREAS, the Council has considered the land use and financial implications and other policy issues relating to the Application;

RESOLVED:

Pursuant to Article 16 of the General Municipal Law, the Council approves the decision of the City Planning Commission (C 100014 HAK).

The Council finds that the present status of the Disposition Area tends to impair or arrest the sound growth and development of the City of New York and that a designation of the Project as an urban development action area project is consistent with the policy and purposes stated in Section 691 of the General Municipal Law.

The Council approves the designation of the Disposition Area as an urban development action area pursuant to Section 693 of the General Municipal Law.

The Council approves the Project as an urban development action area project pursuant to Section 694 of the General Municipal Law.

The Council approves the disposition of such property to a developer selected by the Department of Housing Preservation and Development.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, LEROY G. COMRIE, SIMCHA FELDER, LARRY B. SEABROOK, HELEN SEARS, ALBERT VANN, SARA MA. GONZALEZ, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ELIZABETH CROWLEY, Committee on Land Use, December 7, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report of the Committee on Parks & Recreation

Report for Int. No. 1083-A

Report of the Committee on Parks & Recreation in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to requiring local representation on park conservancies.

The Committee on Parks & Recreation, to which the annexed amended proposed local law was referred on September 17, 2009 (Minutes, page 4853), respectfully

REPORTS:

BACKGROUND

On December 8, 2009, the Committee on Parks and Recreation, chaired by Council Member Helen Diane Foster, held a hearing on Proposed Int. No. 1083-A, A Local Law to amend the administrative code of the city of New York, in relation to requiring local representation on park conservancies. This was the second hearing concerning this legislative manner. At this hearing, the Committee voted 4-0 in support of this bill.

During the 1970’s, New York City (NYC) experienced financial difficulties that led to budget reductions. All NYC agencies including the Department of Parks and Recreation (DPR) were affected by the cuts. As a result of these budget cuts, many of the City’s Parks were in a state of disrepair or neglect due to the lack of sufficient funding to provide the necessary level of maintenance and upkeep. The need to continue upkeep in order to maintain the parks led DPR to initiate agreements with not-for-profit organizations who in turn, would contribute and take on most of the responsibilities to maintain the parks. The agreements between DPR and the not-for-profit organizations became known as partnerships, now often referred to as conservancies.¹

The conservancies and other park organizations are funded primarily from contributions made by individuals, corporations, and foundations within the metropolitan area, as well as project and contract revenue pursuant to its partnership agreement with DPR. These amounts are used to fund major capital improvements, provide horticulture care and maintenance, and offer programs for volunteers and visitors to Central Park, or other parks²

Park Conservancies are typically comprised of a Board of Trustees which includes the Parks Commissioner and the Borough President, both ex officio, Trustees appointed by the Mayor of the City of New York and private sector members representing the City’s business and philanthropic communities.³

The purpose of this bill is to ensure that Conservancies that often set policy for parks contain neighborhood representation. As noted above, conservancy arrangements generally are license agreements between the City and a private not for profit entity that permits that entity to operate a public park or portion of a park. Much of the staffing and programming is then provided for by the conservancy. While many people view conservancies as important fundraisers which keep public parks functioning with less of a drain on the City’s budget, others see conservancies as entities having no accountability, with private interests governing public space.

Moreover, there are some concerns that conservancies do not have proper representation from the geographic area that they serve.

Proposed Int. No. 1083-A

Proposed Int. No. 1083-A would mandate that for any conservancy arrangement, there be one or more individuals appointed or elected to the Board of Directors of such conservancy, known as a "local representative", who either reside or maintain a place of business within each Council District where the park that such conservancy oversees is located or abuts. There will be a maximum of two of the abutting districts represented at any one time, and in the event more than two districts abut the park, the local representation would be rotated. There will also be a maximum of 20 percent of "local representatives" on any such Board of Directors. In addition, the bill exempts any not-for-profit entity that manages a park or portion of a park in three or more boroughs. Proposed Int. No.1083-A is aimed at traditional park conservancies as distinct from cultural institutions that operate and program City parks under the jurisdiction of the Department of Cultural Affairs in support of living collections, horticulture, historic preservation and the like.

The local representative will be designated by the Department of Parks and Recreation in consultation with the relevant Council Member(s). Prior to such designation, the Commissioner will consult with the local Council Member(s) and will accept written recommendations from such Council Member(s). While the details of such consultation would be determined by the Parks Department, there would be required a minimum 30 day period from the time of the initial consultation until the Parks Department designation of the local representative. During that time, the Council Member could send written suggestions as to who such local representative should be.

¹ Audit Report on the New York City Department of Parks and Recreation's Oversight of Public-Private Partnerships by the Office of the State Comptroller, June 11, 2002.

² Central Park Conservancy annual report September 23, 2005.

³ See, The Official Website for Central Park at <http://www.centralparknyc.org/aboutpc/partnership>.

Accordingly, Your Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1083-A:)

Int. No. 1083-A

By Council Members Mark-Viverito, Avella, Jackson, Barron, Dickens, James, Koppell, Lappin, Palma, Sanders, Seabrook, Nelson, Foster, Ferreras, Vann, Mendez, Sears, Liu, White, Arroyo and Rodriguez.

A Local Law to amend the administrative code of the city of New York, in relation to requiring local representation on park conservancies.

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 18 of the administrative code of the city of New York is amended by adding a new section 18-137 to read as follows:

§18-137 Representation on park conservancies. a. For purposes of this section, the following terms shall have the following meanings:

1. "Conservancy" shall mean any not-for-profit entity that operates any park or portion of any park under the jurisdiction of the commissioner, pursuant to a written conservancy arrangement, provided that "conservancy" shall not include any not-for-profit entity that operates in three or more boroughs.

2. "Conservancy arrangement" shall mean any license or other written authorization allowing a conservancy to operate any park or portion of any park under the jurisdiction of the commissioner.

3. "Operates" shall mean the ability to hire a majority of full time staff for such park.

4. "Local representative" shall mean an individual who resides within or whose place of business is located within a council district in which such park is located or which such park abuts.

b. Any conservancy arrangement entered into, renewed or otherwise granted or executed on or after the effective date of the local law that added this section shall require that at least one local representative from each council district where such park is located or which such park abuts be a voting member of the board of directors, or other governing body of such conservancy, provided that no more than one local representative from each council district in which such park is located and one local representative from two of the council districts which abut such park shall be required, and provided further that no more than twenty percent of the total appointed or elected membership of such conservancy's board of directors or other governing body shall be required to be local representatives. Such local representatives shall be designated in consultation with the council members representing the districts in which the park is located or which abut such park. The nature of such consultation shall be determined by the department, provided that the department shall make the designation of each local representative not less than thirty days following its initial consultation with the appropriate council member, during which time the council member may make a written recommendation

regarding the local representative to be designated from their district. In the event that representation from council districts from which a local representative may be designated would in the aggregate be greater than twenty percent of the total appointed membership of such conservancy's board of directors or other governing body or there are more than two council districts abutting such park, the department may determine which council districts shall be represented initially, in consultation with the appropriate council members, with districts from which local representatives shall be designated rotating thereafter in a manner to be determined by the department.

§2. This local law shall take effect immediately upon enactment.

HELEN D. FOSTER, Chairperson; ALAN J. GERSON, LETITIA JAMES, ELIZABETH CROWLEY, Committee on Parks & Recreation, December 8, 2009.

Laid Over by the Council.

GENERAL ORDER CALENDAR

Report for L.U. No. 1244 & Res. No. 2294

Report of the Committee on Land Use in favor of approving Application no. N 090412 ZRY by the Department of City Planning, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution relating to Article VI, Chapter 3, concerning provisions related to the establishment of FRESH Food Stores.

The Committee on Land Use, to which was referred on October 14, 2009 (Minutes, page 5354) and originally reported to the Council on December 9, 2009 the annexed Land Use resolution, respectfully

REPORTS:

SUBJECT

CITYWIDE

N 090412 ZRY

City Planning Commission decision approving an application submitted by the Department of City Planning pursuant to Section 201 of the New York City Charter for an amendment of the Zoning Resolution of the City of New York relating to Article VI, Chapter 3 (Special Regulations Applying to FRESH Food Stores) concerning provisions related to the establishment of FRESH Food Stores.

INTENT

To guide the development of FRESH food stores in areas of Manhattan, the Bronx, Brooklyn and Queens.

Report Summary:

COMMITTEE RECOMMENDATION

DATE: November 24, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the decision of the City Planning Commission with modification.

FILING OF MODIFICATION WITH THE CITY PLANNING COMMISSION

The Committee's proposed modification was filed with the City Planning Commission on November 24, 2009. The City Planning Commission filed a letter dated December 2, 2009, with the Council indicating that the proposed modification is not subject to additional environmental review or additional review pursuant to Section 197-c of the City Charter.

In connection herewith, Council Members Katz and Avella offered the following resolution:

Res. No. 2294

Resolution approving with modification the decision of the City Planning Commission on Application No. N 090412 ZRY, for an amendment of the Zoning Resolution of the City of New York, relating to Article VI, Chapter 3 (Special Regulations Applying to FRESH Food Stores) concerning provisions related to the establishment of FRESH Food Stores, Citywide (L.U. No. 1244).

By Council Members Katz and Avella.

WHEREAS, the City Planning Commission filed with the Council on October 5, 2009 its decision dated September 23, 2009 (the "Decision"), pursuant to Section 201 of the New York City Charter, regarding an application submitted by the Department of City Planning for an amendment of the Zoning Resolution of the City of New York, relating to Article VI, Chapter 3 (Special Regulations Applying to FRESH Food Stores) concerning provisions related to the establishment of FRESH Food Stores (Application No. N 090412 ZRY), Citywide (the "Application");

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on October 26, 2009;

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues and the Negative Declaration which was issued on May 19, 2009 (CEQR No. 09DCP078Y);

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application the Council approves the Decision with the following modification.

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

Matter in ~~double strikeout~~ is old, to be deleted by the Council.

Article VI

Special Regulations Applicable to Certain Areas

* * *

Chapter 3

Special Regulations Applying to FRESH Food Stores

63-00

GENERAL PURPOSES

The provisions of this Chapter establish special regulations that guide the development of FRESH food stores to promote and protect public health, safety and general welfare. These general goals include, among others, the following purposes:

- (a) encourage a healthy lifestyle by facilitating the development of FRESH food stores that sell a healthy selection of food products;
- (b) provide greater incentives for FRESH food stores to locate in neighborhoods underserved by such establishments;
- (c) encourage FRESH food stores to locate in locations that are easily accessible to nearby residents; and
- (d) strengthen the economic base of the City, conserve the value of land and buildings, and protect the City's tax revenues.

63-01 Definitions

FRESH food store

A "FRESH food store" is a food store #use# as listed in Section 32-15 (Use Group 6), where at least 6,000 square feet of #floor area#, or #cellar# space utilized for retailing, is utilized for the sale of a general line of food and non-food grocery products, such as dairy, canned and frozen foods, fresh fruits and vegetables, fresh and prepared meats, fish and poultry, intended for home preparation, consumption and utilization. Such retail space utilized for the sale of a general line of food and non-food grocery products shall be distributed as follows:

- (a) at least 3,000 square feet or 50 percent of such retail space, whichever is greater, shall be utilized for the sale of a general line of food products intended for home preparation, consumption and utilization; and
- (b) at least 2,000 square feet or 30 percent of such retail space, whichever is greater, shall be utilized for the sale of perishable goods that shall include dairy, fresh produce, ~~and~~ frozen foods and ~~may include~~ fresh meats, ~~poultry and fish~~, of which at least 500 square feet of such retail space shall be designated for the sale of fresh produce.

A food store shall be certified as a #FRESH food store# by the Chairperson of the City Planning Commission, pursuant to Section 63-30 (CERTIFICATION FOR FRESH FOOD STORE).

63-02

Applicability

- (a) The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control.
- (b) The provisions of this Chapter shall apply to all #Commercial# and #Manufacturing Districts# in the following #FRESH food store# designated areas, except as provided in paragraph (c) of this Section:
 - (1) In the Borough of the Bronx, Community Districts 1, 2, 3, 4, 5, 6 and 7 except portions of Community District 7, as shown on Map 1 in Appendix A of this Chapter;
 - (2) In the Borough of Brooklyn, Community Districts 3, 4, 5, 8, 9, 16 and 17 except portions of Community District 8, as shown on Map 2 in Appendix A;
 - (3) In the Borough of Manhattan, Community Districts 9, 10, 11 and 12 except portions of Community District 9 and 12, as shown on Maps 3 and 4 in Appendix A; and
 - (4) In the Borough of Queens, the #Special Downtown Jamaica District#.

(c) The provisions of this Chapter shall not apply to the following Special Purpose Districts:

#Special Madison Avenue Preservation District#; #Special Manhattanville Mixed Use District#; #Special Park Improvement District#; and #Special Hunts Point District#.

63-10

SPECIAL USE REGULATIONS

63-11

Special Use Regulations for FRESH Food Stores in M1 Districts

In M1 Districts, the regulations of Section 42-12 (Use Groups 3A, 6A, 6B, 6D, 6F, 7B, 7C, 7D, 7E, 8, 9B, 9C, 10A, 10B, 10C, 11, 12A, 12C, 12D, 12E, 13, 14 and 16) are modified to permit #FRESH food stores# with up to 30,000 square feet of #floor area#. The provisions of this Section shall not apply where the regulations of the underlying district permit Use Group 6A food stores with #floor area# greater than 30,000 square feet.

63-12

Special Sign Regulations

All permitted #signs# shall be subject to the provisions of the #sign# regulations of the underlying districts. In addition, a #FRESH food store# shall provide signage pursuant to this Section.

A #sign# comprised of the #FRESH food store# graphic as shown on the Department of City Planning website (www.nyc.gov) shall be mounted on an exterior #building# wall adjacent to and no more than five feet from the principal entrance of the #FRESH food store#. The #sign# shall be placed so that it is directly visible, without any obstruction, to customers entering the #FRESH food store#, and at a height no less than three feet and no more than five feet above the adjoining grade. Such #FRESH food store# graphic shall be no less than 12 inches by 12 inches and no more than 16 inches by 16 inches in size and shall be fully opaque, non reflective and constructed of permanent, highly durable materials.

63-20

SPECIAL BULK AND PARKING REGULATIONS

63-21

Special Floor Area Regulations

63-211

For mixed buildings in Commercial Districts containing FRESH food stores

The provisions of Section 35-31 (Maximum Floor Area Ratio for Mixed Buildings) relating to the maximum permitted #floor area ratio# for each permitted #use# shall apply, and the provisions relating to the total of all such #floor area ratios# shall be modified in accordance with the provisions of this Section. Where all non-#residential uses# in such #mixed building# have a permitted #floor area ratio# equal to or less than that permitted for a #residential use#, the total #floor area# permitted for such #mixed building# may be increased by one square foot for each square foot of #FRESH food store floor area#, up to 20,000 square feet.

63-212

For mixed use buildings in Special Mixed Use Districts containing FRESH food stores

The provisions of Section 123-64 (Maximum Floor Area Ratio and Lot Coverage Requirements For Mixed Use Buildings) relating to the maximum permitted #floor area ratio# for each permitted #use# shall apply, and the provisions relating to the total of all such #floor area ratios# shall be modified in accordance with the provisions of this Section. Where all non-#residential uses# in such #mixed use building# have a permitted #floor area ratio# equal to or less than that permitted for a #residential use#, the total #floor area# permitted for such #mixed use building# may be increased by one square foot for each square foot of #FRESH food store floor area#, up to 20,000 square feet.

63-22

Authorization to Modify Maximum Building Height

For #mixed buildings# or #mixed use buildings# containing a #FRESH food store#, the City Planning Commission may authorize modifications to Sections 35-24 (Special Street Wall Location and Height and Setback Regulations in Certain Districts) and 123-66 (Height and Setback Regulations) to allow the applicable maximum building height to be increased by up to 15 feet, provided that the first #story# occupied by a #FRESH food store# has a minimum finished floor to finished ceiling height of 14 feet, and provided that such finished ceiling height is at least 14 feet above the #base plane# or #curb level#, as applicable.

In order to grant such authorizations, the Commission shall find that:

- (a) such modifications are necessary to accommodate a first #story# utilized as a #FRESH food store#;
- (b) the proposed modifications shall not adversely affect the essential scale and character of the adjacent buildings and any adjacent historic resources; and
- (c) the proposed modifications will not unduly obstruct access to light and air of adjacent properties.

The Commission may prescribe additional appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

63-23

Special Transparency Requirements

For all #FRESH food stores#, the ground floor level of the #street wall# fronting upon a principal #street# shall be glazed with materials which may include show windows, glazed transoms or glazed portions of doors. Such glazing shall occupy at least 70 percent of the area of such ground floor level #street wall#, measured to a height of 10 feet above the level of the adjoining sidewalk. No less than 50 percent of the area of such ground floor level #street wall# shall be glazed with transparent materials and up to 20 percent of such area may be glazed with translucent materials.

Furthermore, for #buildings# with frontage on two or more #streets#, the Chairperson of the City Planning Commission may certify that the glazing requirements of this Section shall only be applicable to the #street wall# fronting upon the principal #street#, as determined by the Chairperson.

In addition, the Chairperson of the City Planning Commission may, by certification, allow a reduction in the glazing requirements of this Section, provided that the Chairperson finds that such #mixed building# or #mixed use building# is a recipient of #public funding# as defined in Section 23-911 (General Definitions). Such reduced glazing may occupy no less than 50 percent of the area of such ground floor level #street wall# and shall be glazed with transparent materials.

63-24

Security Gates

All security gates installed between the #street wall# and the #street line# (after effective date of amendment), that are swung, drawn or lowered to secure #FRESH food store# premises shall, when closed, permit visibility of at least 75 percent of the area covered by such gate when viewed from the #street#.

63-25

Required Accessory Off-street Parking Spaces in Certain Districts

- (a) In C1-1, C1-2, C1-3, C2-1, C2-2, C2-3, and C4-3 Districts, the #accessory# off-street parking regulations in Section 3 6-20 (REQUIRED ACCESSORY OFF-STREET PARKING SPACES FOR COMMERCIAL OR COMMUNITY FACILITY USES) applicable to a C1-4 District shall apply to any #FRESH food store#.
- (b) In the Borough of Brooklyn, in those portions of Community District 5 located south of Flatlands Avenue and east of the centerline prolongation of Schenck Avenue, a #FRESH food store# shall provide #accessory# off-#street# parking spaces as required for #uses# in parking category B in the applicable #Commercial# and #Manufacturing Districts#.
- (c) In C8-1, C8-2, M1-1, M1-2, and M1-3 Districts, a #FRESH food store# shall provide one parking space per 1,000 square feet of #floor area# or #cellar# space utilized for retailing, up to a maximum of 15,000 square feet. The underlying off-street parking regulations in Sections 3 6-20 or 44-20 shall apply to the #floor area# or #cellar# space, in excess of 15,000 square feet, utilized for retailing in such #FRESH food store#.
- (d) The provisions of this Section shall not apply to:
 - (1) In the Borough of the Bronx, portions of Community District 7 and in the Borough of Manhattan, portions of Community District 12, as shown on Map 1 in Appendix B of this Chapter;
 - (2) In the Borough of Brooklyn, portions of Community District 5, as shown on Map 2 in Appendix B;
 - (3) In the Borough of Brooklyn, portions of Community Districts 16 and 17, as shown on Map 3 in Appendix B; and
 - (4) In the Borough of Queens, the #Special Downtown Jamaica District#.

63-30

CERTIFICATION FOR A FRESH FOOD STORE

Upon application, the Chairperson of the City Planning Commission shall certify that a food store #use# is a #FRESH food store#, provided that:

(a) drawings have been submitted to the Chairperson that clearly specify:

- (1) all #floor area# or #cellar# space utilized as a #FRESH food store#, showing in the form of an illustrative layout, that such designated space is designed and arranged to meet the requirements for food and non-food grocery products, pursuant to Section 63-01;
- (2) all #floor area# that will result from any permitted increase in #floor area#, pursuant to Section 63-21, including the location of such #floor area#;
- (3) the size, format and location of the required #sign#, pursuant to Section 63-12, including detailed information about dimensions of the #sign#, lettering, color and materials;
- (4) the location of the ground floor level #street wall# fronting upon a principal #street#, pursuant to Section 63-23;

(b) a signed lease or written commitment from the prospective operator of the #FRESH food store# has been provided in a form acceptable to the Chairperson for utilization of such #floor area# or #cellar# space and its operation as a #FRESH food store#; and

(c) a legal commitment, in the form of a declaration of restrictions has been executed, in a form acceptable to the Department of City Planning, binding upon the owner and its successor and assigns, and providing for continued utilization of all #floor area# or #cellar# space as a #FRESH food store#, the operation of which shall commence within a reasonable period following the issuance of a temporary certificate of occupancy for the #floor area# or #cellar# space to be utilized by the #FRESH food store#.

Such declaration of restrictions shall provide that the legal commitment for continued occupancy of the #floor area# or #cellar space# as a #FRESH food store# shall not apply during any:

- (1) six (6) month period from the date such #floor area# or #cellar# space is vacated by the operator, provided that the owner timely notifies the Department of City Planning of such vacancy in accordance with the requirements of the restrictive declaration; or
- (2) event of force majeure, as determined by the Chairperson.

The filing and recordation of the declaration of restrictions in the Office of the City Register of the City of New York against all tax lots comprising the #FRESH food store#, and receipt of proof of recordation of such declaration in a form acceptable to the Department, shall be a precondition to the issuance of any building permit, including any foundation or alteration permit, for any #development# or #enlargement# under this Chapter.

In granting the certification, the Chairperson may specify that minor changes in store layout consistent with the definition of a #FRESH food store# in Section 63-01 shall not warrant further certification pursuant to this Section.

No later than the date on which an application for certification pursuant to this Section is first submitted, a copy of the drawings submitted pursuant to paragraph (a) of this Section shall be submitted by the applicant to the affected Community Board, which shall have 45 days to review said application. The Chairperson shall not issue a certification for an application during the Community Board review period, unless the Community Board has submitted to the Chairperson comments regarding such proposal or informs the Chairperson that the Community Board has no comments.

63-31

Requirements for Certificate of Occupancy

No certificate of occupancy shall be issued for any portion of the #development# or #enlargement# identified in the drawings submitted pursuant to paragraph (a) (2) of Section 63- 30 until a temporary certificate of occupancy has been issued for the #FRESH food store# space. No final certificate of occupancy shall be issued for any such portion of the #development# or #enlargement# identified in such drawings until the #FRESH food store# space has been completed in accordance with the drawings submitted pursuant to paragraph (a) (1) of Section 63-30 and a final certificate of occupancy has been issued for the #FRESH food store# space. The declaration of restrictions shall be noted on any temporary or final certificate of occupancy for the #building#.

63-40

CERTIFICATION FOR CHANGE OF USE OF A FRESH FOOD STORE

A #FRESH food store# for which a certification has been issued pursuant to Section 63-30 may be changed to any #use# permitted by the underlying district upon certification by the Chairperson of the City Planning Commission that such change of #use# would not create a new #non-compliance#, increase the degree of #non-compliance# of #buildings# on the #zoning lot#, or result in reduction in the number of required #accessory# off-street parking spaces under the applicable district regulations.

If a certification pursuant to this Section is granted, a notice of cancellation, in a form acceptable to the Department of City Planning, of the declaration of restrictions recorded pursuant to Section 63-30 shall be executed and recorded in the Office of the City Register of the City of New York against all tax lots comprising the former #FRESH food store#.

63-50

AUTHORIZATION FOR BULK AND PARKING MODIFICATIONS

The City Planning Commission may, by authorization, permit modifications to the #bulk# and #accessory# off-street parking requirements of the applicable zoning districts, when a change of #use# of a #FRESH food store# for which a certification has been issued pursuant to Section 63- 30, would create a new #non-compliance#, increase the degree of #non-compliance# of #buildings# on the #zoning lot#, or result in reduction in the number of required #accessory# off-street parking spaces under the applicable district regulations, provided that such #use# is permitted by the underlying districts.

In order to grant such authorization, the Commission shall find that:

- (e) due to the market conditions prevalent at the time of the application, there is no reasonable possibility that the operation of a #FRESH food store# will bring a reasonable return;
- (f) the applicant, the operator or a prior operator of such #FRESH food store# has not created, or contributed to, such unfavorable market conditions;
- (g) the applicant, the operator or a prior operator of such #FRESH food store# has undertaken commercially reasonable efforts to secure a new operator, and demonstrates to the City Planning Commission that such efforts have been unsuccessful;
- (h) any proposed #non-compliance# or increase in the degree of #non-compliance# will not be incompatible with or adversely affect adjacent #uses# including #uses# within the building; and
- (i) any reduction of required #accessory# off-street parking shall not create or contribute to serious traffic congestion and will not unduly inhibit surface traffic and pedestrian movement.

If such authorization is granted, a notice of cancellation, in a form acceptable to the Department of City Planning, of the declaration of restrictions recorded pursuant to Section 63-30, shall be executed and recorded in the Office of the City Register of the City of New York against all tax lots comprising the former #FRESH food store#. In issuing authorizations under this Section, the Commission may impose conditions and safeguards, to minimize adverse impacts on the character of the surrounding area.

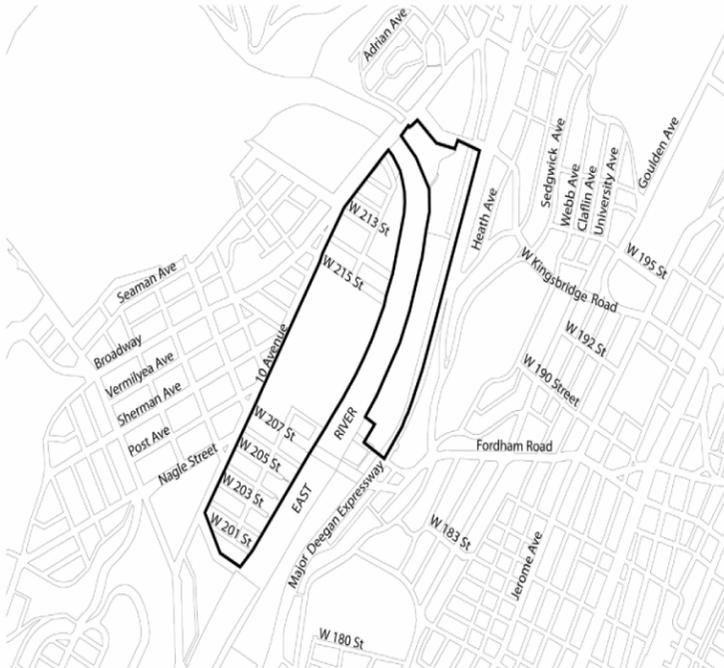
63-60

COMPLIANCE

No later than June 30 of the year, beginning in the first calendar year following the calendar year in which certification was made and at three year intervals thereafter, the Chairperson shall be provided with an affidavit, in a form acceptable to the Department of City Planning, regarding compliance with the requirements of the declaration of restrictions and the regulations of this Chapter, as of a date of inspection which shall be no earlier than June 1st of the year in which the affidavit is filed. Such affidavit shall be provided by the owner(s) of the tax lot(s) on which the #FRESH food store# is located. Such affidavit shall include, without limitation.

- (a) A copy of the original #FRESH food store# certification letter and if applicable, any approval letter pertaining to any other authorization or certification pursuant to this Chapter;

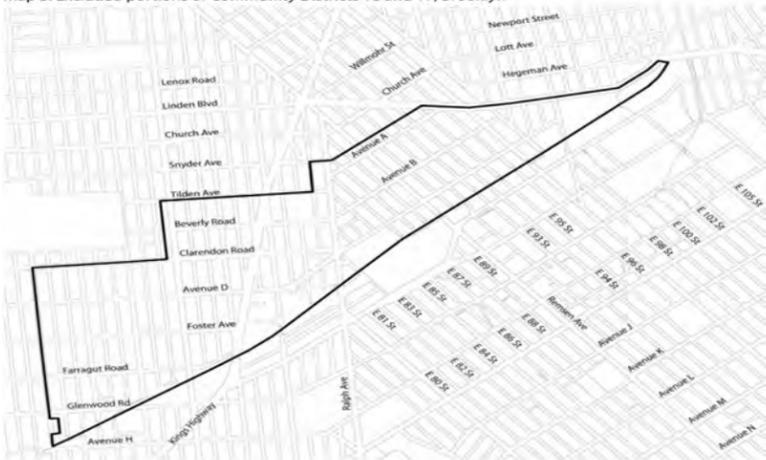
Map 1. Excluded portions of Community District 12, Manhattan and portion of Community District 7, Bronx



Map 2. Excluded portions of Community District 5, Brooklyn



Map 3. Excluded portions of Community Districts 16 and 17, Brooklyn



On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Resolution approving various persons Commissioners of Deeds

By the Presiding Officer –

Resolved, that the following named persons be and hereby are appointed Commissioners of Deeds for a term of two years:

Approved New Applicant's Report

| <u>Name</u> | <u>Address</u> | <u>District #</u> |
|----------------------|---|-------------------|
| Daisy DeJesus | 3217 Corlear Avenue #2 Bronx, NY 10463 | 11 |
| Denayswharie Dhanraj | 73-04 Spring Field Blvd Queens NY 11374 | 23 |
| Peggy Lee Endress | 227 Buel Avenue Staten Island NY 10305 | 50 |
| Nadezhda Myachkina | 303 99 th Street #1F Brooklyn, NY 11209 | 43 |

Approved New Applicants and Reapplicants

| <u>Name</u> | <u>Address</u> | <u>District #</u> |
|----------------------|--|-------------------|
| Leonard Abraham | 4705 Henry Hudson Pkway Bronx, NY 10471 | 11 |
| Joy A. Barbagallo | 1029 70th Street Brooklyn, NY 11228 | 43 |
| Ralph Lento | 1118 74th Street Brooklyn, NY 11228 | 43 |
| Lile Anne Scalogna | 1725 74th Street Brooklyn, NY 11204 | 43 |
| Barbara Jean Barnes | 1325 Pennsylvania Avenue #17B Brooklyn, NY 11239 | 42 |
| Jennifer Headley | 617 Hinsdale Street Brooklyn, NY 11207 | 42 |
| Calvin C. Bass | 788 Riverside Drive #7A New York, NY 10032 | 7 |
| Valerie Blanding | 120 De Kruiif Place #16J Bronx, NY 10475 | 12 |
| Denise Cruickshank | 100 Debs Place #10D Bronx, NY 10475 | 12 |
| Bettie Haigler | 753 East 224th Street Bronx, NY 10466 | 12 |
| Tina McClain | 4054 Carpenter Avenue #3B Bronx, NY 10466 | 12 |
| Eugene R. Bleimann | 317 Taylor Street Staten Island, NY 10310 | 49 |
| Vincent J. Bonadonna | 37 Potter Avenue Staten Island, NY 10314 | 49 |
| Eileen Boykin | 941-43 Fulton Street Brooklyn, NY 11238 | 35 |
| Zoila A. Kelly-Bowen | 489 Eastern Pkwy #14 Brooklyn, NY 11216 | 35 |
| Gail K Brennan | 300 Mosely Avenue Staten Island, NY 10312 | 51 |
| Marie L. Cipriano | 931 Carlton Blvd. Staten Island, NY 10312 | 51 |
| Gina N. Diaz | 1152 Arden Avenue Staten Island, NY 10312 | 51 |
| Karen Emerich | 874 Marcy Avenue Staten Island, NY 10309 | 51 |
| Evelyn Kushman | 11 Windham Loop #5CC Staten Island, NY 10314 | 51 |
| James H. Marsh | 146 Brighton Street | 51 |

| | | | | | |
|--------------------------|--|----|-----------------------|--|----|
| Alan D. Tognan | Staten Island, NY 10307 138 William Avenue Staten Island, NY 10308 | 51 | Kimberlee J. Kitson | 56-13 205th Street Oakland Gardens, NY 11364 | 23 |
| Maylean Brown Thompson | 108-07 Guy R. Brewer Queens, NY 11433 | 27 | Barbara S. Nigro | 88-58 Sabre Street Bellerose Manor, NY 11427 | 23 |
| Carmen Cabreja | 608 West 189th Street New York, NY 10040 | 10 | Mala J. Shah | 83-18 262nd Street Floral Park, NY 11004 | 23 |
| Joseph A. Carollo | 208-16 38th Avenue Queens, NY 11361 | 19 | Man Yee Kwan | 31-40 86 Street Jackson Heights, NY 11372 | 25 |
| Lisa A. Ennis | 199-21 22nd Avenue Whitestone, NY 11357 | 19 | Donna Leak | 1595 Unionport Road #9D Bronx, NY 10462 | 18 |
| Margaret G. Toro | 36-08 Bell Blvd #2C Queens, NY 11361 | 19 | Shimon Maman | 530 F Grand Street New York, NY 10002 | 1 |
| Lorraine A. Toto | 14-07 116th Street Queens, NY 11356 | 19 | Janice L. Mann | 150 East 88th Street Brooklyn, NY 11236 | 45 |
| Donna Ceglecki | 302 Bay 11th Street Brooklyn, NY 11228 | 50 | Maria S. Pagano Ruiz | 63-57 75th Street Middle Village, NY 11379 | 30 |
| Angelo I D'Acunto | 52 Amsterdam Place Staten Island, NY 10314 | 50 | Russell Pecunies | 151-18 79th Street Queens, NY 11414 | 32 |
| Jack Elias | 131 McKinley Avenue Staten Island, NY 10306 | 50 | Evelyn Perez | 1311 Merriam Avenue #D1 Bronx, NY 10452 | 16 |
| Holly Frasca | 39 Furness Place Staten Island, NY 10314 | 50 | Soraya Pierre | 1137 Nameoke Street Queens, NY 11691 | 31 |
| Natalie Kwasny | 26 Stonegate Driv e Staten Island, NY 10304 | 50 | Vincent Raccuglia | 63-00 Wetherole Street Queens, NY 11374 | 29 |
| Donna M. Saccone | 206 Mill Road Staten Island, NY 10306 | 50 | Kunta Rawat-Kc | 51-01 39th Avenue #MIV141 Sunnyside, NY 11104 | 26 |
| Carol P. Cennamo | 40 Tehama Street #2C Brooklyn, NY 11218 | 39 | Jose J. Rivera | 227 Wyckoff Avenue Brooklyn, NY 11237 | 37 |
| Michelle Charles | 1442 Pacific Street #1R Brooklyn, NY 11216 | 36 | Abigail Stafford | 1202 Hancock Street Brooklyn, NY 11221 | 37 |
| Dorothy P. Christodoulou | 1378 East 96th Street Brooklyn, NY 11236 | 46 | Lillian Robles-Lebron | 2015 Marmion Avenue Bronx, NY 10460 | 15 |
| Rosa Fallon | 2064 East 34th Street Brooklyn, NY 11234 | 46 | Paula Rodriguez | 451 40th Street #3L Brooklyn, NY 11232 | 38 |
| Nicholas D. Lucas | 1180 East 83rd Street Brooklyn, NY 11236 | 46 | Anna Ruzinov | 2650 East 13th Street Brooklyn, NY 11235 | 48 |
| Rayna Rosenberg | 2434 East 72nd Street Brooklyn, NY 11234 | 46 | Kalman Yeger | 1546 East 18th Street Brooklyn, NY 11230 | 48 |
| Delphine Closson | 872 East 147th Street Bronx, NY 10455 | 17 | Luis Soler | 336 East 4th Street New York, NY 10009 | 2 |
| Lourdass Garcia | 637 East 139th Street Bronx, NY 10454 | 17 | Anna Trufanova | 2036 Cropsey Avenue Brooklyn, NY 11214 | 47 |
| Carmen Cordova-Cruz | 929 Brady Avenue Bronx, NY 10462 | 13 | | | |
| Norma Cruz-Meletich | 2580 Stedman Place Bronx, NY 10469 | 13 | | | |
| Helena Lempert | 2121 Paulding Avenue Bronx, NY 10462 | 13 | | | |
| Patricia E. O'Hanlon | 1620 Yates Avenue Bronx, NY 10461 | 13 | | | |
| Robert M. O'Hanlon | 1620 Yates Avenue Bronx, NY 10461 | 13 | | | |
| Julia Robles | 1312 Balcom Avenue 1 Bronx, NY 10461 | 13 | | | |
| Jaclyn Souhrada | 820 Astor Avenue #3B Bronx, NY 10467 | 13 | | | |
| Steven J. Wallace | 906 Dean Avenue Bronx, NY 10465 | 13 | | | |
| Vivolyn Ford | 131 Lincoln Road #6A Brooklyn, NY 11225 | 40 | | | |
| Inez Guerrero | 20-15 35th Street Queens, NY 11105 | 22 | | | |
| Wendy Irizarry-Lopez | 3 Seigel Court Brooklyn, NY 11206 | 34 | | | |
| Vivian Jones | 20 Debevoise Avenue #7F Brooklyn, NY 11211 | 34 | | | |
| Ada Torres | 1091-1103 Gates Avenue Brooklyn, NY 11221 | 34 | | | |
| Sherry Johnson | 2494 8th Avenue #5B New York, NY 10030 | 9 | | | |
| Athena Kiamos | 67-21 Springfield Blvd Queens, NY 11364 | 23 | | | |

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

ROLL CALL ON GENERAL ORDERS FOR THE DAY
(Items Coupled on General Order Calendar)

- (1) **Int 476-A --** Benchmarking the energy and water efficiency of buildings (**with Message of Necessity from the Mayor requiring affirmative vote of at least two-thirds of the Council for passage**).
- (2) **Int 564-A --** Establishing a New York city energy code (**with Message of Necessity from the Mayor requiring affirmative vote of at least two-thirds of the Council for passage**).
- (3) **Int 967-A --** Requiring energy audits and retro-commissioning of base building systems of certain buildings and retro-fitting of certain city-owned buildings (**with Message of Necessity from the Mayor requiring affirmative vote of at least two-thirds of the Council for passage**).
- (4) **Int 973-A --** Upgrading lighting systems in existing buildings greater than 50,000 gross square feet (**with Message of Necessity from the Mayor requiring affirmative vote of at least two-thirds of the Council for passage**).
- (5) **Res 2289 --** Setting forth findings of the Council concerning the environmental review conducted for Proposed Int. No. 476-A, Proposed Int. No. 564-A, Proposed Int. No. 967-A and Proposed Int. No. 973-A.
- (6) **L.U. 1244 & Res 2294 --** App. N **090412 ZRY** provisions related to the establishment of FRESH Food Stores.
- (7) **L.U. 1255 & Res 2292 --** App. C **080039 ZMM** Zoning Map, changing from an M1-1 District to an R7A
- (8) **L.U. 1269 & Res 2293 --** ULURP, app. C **100014 HAK** UDAADP 371 Van Siclen Avenue, Borough of Brooklyn, Council District no. 37.
- (9) **Resolution approving various persons Commissioners of Deeds.**

The President Pro Tempore (Council Member Rivera) put the question whether the Council would agree with and adopt such reports which were decided in the **affirmative** by the following vote:

Affirmative –Arroyo, Avella, Barron, Brewer, Comrie, Crowley, de Blasio, Dickens, Dilan, Eugene, Felder, Ferreras, Fidler, Foster, Garodnick, Gennaro, Gentile, Gerson, Gioia, Gonzalez, Ignizio, Jackson, James, Katz, Koppell, Lappin, Liu*, Mark-Viverito, Mealy, Mendez, Mitchell, Nelson, Palma, Recchia, Reyna, Rodriguez*, Sanders*, Seabrook*, Sears, Stewart, Ulrich, Vacca, Vallone, Jr., Vann, Weprin, White, Yassky, Oddo, Rivera, and the Speaker (Council Member Quinn) – **50***.

The revised General Order vote recorded for this Stated Meeting as of December 14, 2009 was 50-0-0* as shown above (superseding the original 46-0-0 vote recorded on December 9, 2009) with the exception of the votes for the following legislative items:

The following was the revised vote of 45-5-0* as of December 14, 2009 recorded for **Int No. 967-A** (superseding the original 41-5-0 vote recorded on December 9, 2009):

Affirmative–Arroyo, Avella, Barron, Brewer, Comrie, Crowley, de Blasio, Dickens, Eugene, Ferreras, Fidler, Foster, Garodnick, Gennaro, Gentile, Gerson, Gioia, Gonzalez, Jackson, James, Katz, Koppell, Lappin, Liu*, Mark-Viverito, Mealy, Mendez, Mitchell, Nelson, Palma, Recchia, Reyna, Rodriguez*, Sanders*, Seabrook*, Sears, Stewart, Vacca, Vallone, Jr., Vann, Weprin, White, Yassky, Rivera, and the Speaker (Council Member Quinn) – **45***.

Negative - Dilan, Felder, Ignizio, Ulrich and Oddo- **5**.

The following was the revised vote of 48-2-0* as of December 14, 2009 recorded for **Int No. 973-A** (superseding the original 44-2-0 vote recorded on December 9, 2009):

Affirmative –Arroyo, Avella, Barron, Brewer, Comrie, Crowley, de Blasio, Dickens, Dilan, Eugene, Ferreras, Fidler, Foster, Garodnick, Gennaro, Gentile, Gerson, Gioia, Gonzalez, Jackson, James, Katz, Koppell, Lappin, Liu*, Mark-Viverito, Mealy, Mendez, Mitchell, Nelson, Palma, Recchia, Reyna, Rodriguez*, Sanders*, Seabrook*, Sears, Stewart, Ulrich, Vacca, Vallone, Jr., Vann, Weprin, White, Yassky, Oddo, Rivera, and the Speaker (Council Member Quinn) – **48***.

Negative - Felder and Ignizio - **2**.

**Please see the Editor's Note re: Attendance and Voting for this Stated Meeting held on December 9, 2009 printed after the Roll Call for Attendance in these Minutes.*

The following Introductions were sent to the Mayor for his consideration and approval: Int Nos. 476-A, 564-A, 967-A, and 973-A (all four bills Passed under Messages of Necessity from the Mayor, respectively).

INTRODUCTION AND READING OF BILLS

Int. No. 1103

By Council Members Avella, Barron, Brewer, Comrie, Dickens, Dilan, Ferreras, Foster, Gentile, Gerson, Gioia, Gonzalez, James, Liu, Mealy, Mendez, Nelson, Palma, Recchia Jr., Rivera, Sanders, Seabrook, Vacca, Ulrich, Weprin, White and Yassky.

A Local Law in relation to the naming of 70 thoroughfares and public places, Ron Carey Avenue, Borough of Queens, Betty Pegen Way, Borough of Queens, Sol Soskin Way, Borough of Queens, Kenneth Jackson, Jr. Blvd., Borough of Brooklyn, Power Memorial Way, Borough of Manhattan, Morris R. Lee Place, Borough of Queens, John Hicks Way, Borough of Manhattan, Sugar Ray Robinson Way, Borough of Manhattan, Anthony Aristedes Delgado Way, Borough of Brooklyn, Thomas Joseph Sgroi A 9-11 Memorial Way, Borough of Brooklyn, Mitad del Mundo, Borough of Queens, Veterans Memorial Way, Borough of Brooklyn, Rev. Robert G. Lane Blvd., Borough of the Bronx, FF Alfred Ronaldson Place, Borough of the Bronx, Walter L. Johnson Corner Developer of Dyker Heights, Borough of Brooklyn, Rosemarie O' Keefe Way, Borough of Brooklyn, Hank Vogt Way, Borough of Brooklyn, Dr. Michael Brienza Way, Borough of Brooklyn, Hon. Thomas Tam Way, Borough of Manhattan, The Bowery Mission Way, Borough of Manhattan, Roger Laghezza Place, Borough of Queens, Nicolas A. Nowillo Place, Borough of Queens, Francesco "Frankie" Loccisano Way, Borough of Brooklyn, Dr. Jitendra Sukhadia Crossing, Borough of Staten Island, Benny A. Lyde Place, Borough of Brooklyn, Bernard L. Shapiro Boulevard, Borough of Queens, Janice Marie Knight Street, Borough of Brooklyn, Dr. Saul J. Farber Way, Borough of Manhattan, NYS Senator 1956-2006, Hon. John J. Marchi Way, Borough of Staten Island, Catherine Vanden-Heuvel Way, Borough of Staten Island, Elizabeth Stanton Way, Borough of Staten Island, Arthur F. Newcombe Sr. Way, Borough of Staten Island, FDNY Lt. John "Muzz" Murray Way, Borough of Staten Island, Corporal John C. Johnson, Sr. Road, Borough of Staten Island, Custodian Martin T. Cavanagh Way, Borough of Staten Island, Sergeant Gerald A. Johnson Corner, Borough of Staten Island, Carmine Narducci Way, Borough of Staten Island, Bobby Smith Court, Borough of Staten Island, Curtis High School Alumni Way, Borough of Staten Island, Michael Coccozza Way, Borough of Staten Island, Rabbi Dr. Joseph I. Singer Way, Borough of Brooklyn, Sheila Nelson Way, Borough of Brooklyn, P.O. Kevin M. Lee Way, Borough of Staten Island, Eugene S. Devlin III Way, Borough of Staten Island, Michael A. Primiano Way, Borough of Staten Island, Sal Somma Way, Borough of Staten Island, PV2 Isaac T. Cortes Way, Borough of the Bronx, Sister Jane Talbot Way, Borough of Brooklyn, Ken Siegelman Way, Borough of Brooklyn, Lance Corporal Alberto Francesconi Place, Borough of the Bronx, Supervising Fire Dispatcher Dennis Patrick O' Connell Place, Borough of the Bronx, Mr. Joseph Zinzi Place, Borough of the Bronx, J. Clifford Gadsden Place, Borough of Queens, Edith Copeland Baldwin Way, Borough of the Bronx, Det. Rudolph Vinston Edwards, Sr. Way, Borough of the Bronx, Gloria D. Alexander Way, Borough of the Bronx, Dorothy Gomes Way, Borough of the Bronx, Christian Regenhart Way, Borough of the Bronx, Charles Carrocetto Corner, Borough of the Bronx, Officer Dominick Pezzulo Triangle, Borough of the Bronx, Beverly Baxter Blvd., Borough of Queens, Sean Bell Way, Borough of Queens, Ghanwatti Boodram Way, Borough of Queens, Mike Lee Corner, Borough of Brooklyn, Burlingame Court, Borough of Queens, James Court, Borough of Queens, McKee Court, Borough of Queens, Calhoun Court, Borough of Queens, Moncrief Court,

Borough of Queens, Lockwood Court, Borough of Queens and the repeal of sections 7 and 10 of local law number 46 for the year 2009, the repeal of sections 17 and 37 of local law number 48 for the year 2008 and the repeal of section 48 of local law number 64 for the year 2008.

Be it enacted by the Council as follows:

Section 1. The following street name, in the Borough of Queens, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|------------------|-------------------------|---|
| Ron Carey Avenue | 28 th Avenue | Between 203 rd and 206 th Streets |

§2. The following intersection name, in the Borough of Queens, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|-----------------|--------------|--|
| Betty Pegen Way | None | At the intersection of 12 th Avenue and College Place |

§3. The following street name, in the Borough of Queens, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|----------------|--------------------------|--|
| Sol Soskin Way | 215 th Street | Between 45 th Road and Northern Boulevard |

§4. The following street name, in the Borough of Brooklyn, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|----------------------------|---------------|--|
| Kenneth Jackson, Jr. Blvd. | Autumn Avenue | Between Conduit Avenue and Sutter Avenue |

§5. The following intersection name, in the Borough of Manhattan, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|--------------------|--------------|--|
| Power Memorial Way | None | At the intersection of West 61 st Street and Amsterdam Avenue |

§6. The following street name, in the Borough of Queens, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|---------------------|--------------------------|---|
| Morris R. Lee Place | 228 th Street | Between Linden Boulevard and 116 th Avenue |

§7. The following street name, in the Borough of Manhattan, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|----------------|-------------------------------|--|
| John Hicks Way | West 139 th Street | Between Edgecombe Avenue and Frederick Douglas Boulevard |

§8. The following street name, in the Borough of Manhattan, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|------------------------|------------------------------------|---|
| Sugar Ray Robinson Way | Adam Clayton Powell, Jr. Boulevard | Between 123 rd Street and 124 th Street |

§9. The following intersection name, in the Borough of Brooklyn, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|-------------------------------|--------------|---|
| Anthony Aristedes Delgado Way | None | At the corner of Central Avenue and Palmetto Street |

§10. The following intersection name, in the Borough of Brooklyn, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|---|--------------|---|
| Thomas Joseph Sgroi A 9-11 Memorial Way | None | Northeast corner of 15 th Avenue and 15 th Street |

§11. The following street name, in the Borough of Queens, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|-----------------|-----------------|---|
| Mitad del Mundo | Elmhurst Avenue | Between 94 th Street and 95 th Street |

§12. The following street name, in the Borough of Brooklyn, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|-----------------------|----------------|---|
| Veterans Memorial Way | Whitney Avenue | Between Gerritsen Avenue and Burnett Street |

§13. The following street name, in the Borough of the Bronx, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|---------------------------|-------------------|---|
| Rev. Robert G. Lane Blvd. | Washington Avenue | Between East 165 th Street and East 166 th Street |

§14. The following street name, in the Borough of the Bronx, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|---------------------------|-------------------|---|
| FF Alfred Ronaldson Place | Washington Avenue | Between East 172 nd Street and East 173 rd Street |

§15. The following intersection name, in the Borough of Brooklyn, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|---|--------------|--|
| Walter L. Johnson Corner Developer of Dyker Heights | None | At the southwest corner of 82 nd Street and 11 th Avenue |

§16. The following intersection name, in the Borough of Brooklyn, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|------------------------|--------------|---|
| Rosemarie O' Keefe Way | None | At the intersection of Bay Ridge Parkway and 5 th Avenue |

§17. The following intersection name, in the Borough of Brooklyn, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|---------------|--------------|---|
| Hank Vogt Way | None | At the intersection of 85 th Street and 7 th Avenue |

§18. The following intersection name, in the Borough of Brooklyn, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|-------------------------|--------------|---|
| Dr. Michael Brienza Way | None | At the intersection of 15 th Avenue and Cropsey Avenue |

§19. The following intersection name, in the Borough of Manhattan, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|---------------------|--------------|---|
| Hon. Thomas Tam Way | None | Underneath the Canal Street sign on the Southeast corner of Canal |

| | | |
|--|--|--------------------|
| | | and Cortland Alley |
|--|--|--------------------|

§20. The following street name, in the Borough of Manhattan, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|------------------------|---|---|
| The Bowery Mission Way | 227 Bowery at the intersection with Prince Street | Between Rivington Street and Stanton Street |

§21. The following intersection name, in the Borough of Queens, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|----------------------|--------------|--|
| Roger Laghezza Place | None | At the intersection of 29 th Street and 39 th Avenue |

§22. The following intersection name, in the Borough of Queens, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|--------------------------|--------------|--|
| Nicolas A. Nowillo Place | None | At the intersection of Crescent Street and 40 th Avenue |

§23. The following intersection name, in the Borough of Brooklyn, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|-----------------------------------|--------------|--|
| Francesco "Frankie" Loccisano Way | None | At the intersection of 63 rd Street and 14 th Avenue |

§24. The following intersection name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|--------------------------------|--------------|--|
| Dr. Jitendra Sukhadia Crossing | None | At the intersection of Amboy Road and Arden Avenue |

§25. The following intersection name, in the Borough of Brooklyn, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|---------------------|--------------|--|
| Benny A. Lyde Place | None | At the northeast corner of Lincoln Place and New York Avenue |

§26. The following intersection name, in the Borough of Queens, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|------------------------------|--------------|--|
| Bernard L. Shapiro Boulevard | None | At the intersection of Parsons Boulevard and 24 th Avenue |

§27. The following street name, in the Borough of Brooklyn, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|----------------------------|------------------------------|--|
| Janice Marie Knight Street | East 40 th Street | Between Lenox Road and Clarkson Avenue |

§28. The following intersection name, in the Borough of Manhattan, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|------------------------|--------------|--|
| Dr. Saul J. Farber Way | None | At the intersection of East 30 th Street and First Avenue |

§29. The following intersection name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|-------------------|--------------|------------------------|
| NYS Senator 1956- | None | At the intersection of |

| | | |
|-------------------------------|--|------------------------------|
| 2006, Hon. John J. Marchi Way | | Nixon Avenue and Ward Avenue |
|-------------------------------|--|------------------------------|

§30. The following intersection name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|-----------------------------|--------------|---|
| Catherine Vanden-Heuvel Way | None | At the intersection of Mountainview Avenue and Purdy Avenue |

§31. The following intersection name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|-----------------------|--------------|---|
| Elizabeth Stanton Way | None | At the intersection of Richmond Terrace and Jersey Street |

§32. The following intersection name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|----------------------------|--------------|--|
| Arthur F. Newcombe Sr. Way | None | At the intersection of Henderson Avenue and Broadway |

§33. The following intersection name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|---------------------------------|--------------|---|
| FDNY Lt. John "Muzz" Murray Way | None | At the intersection of Kingsley Avenue and Manor Road |

§34. The following intersection name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|------------------------------------|--------------|---|
| Corporal John C. Johnson, Sr. Road | None | At the intersection of Curtis Avenue and Manor Road |

§35. The following intersection name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|----------------------------------|--------------|---|
| Custodian Martin T. Cavanagh Way | None | At the intersection of Benziger Avenue and Daniel Low Terrace |

§36. The following intersection name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|-----------------------------------|--------------|---|
| Sergeant Gerald A. Johnson Corner | None | At the intersection of Floyd Street and Raymond Place |

§37. The following intersection name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|----------------------|--------------|---|
| Carmine Narducci Way | None | At the intersection of Maple Parkway and Walloon Avenue |

§38. The following intersection name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|-------------------|--------------|--|
| Bobby Smith Court | None | At the intersection of Lawrence Avenue and Forest Avenue |

§39. The following intersection name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|-------------------------------|--------------|--|
| Curtis High School Alumni Way | None | At the intersection of Nicholas Street and St. Marks Place |

§40. The following intersection name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|----------------------|--------------|---|
| Michael Coccozza Way | None | At the intersection of St. Mary's Avenue and Ormond Place |

§41. The following intersection name, in the Borough of Brooklyn, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|--------------------------------|--------------|---|
| Rabbi Dr. Joseph I. Singer Way | None | At the intersection of West End Avenue and Cass Place |

§42. The following intersection name, in the Borough of Brooklyn, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|-------------------|--------------|---|
| Sheila Nelson Way | None | At the intersection of East 21 st Street and Emmons Avenue |

§43. The following intersection name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|-----------------------|--------------|--|
| P.O. Kevin M. Lee Way | None | At the intersection of Cromwell Avenue and Hylan Boulevard |

§44. The following intersection name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|--------------------------|--------------|---|
| Eugene S. Devlin III Way | None | At the intersection of Todt Hill Road and Flagg Place |

§45. The following street name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|-------------------------|------------------------|---------------------------------------|
| Michael A. Primiano Way | 8 th Street | Between New Dorp Lane and Rose Avenue |

§46. The following intersection name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|---------------|--------------|--|
| Sal Somma Way | None | At the intersection of New Dorp Lane and Hylan Boulevard |

§47. The following street name, in the Borough of the Bronx, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|-------------------------|----------------|---|
| PV2 Isaac T. Cortes Way | Unionport Road | Between Metropolitan Oval and Starling Avenue |

§48. The following street name, in the Borough of Brooklyn, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|------------------------|-----------------------------|--|
| Sister Jane Talbot Way | East 4 th Street | Between Avenue W and Gravesend Neck Road |

§49. The following street name, in the Borough of Brooklyn, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|-------------------|-----------------------------|---------------------------------|
| Ken Siegelman Way | West 5 th Street | Between Avenue V and Wolf Place |

§50. The following intersection name, in the Borough of the Bronx, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|--|--------------|--|
| Lance Corporal Alberto Francesconi Place | None | At the intersection of East 187 th Street and Park Avenue |

§51. The following street name, in the Borough of the Bronx, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|--|-------------------------------|--|
| Supervising Fire Dispatcher Dennis Patrick O'Connell Place | East 180 th Street | Between Bronx Park Avenue and Devoe Avenue |

§52. The following intersection name, in the Borough of the Bronx, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|------------------------|--------------|--|
| Mr. Joseph Zinzi Place | None | At the intersection of Arthur Avenue and East 187 th Street |

§53. The following street name, in the Borough of Queens, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|---------------------------|--------------------------|---|
| J. Clifford Gadsden Place | 175 th Street | Between 145 th Avenue and 146 th Avenue |

§54. The following intersection name, in the Borough of the Bronx, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|----------------------------|--------------|--|
| Edith Copeland Baldwin Way | None | At the intersection of Tilden Street and Barnes Avenue |

§55. The following intersection name, in the Borough of the Bronx, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|---------------------------------------|--------------|---|
| Det. Rudolph Vinston Edwards, Sr. Way | None | At the intersection of Schieffelin Avenue and Baychester Avenue |

§56. The following street name, in the Borough of the Bronx, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|-------------------------|---------------|--|
| Gloria D. Alexander Way | Digney Avenue | Between East 233 rd Street and Bussing Avenue |

§57. The following intersection name, in the Borough of the Bronx, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|-------------------|--------------|---|
| Dorothy Gomes Way | None | Edenwald Avenue and East 233 rd Street |

§58. The following intersection name, in the Borough of the Bronx, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|-------------------------|--------------|---|
| Christian Regenhard Way | None | At the intersection of Aldrich Street and Asch Loop |

§59. The following intersection name, in the Borough of the Bronx, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|---------------------------|--------------|---|
| Charles Carrocetto Corner | None | At the intersection of Crosby Avenue and Roberts Avenue |

§60. The following intersection name, in the Borough of the Bronx, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|-----------------------------------|--------------|---|
| Officer Dominick Pezzulo Triangle | None | At the intersection of the Hutchinson River Parkway and East Tremont Avenue |

§61. The following street name, in the Borough of Queens, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|----------------------|--------------------------|--|
| Beverly Baxter Blvd. | Rockaway Beach Boulevard | Between the west side of Beach 108 Street to the east side of Beach 116 th Street |

§62. The following street name, in the Borough of Queens, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|---------------|------------------|--|
| Sean Bell Way | Liverpool Street | Between 94 th Avenue and 101 st Street |

§63. The following street name, in the Borough of Queens, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|-----------------------|--------------------------|---|
| Ghanwatti Boodram Way | 260 th Street | Between 80 th Avenue and 81 st Avenue |

§64. The following intersection name, in the Borough of Brooklyn, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|-----------------|--------------|--|
| Mike Lee Corner | None | At the intersection of Wythe Avenue and North 6 th Street |

§65. The following street name, in the Borough of Queens, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|------------------|------------------------|--|
| Burlingame Court | 163 rd Road | Between 104 th Street and Hawtree Basin |

§66. The following street name, in the Borough of Queens, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|-------------|-------------------------|--|
| James Court | 163 rd Drive | Between 104 th Street and Hawtree Basin |

§67. The following street name, in the Borough of Queens, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|-------------|--------------------------|--|
| McKee Court | 164 th Avenue | Between 104 th Street and Hawtree Basin |

§68. The following street name, in the Borough of Queens, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|---------------|------------------------|--|
| Calhoun Court | 164 th Road | Between 104 th Street and Hawtree Basin |

§69. The following street name, in the Borough of Queens, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|----------------|-------------------------|--|
| Moncrief Court | 164 th Drive | Between 104 th Street and Hawtree Basin |

§70. The following street name, in the Borough of Queens, is hereby designated as hereafter indicated.

| New Name | Present Name | Limits |
|----------------|--------------------------|--|
| Lockwood Court | 165 th Avenue | Between 104 th Street and Hawtree Basin |

§71. Sections 7 and 10 of local law number 46 for the year 2009 are hereby REPEALED.

§72. Sections 17 and 37 of local law number 48 for the year 2008 are hereby REPEALED.

§73. Section 48 of local law number 64 for the year 2008 is hereby REPEALED.

§74. This local law shall take effect immediately.

Referred to the Committee on Parks and Recreations.

Int. No. 1104

By Council Member Dilan.

A Local Law to amend the administrative code of the city of New York, in relation to benefits pursuant to section four hundred twenty-one-a of the real property tax law.

Be it enacted by the Council as follows:

Section 1. Subdivision d of section 11-245 of the administrative code of the city of New York is amended to read as follows:

(d) For purposes of subdivisions (a) and (c) of this section and section 11-245.1-b of this part, construction shall be deemed to have commenced on the date immediately following the issuance by the department of buildings of a building or alteration permit for a multiple dwelling (based upon architectural, [plumbing] and structural plans approved by such department) on which the excavation and the construction of initial footings and foundations commences in good faith, as certified by an architect or professional engineer licensed in the state, provided that the construction of such multiple dwelling has been completed without undue delay, as certified by such architect or professional engineer. Notwithstanding the foregoing, if a project includes new residential construction and the concurrent conversion, alteration or improvement of a pre-existing building or structure, construction shall be deemed to have commenced on the date immediately following the issuance by the department of buildings of an alteration permit for the multiple dwelling (based upon architectural, [plumbing] and structural plans approved by such department) on which the actual construction of such concurrent conversion, alteration or improvement of the pre-existing building or structure commences in good faith, as certified by an architect or professional engineer licensed in the state, provided that the construction of such multiple dwelling has been completed without undue delay, as certified by such architect or professional engineer.

§2. This local law shall take effect immediately and shall be deemed to have been in full force and effect on and after December 28, 2006.

Referred to the Committee on Housing and Buildings.

Res. No. 2287

Resolution calling upon the Mayor and the New York City Department of Correction to end their involvement with United States department of Immigration and Customs Enforcement by refusing to allow Immigration and Customs Enforcement to have access to pre-trial detainees at Rikers Island and other Department of Correction facilities and declining to participate in the Secure Communities Program.

By Council Member Foster, Ferreras, Jackson, James, Mark-Viverito, Mealy and Palma.

Whereas, A coalition of immigrant advocates and religious leaders launched a campaign on August 25, 2009 to call for the Department of Correction (DOC) to end its involvement with Immigration and Customs Enforcement (ICE), a division of the United States Department of Homeland Security (DHS), by (i) denying ICE access to

pre-trial detainees at Rikers Island and other DOC facilities, (ii) prohibiting the collection or sharing of immigration data about pre-trial detainees with ICE, (iii) declining ICE detainers on New Yorkers who have been promised legalization, and (iv) requiring ICE to observe the legal rights of all New York City immigrant detainees; and

Whereas, DOC regularly provides ICE officials with a list of foreign-born inmates at Rikers Island; and

Whereas, ICE agents are provided free space at Rikers Island and other DOC facilities in order to have easy access to DOC detainees; and

Whereas, ICE uses the DOC inmate list to question approximately 4,000 inmates per year about their immigration status, of which ICE puts a hold or “detainer” on approximately 3,000 inmates per year; and

Whereas, A detainer is a request from ICE to a state or local law enforcement agency that the agency notify ICE prior to the release of a non-citizen from its custody so that ICE can assume custody and for such agency to maintain temporary, 48-hour custody of a non-citizen who is not already in the agency’s custody; and

Whereas, Since 2004, at least 13,000 Rikers Island inmates have been placed in deportation proceedings as a result of these practices; and

Whereas, The large majority of people in DOC custody targeted for ICE interrogations are pre-trial detainees who still enjoy the presumption of innocence, including New Yorkers who may have been wrongfully arrested and later found not guilty of any crime, New Yorkers who are arrested for minor crimes, many who are eligible for and in the process of getting legal status, others who are asylees and refugees fleeing persecution, and people who are green card holders who have spent nearly all of their lives in New York; and

Whereas, According to immigrant advocates, during interrogations at Rikers Island and other DOC facilities, ICE agents regularly deny detainees their constitutional rights to remain silent and to an attorney; and

Whereas, As a result of these practices, immigrant New Yorkers may be less likely to cooperate with local police as witnesses and victims of crime; and

Whereas, ICE’s enforcement program at Rikers Island and other DOC facilities has the additional effect of tearing apart New York families by deporting breadwinners and leaving the abandoned family members dependent on New York City’s social service agencies; and

Whereas, Advocates have indicated that, in June 2009, DOC responded to reports that ICE agents inadequately notified inmates of the nature of their visits, the right to decline such visits, and the right to have legal representation by agreeing to make changes to help protect the rights of inmates interviewed by ICE, including having inmates sign a form consenting to an ICE interview and providing DOC officers with training so that they would be better able to make detainees aware that the interviews are voluntary; and

Whereas, ICE’s program at Rikers is a precursor to the Secure Communities Program, a federal initiative put in place in order to identify, process and remove illegal immigrants held in local jails throughout the United States; and

Whereas, As of August 30, 2009, the Secure Communities Program was already operating in 81 jurisdictions in nine states, and is expected to be operational nationwide by 2013; and

Whereas, The Obama administration has reportedly pledged \$195 million over the next year to expand the Secure Communities Program nationwide by 2012/13; and

Whereas, If the Secure Communities Program becomes operational at DOC facilities, DOC officials will be required to check fingerprints of all persons in custody against fingerprints of those already in the FBI’s Integrated Automated Fingerprint ID System and the DHS Automated Biometric Identification System; and

Whereas, Under the Secure Communities Program, should a person be identified as an illegal immigrant, DOC officials will be further required to turn the matter over to ICE to determine the criminal charges and for deportation proceedings; now, therefore, be it,

Resolved, That the Council of the City of New York calls upon the Mayor and the New York City Department of Correction to end their involvement with United States department of Immigration and Customs Enforcement by refusing to allow Immigration and Customs Enforcement to have access to pre-trial detainees at Rikers Island and other Department of Correction facilities and declining to participate in the Secure Communities Program.

Referred to the Committee on Immigration.

Res. No. 2288

Resolution urging the United States Senate to approve a health care reform bill that will not restrict women’s reproductive health or burden their right to choose by forcing women to seek alternative or supplemental insurance to obtain an abortion.

By Council Member Garodnick, The Speaker (Council Member Quinn), Brewer, Ferreras, Foster, Jackson, James, Koppell, Lappin, Mark-Viverito, Palma, Weprin and Mendez.

Whereas, On November 7, 2009, the United States House of Representatives voted 220 to 215 to pass, H.R. 3962, the Affordable Health Care for America Act; and

Whereas, This legislation would accomplish many laudable goals including the provision of insurance for 96 percent of uninsured Americans; and

Whereas, This would be achieved by creating a public option for health insurance to increase competition and lower costs, offering insurance credits to assist individuals with affording and purchasing health insurance, and by prohibiting insurance companies from discriminating against those with preexisting conditions; and

Whereas, Before the vote on the final bill, the House voted 240 to 194 to approve an amendment put forward by Representative Bart Stupak (D-MI) which would prohibit federal funding for abortion services in the public option and would prohibit individuals who receive affordability credits from purchasing a plan that provides elective abortions; and

Whereas, According to the Planned Parenthood Federation of America (PPFA), a national reproductive health care advocate and provider, millions of women would lose access to benefits that they currently have and millions would be prohibited from getting the kind of private sector health care coverage that many women have today; and

Whereas, NARAL Pro-Choice America, a national advocacy organization for a woman’s right to choose, states that currently more than 85 percent of private health insurance plans cover abortion services; and

Whereas, The Guttmacher Institute, a policy group devoted to advancing reproductive health worldwide, observed that in 2002, almost 87 percent of all employer-based health care plans covered surgical abortions; and

Whereas, While proponents of the Stupak Amendment claim that a woman would be able to purchase separate abortion-only coverage, the National Women’s Law Center asserts that there is no evidence that abortion-only coverage exists, as there is no evidence of the availability of such coverage in the five states which allow abortion-only coverage through a separate rider; and

Whereas, Opponents of the Amendment are fearful that insurance companies will make a calculated decision to participate in the health insurance exchange, a regulated health insurance marketplace where many of the currently uninsured individuals will choose to access health care from, and thereby the insurance companies would be expressly prohibited from offering coverage for abortion services; and

Whereas, The Stupak Amendment would result in limiting the number of insurers that provide these services and thus, infringe upon a woman’s ability to access reproductive health care; and

Whereas, Women already face major health disparities which are attributed to many causes including income disparities, affordability of insurance, the need for additional health services and gender biases; and

Whereas, Many leading women’s health advocates are concerned that any health care reform which includes the Stupak Amendment language, will further expand gender health care disparities; and

Whereas, These organizations are calling for the United States Senate to pass meaningful health care reform which does not restrict a woman’s constitutional and fundamental right to choose; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the United States Senate to approve a health care reform bill that will not restrict women’s reproductive health or burden their right to choose by forcing women to seek alternative or supplemental insurance to obtain an abortion.

Referred to the Committee on Health.

Res. No. 2289

Resolution pursuant to the New York State Environmental Quality Review Act setting forth findings of the Council concerning the environmental review conducted for Proposed Int. No. 476-A, Proposed Int. No. 564-A, Proposed Int. No. 967-A and Proposed Int. No. 973-A.

By Council Members Gennaro, Arroyo and Palma.

Whereas, The enactment of Proposed Int. No. 476-A, Proposed Int. No. 564-A, Proposed Int. No. 967-A and Proposed Int. No. 973-A is each an “action” as defined in section 617.2(b) of Title 6 of the Official Compilation of the Codes, Rules and Regulations of the State of New York; and

Whereas, The Mayor’s Office of Environmental Coordination has prepared on behalf of the Office of the Mayor, a co-lead agency pursuant to section 5-03(d) of the Rules of Procedure for City Environmental Quality Review, an Environmental Assessment Statement, pursuant to Article 8 of the New York State Environmental Conservation Law, section 617.7 of Title 6 of the Official Compilation of the Codes, Rules and Regulations of the State of New York, and the Rules of Procedure for City Environmental Quality Review an Environmental Assessment Statement for these bills; and

Whereas, The Council, as a co-lead agency pursuant to section 5-03(d) of the

Rules of Procedure for City Environmental Quality Review, has considered the relevant environmental issues as documented in the Environmental Assessment Statement attendant to such enactment and in making its findings and determinations under the Rules of Procedure for City Environmental Quality Review and the State Environmental Quality Review Act, the Council has relied on that Environmental Assessment Statement; and

Whereas, After such consideration and examination, the Council has determined that a Negative Declaration should be issued; and

Whereas, The Council has examined, considered and endorsed the Negative Declaration that was prepared; now, therefore, be it

Resolved, That the Council of the City of New York, having considered the Negative Declaration, hereby finds that:

- (1) the requirements of The State Environmental Quality Review Act, Part 617 of Title 6 of the Official Compilation of the Codes, Rules and Regulations of the State of New York, and the Rules of Procedure for City Environmental Quality Review have been met; and
- (2) as documented in the annexed Environmental Assessment Statement, the proposed action is one which will not result in any significant adverse environmental impacts; and
- (3) the annexed Negative Declaration constitutes the written statement of facts and conclusions that form the basis of this determination.

Adopted by the Council (preconsidered and approved by the Committee on Environmental Protection; for text of Attachment to the resolution, please see the Report of the Committee on Environmental Protection for Res No. 2289 printed in the Reports of the Standing Committees section of these Minutes)

Int. No. 1105

By Council Members Koppell, Palma, Arroyo, Brewer, Foster, Gerson, Jackson, James, Mark-Viverito and Mealy.

A Local Law to amend the administrative code of the city of New York, in relation to requiring the payment of a living wage to employees employed on property developed by recipients of financial assistance for economic and community development.

Be it enacted by the Council as follows:

Section 1. Section 6-109 of title six of the administrative code of the city of New York is amended to read as follows:

Section 6-109. a. Definitions. For purposes of this section, the following terms shall have the following meanings:

- (1) "City" means the City of New York.
- (2) "Entity" or "Person" means any individual, sole proprietorship, partnership, association, joint venture, limited liability company, corporation or any other form of doing business.
- (3) "Homecare Services" means the provision of homecare services under the city's Medicaid Personal Care/Home Attendant or Housekeeping Programs, including but not limited to the In-Home Services for the Elderly Programs administered by the Department for the Aging.
- (4) "Building Services" means work performing any custodial, janitorial, groundskeeping or security guard services, including but not limited to, washing and waxing floors, cleaning windows, cleaning of curtains, rugs, or drapes, and disinfecting and exterminating services.
- (5) "Day Care Services" means provision of day care services through the city's center-based day care program administered under contract with the city's administration for children's services. No other day care programs shall be covered, including family-based day care programs administered by city-contracted day care centers.
- (6) "Head Start Services" means provision of head start services through the city's center-based head start program administered under contract with the city's administration for children's services. No other head start programs shall be covered.
- (7) "Services to Persons with Cerebral Palsy" means provision of services which enable persons with cerebral palsy and related disabilities to lead independent and productive lives through an agency that provides health care, education, employment, housing and technology resources to such persons under contract with the city or the department of education.
- (8) "Food Services" means the work preparing and/or providing food. Such services shall include, but not be limited to, those as performed by workers employed under the titles as described in the federal dictionary of occupational titles for cook, kitchen helper, cafeteria attendant, and counter attendant. Any contracting agency letting a food services contract under which workers will be employed who do not fall within the foregoing definitions must request that the comptroller establish classifications and prevailing wage rates for such workers.

(9) "Temporary Services" means the provision of services pursuant to a contract with a temporary services, staffing or employment agency or other similar entity where the workers performing the services are not employees of the contracting agency. Such services shall include those performed by workers employed under the titles as described in the federal dictionary of occupational titles for secretary, word processing machine operator, data entry clerk, file clerk, and general clerk. Any contracting agency letting a temporary services contract under which workers will be employed who do not fall within the foregoing definitions must request the comptroller to establish classifications and prevailing wage rates for such workers.

(10) "City Service Contract" means any written agreement between any entity and a contracting agency whereby a contracting agency is committed to expend or does expend funds and the principle purpose of such agreement is to provide homecare services, building services, day care services, head start services, services to persons with cerebral palsy, food services or temporary services where the value of the agreement is greater than the city's small purchases limit pursuant to section 314 of the city charter. This definition shall not include contracts with not-for-profit organizations, provided however, that this exception shall not apply to not-for-profit organizations providing homecare, headstart, day care and services to persons with cerebral palsy. This definition shall also not include contracts awarded pursuant to the emergency procurement procedure as set forth in section 315 of the city charter.

(11) "City Service Contractor" means any entity and/or person that enters into a city service contract with a contracting agency. An entity shall be deemed a city service contractor for the duration of the city service contract that it receives or performs.

(12) "City Service Subcontractor" means any entity and/or person, including, but not limited to, a temporary services, staffing or employment agency or other similar entity, that is engaged by a city service contractor to assist in performing any of the services to be rendered pursuant to a city service contract. This definition does not include any contractor or subcontractor that merely provides goods relating to a city service contract or that provides services of a general nature (such as relating to general office operations) to a city service contractor which do not relate directly to performing the services to be rendered pursuant to the city service contract. An entity shall be deemed a city service contractor for the duration of the period during which it assists the city service subcontractor in performing the city service contract.

(13) "Contracting Agency" means the city, a city agency, the city council, a county, a borough, or other office, position, administration, department, division, bureau, board, commission, corporation, or an institution or agency of government, the expenses of which are paid in whole or in part from the city treasury or the department of education.

(14) "Covered Employer" means a city service contractor, [or] a city service subcontractor or a financial assistance recipient.

(15) "Employee" means any person who performs work on a full-time, part-time, temporary, or seasonal basis and includes employees, independent contractors, and contingent or contracted workers, including persons made available to work through the services of a temporary services, staffing or employment agency or similar entity. For purposes of this definition and this section, "employ" means to maintain an employee, as defined in this section. For purposes of counting numbers of employees or employed persons when required by this section, full-time, part-time, temporary, or seasonal employees shall be counted as employees. Where an employer's work force fluctuates seasonally, it shall be deemed to employ the highest number of employees that it maintains for any three month period. However, in the case of city service contractors and city service subcontractors that provide day care services, independent contractors that are family-based day care providers shall not be deemed employees of the agencies and shall not be subject to the requirements of this section.

(16) "Covered Employee" means an employee entitled to be paid the living wage or the prevailing wage and/or health benefits as provided in subdivision b of this section.

(17) "Financial Assistance Recipient" means any person, individual, proprietorship, joint venture, corporation, limited liability company, trust, association, organization or other entity who receives financial assistance in the amount of \$10,000 or more per year whether discretionary, or as of right, from the city for the improvement or development of real property for economic, community development, job growth or other purposes, including but not limited to cash payments or grants, bond financing, tax abatements or exemptions (including, but not limited to, abatements or exemptions from real property, mortgage recording, sales and use taxes) tax increment financing by the city, filing fee waivers, or energy cost reductions. Financial Assistant Recipient shall also include:

(a) a tenant or leaseholder of a financial assistance recipient who occupies property that is improved or developed as a result of the assistance provided; and

(b) any person or entity that contracts or subcontracts with the financial assistance recipient to perform services that improve or develop the property that is subject to the assistance.

Financial Assistant Recipient shall not include any not-for-profit organization whose highest paid employee earns a salary of less than \$100,000 per year. Notwithstanding any provision of this section to the contrary, no person shall be deemed a financial assistance recipient if they do not receive financial assistance of a type that is on the list published by the Department of Finance of the city of New York, pursuant to paragraph f of subdivision f of this section.

(17)8 "Not-for-Profit Organization" means a corporation or entity having tax exempt status under section 501(c)(3) of the United States internal revenue

code and incorporated under state not-for-profit law.

(1[8]9) "Prevailing Wage and Supplements" means the rate of wage and supplemental benefits per hour paid in the locality to workers in the same trade or occupation and annually determined by the comptroller in accordance with the provisions of section 234 of the New York state labor law or, for titles not specifically enumerated in or covered by that law, determined by the comptroller at the request of a contracting agency or a covered employer in accordance with the procedures of section 234 of the New York state labor law. As provided under section 231 of the New York state labor law, the obligation of an employer to pay prevailing supplements may be discharged by furnishing any equivalent combinations of fringe benefits or by making equivalent or differential payments in cash under rules and regulations established by the comptroller.

((19]20) "Living Wage" has the meaning provided in paragraph 2 of subdivision b of this section.

(2[0]1) "Health Benefits" has the meaning provided in paragraph 3 of subdivision b of this section.

(2[1]2) "Health Benefits Supplement Rate" has the meaning provided in subparagraph b of paragraph 3 of subdivision b of this section.

b. Living Wage, Prevailing Wage and Health Benefits. (1) Coverage. (a) A city service contractor or city service subcontractor that provides homecare services, day care services, head start services or services to persons with cerebral palsy must pay its covered employees that directly render such services in performance of the city service contract or subcontract no less than the living wage and must either provide its employees health benefits or must supplement their hourly wage rate by an amount no less than the health benefits supplement rate. This requirement applies for each hour that the employee works performing the city service contract or subcontract.

(b) A city service contractor or city service subcontractor that provides building services, food services or temporary services must pay its employees that are engaged in performing the city service contract or subcontract no less than the living wage or the prevailing wage, whichever is greater. Where the living wage is greater than the prevailing wage, the city service contractor or city service subcontractor must either provide its employees health benefits or must supplement their hourly wage rate by an amount no less than the health benefits supplement rate. Where the prevailing wage is greater than the living wage, the city service contractor or city service subcontractor must provide its employees the prevailing wage and supplements as provided in paragraph 18 of subdivision a of this section. These requirements apply for each hour that the employee works performing the city service contract or subcontract.

(c) A financial assistance recipient shall pay its employees no less than the living wage and must either provide its employees health benefits or must supplement their hourly wage rate by an amount no less than the health benefits supplement rate. This requirement applies for each hour that the employee works. Where the financial assistance only applies to a specific property, this requirement shall only apply to the employees employed on such property.

(2) The Living Wage. The living wage shall be an hourly wage rate of ten dollars per hour and will be phased in as provided below. Provided, however, that for homecare services under the Personal Care Services program, the wage and health rates below shall only apply as long as the state and federal government maintain their combined aggregate proportionate share of funding and approved rates for homecare services in effect as of the date of the enactment of this section:

- (a) As of the effective date of this section, \$8.10 per hour;
- (b) As of July 1, 2003, \$8.60 per hour;
- (c) As of July 1, 2004, \$9.10 per hour;
- (d) As of July 1, 2005, \$9.60 per hour;
- (e) As of July 1, 2006, \$10.00 per hour.

(3) Health Benefits. (a) Health Benefits means receipt by a covered employee of a health care benefits package for the covered employee and/or a health care benefits package for the covered employee and such employee's family and/or dependents.

(b) The Health Benefits Supplement Rate shall be \$1.50 per hour.

(c) For homecare services provided under the Personal Care Services program, the wage and health rates above shall only apply as long as the state and federal government maintain their combined aggregate proportionate share of funding and approved rates for homecare services in effect as of the date of the enactment of this section.

(d) In the case of city service contractors or subcontractors providing homecare services, the health benefits requirements of this section may be waived by the terms of a bona fide collective bargaining agreement with respect to employees who have never worked a minimum of eighty (80) hours per month for two consecutive months for that covered employer, but such provision may not be waived for any employees once they have achieved a minimum of eighty (80) hours for two consecutive months and no other provisions of this section may be so waived.

(4) Exemption for Employment Programs for the Disadvantaged. The following categories of employees shall not be subject to the requirements of this section:

- (a) Any employee who is:
 - (i) Under the age of eighteen who is claimed as a dependent for federal income tax purposes and is employed as an after-school or summer employee; or
 - (ii) Employed as a trainee in a bona fide training program consistent with federal and state law where the training program has the goal that the employee

advances into a permanent position; provided, however, that this exemption shall apply only when the trainee does not replace, displace or lower the wages or benefits of any covered employee, and the training does not exceed two years; and

(b) Any disabled employee, where such disabled employee:

(i) Is covered by a current sub-minimum wage certificate issued to the employer by the United States department of labor; or

(ii) Would be covered by such a certificate but for the fact that the employer is paying a wage equal to or higher than the federal minimum wage.

(5) Retaliation and Discrimination Barred. It shall be unlawful for any covered employer to retaliate, discharge, demote, suspend, take adverse employment action in the terms and conditions of employment or otherwise discriminate against any covered employee for reporting or asserting a violation of this section, for seeking or communicating information regarding rights conferred by this section, for exercising any other rights protected under this section, or for participating in any investigatory or court proceeding relating to this section. This protection shall also apply to any covered employee or his or her representative who in good faith alleges a violation of this section, or who seeks or communicates information regarding rights conferred by this section in circumstances where he or she in good faith believes this section applies. Taking adverse employment action against a covered employee(s) or his or her representative within sixty days of the covered employee engaging in any of the aforementioned activities shall raise a rebuttable presumption of having done so in retaliation for those activities. Any covered employee subjected to any action that violates this subsection may pursue administrative remedies or bring a civil action pursuant to subsection e of this section in a court of competent jurisdiction.

(6) Nothing in this section shall be construed to establish a wage or benefit pattern or otherwise affect the establishment of wages or benefits for city employees.

c. Obligations of Covered Employers. (1) A covered employer shall comply with the wage, benefits and other requirements of this section.

(2) Certification of Compliance for City Service Contracts. (a) Prior to the award or renewal of a city service contract, the applicant for award or renewal shall provide to the extent permitted by law the awarding contracting agency a certification containing the following information:

(i) The name, address, and telephone number of the chief executive officer of the applicant;

(ii) A statement that, if the city service contract is awarded or renewed, the applicant agrees to comply with the requirements of this section, and with all applicable federal, state and local laws;

(iii) The following workforce information concerning employees of the applicant that will be covered employees under the planned city service contract: (a) the absolute number of covered employees and the number of full-time equivalent covered employees; (b) for all categories of covered employees, the following information broken down by category: (1) job classifications of covered employees in each category; and (2) the wages and benefits provided covered employees in each category (including a description of individual and family health coverage, and sick, annual and terminal leave). The applicant further agrees to require all of its city service subcontractors to provide the same workforce information as described herein;

(iv) To the extent permitted by law, a record of any instances during the preceding five years in which the applicant has been found by a court or government agency to have violated federal, state or local laws regulating payment of wages or benefits, labor relations or occupational safety and health, or to the extent permitted by law, in which any government body initiated a judicial action, administrative proceeding or investigation of the applicant in regard to such laws; and

(v) An acknowledgement that a finding by a contracting agency that the applicant has violated the requirements of this section may result in the cancellation or rescission of the city service contract. The certification shall be signed under penalty of perjury by an officer of the applicant, and shall be annexed to and form a part of the city service contract. The certification (including updated certifications) and the city service contract shall be public documents and the contracting agency shall make them available to the public upon request for inspection and copying pursuant to the state freedom of information law.

(b) A city service contractor shall each year throughout the term of the city service contract submit to the contracting agency an updated certification, identifying any, if any exist, changes to the current certification.

(c) A covered employer shall maintain original payroll records for each of its covered employees reflecting the days and hours worked on contracts, projects or assignments that are subject to the requirements of this section, and the wages paid and benefits provided for such hours worked. The covered employer shall maintain these records for the duration of the term of the city service contract and shall retain them for a period of four years after completion of the term of the city service contract. Failure to maintain such records as required shall create a rebuttable presumption that the covered employer did not pay its covered employees the wages and benefits required under the section. Upon the request of the comptroller or the contracting agency, the covered employer shall provide a certified original payroll record.

(d) A city service contractor providing building services, food services or temporary services shall, as required by the predecessor version of this section, continue to submit copies of such payroll records, certified by the city service contractor under penalty of perjury to be true and accurate, to the contracting agency with every requisition for payment.

(e) A city service contractor providing homecare, day care, head start or services to persons with cerebral palsy may comply with the certification and other reporting requirements of this paragraph by submitting, as part of the contract proposal/contract and requests for payment categorical information about the wages, benefits and job classifications of covered employees of the city service contractor, and of any city service subcontractors, which shall be the substantial equivalent of the information required in clause iii of subparagraph (2)(a) of this paragraph.

(3) *Certification of Compliance for Financial Assistance Recipients.* (a) *Unless prohibited by state or federal law, as a condition to receiving any form of financial assistance from the city, the financial assistance recipient shall provide a statement to the contracting agency or entity providing the assistance certifying that all employees employed on the property to which the financial assistance pertains shall be paid the living wage. Where the financial assistance applies only to certain property, such statement shall only be required for the employees employed on such property. The statement shall be certified by the chief executive or chief financial officer of the financial assistance recipient, or the designee of any such person, and shall be made a part of the award, grant or assistance agreement. Where there are multiple financial assistance recipients associated with a property to which the financial assistance pertains, each financial assistance recipient shall provide a statement certifying that all the employees employed on that property are paid the living wage. A violation of any provision of the certified statement shall constitute a material violation of the conditions of the award, grant or assistance agreement.*

(b) *Each financial assistance recipient shall provide to the contracting agency or entity awarding the assistance an annual certification, executed under penalty of perjury, stating that all employees employed on the property to which the financial assistance pertains are paid the living wage. Such certification shall also include the name and address of the employer or employers of the employees, along with copies of records indicating the days and hours worked, and the wages paid and benefits provided to each employee. The agency or entity shall maintain this information and make it available for public inspection.*

(c) *A covered employer shall maintain original payroll records for each of its covered employees reflecting the days and hours worked and the wages paid and benefits provided for such hours worked. The covered employer shall maintain these records for the duration of the term of the financial assistance agreement and shall retain them for a period of four years after completion of the term of the agreement. Failure to maintain such records as required shall create a rebuttable presumption that the covered employer did not pay its covered employees the wages and benefits required under the section. Upon request of the contracting agency or entity awarding the financial assistance, the covered employer shall provide a certified original payroll record.*

[(3)] (4)(i) A city service contractor shall ensure that its city service subcontractors comply with the requirements of this section, and shall provide written notification to its city service subcontractors of those requirements, and include in any contract or agreement with its city service subcontractors a provision requiring them to comply with those requirements.

(ii) *A financial assistance recipient shall comply with the requirements of this section, and shall provide written notification to its employees performing work on the property to which the financial assistance pertains, of such requirements.*

(iii) *The financial assistance recipient shall post a notice in a prominent location at every work site on the property for which it is required to provide the certification in paragraph 3 of subdivision c of this section, alerting all employees that payment of living wage is required under this section. Such notices shall be provided in English, Spanish and other languages spoken by ten percent or more of a covered employer's covered employees.*

[(4)] (5) No later than the day on which any work begins under a city service contract subject to the requirements of this section, the covered employer shall post in a prominent and accessible place at every work site and provide each covered employee a copy of a written notice, prepared by the comptroller, detailing the wages, benefits, and other protections to which covered employees are entitled under this section. Such notices shall be provided in english, spanish and other languages spoken by ten percent or more of a covered employer's covered employees. The comptroller shall provide contracting agencies with sample written notices explaining the rights of covered employees and covered employers' obligations under this section, and contracting agencies shall in turn provide those written notices to city service contractors, which shall in turn provide them to their subcontractors.

d. *City Implementation and Reporting.* (1) *Coordination by the Comptroller for city service contracts.* The comptroller shall monitor, investigate, and audit the compliance by all contracting agencies, and provide covered employers and employees with the information and assistance necessary to ensure that the section is implemented.

(a) The mayor or his or her designee shall promulgate implementing rules and regulations as appropriate and consistent with this section and may delegate such authority to the comptroller. The comptroller shall be responsible for publishing the living wage and for calculating and publishing all applicable prevailing wage and health benefits supplement rates. The comptroller shall annually publish the adjusted rates. The adjusted living wage and health benefits supplement rate shall take effect on July 1 of each year, and the adjusted prevailing wage rates shall take effect on whatever date revised prevailing wage rates determined under section 230 of the state labor law are made effective. At least 30 days prior to their effective date, the relevant contracting agencies, shall provide notice of the adjusted rates to city service contractors, which shall in turn provide written notification of the rate adjustments to each of their covered employees, and to any city service subcontractors, which shall in turn provide written notification to each of their covered employees. Covered

employers shall make necessary wage and health benefits adjustments by the effective date of the adjusted rates.

(b) The comptroller and the mayor shall ensure that the information set forth in the certifications (including annual updated certifications and alternatives to certifications authorized for city service contractors providing homecare, day care, or head start services or services to persons with cerebral palsy) required to be submitted under paragraph 2 of subdivision c of this section is integrated into and contained in the city's contracting and financial management database established pursuant to section 6-116.2 of the administrative code. Such information shall to the extent permitted by law be made available to the public. Provided, however, that the comptroller and the mayor may agree to restrict from disclosure to the public any information from the certifications required under paragraph 2 of subdivision c of this section that is of a personal nature.

(c) The comptroller shall submit annual reports to the mayor and the city council summarizing and assessing the implementation and enforcement of this section during the preceding year, and include such information in the summary report on contracts required under section 6-116.2 of the administrative code.

(2) *Implementation by Contracting Agencies.* (a) *Contracting agencies or entities providing financial assistance shall comply with and enforce the requirements of this section. The requirements of this section shall be a term and condition of any city service contract and financial assistance agreement. No contracting agency may expend city funds in connection with any city service contract that does not comply with the requirements of this section. No contracting agency or other entity shall provide financial assistance to an applicant of such assistance that does not comply with the requirements of this section.*

(b) Every *financial assistance agreement* and city service contract shall have annexed to it the following materials which shall form a part of the *terms of the financial assistance agreement* or specifications for and terms of the city service contract:

(i) A provision obligating the city service contractor *or financial assistance recipient* to comply with all applicable requirements under this section, *whichever is applicable*;

(ii) The certification required under paragraphs 2 or 3 of subdivision c of this section, *whichever is applicable*;

(iii) A schedule of the current living wage and health benefits supplement rates, a schedule of job classifications for which payment of the prevailing wage is required under this section together with the applicable prevailing wage rates for each job classification, as determined by the comptroller and notice that such rates are adjusted annually *whichever is applicable*; and

(iv) A provision providing that: (a) Failure to comply with the requirements of this section may constitute a material breach by the city service contractor of the terms of the city service contract *or by the financial assistance recipient of the terms of the financial assistance agreement, whichever is applicable*; (b) Such failure shall be determined by the contracting agency *or entity awarding the financial assistance, whichever is applicable*; and (c) If, within thirty days after or pursuant to the terms of the city service contract *or financial assistance agreement, whichever is longer*, the city service contractor and/or subcontractor *or financial assistance recipient* receives written notice of such a breach, the city service contractor *or financial assistance recipient* fails to cure such breach, the city shall have the right to pursue any rights or remedies available under the terms of the city service contract, *financial assistance agreement* or under applicable law, including termination of the contract *or financial assistance*.

e. *Monitoring, Investigation and Enforcement for city service contracts.* (1) *Enforcement.* (a) Whenever the comptroller has reason to believe that a covered employer or other person has not complied with the requirements of this section, or upon a verified complaint in writing from a covered employee, a former employee, an employee's representative, a labor union with an interest in the city service contract at issue, the comptroller shall conduct an investigation to determine the facts relating thereto. In conducting such investigation, the comptroller shall have the same investigatory, hearing, and other powers as are conferred on the comptroller by sections 234 and 235 of the state labor law. At the start of such investigation, the comptroller may, in a manner consistent with the withholding procedures established by section 235.2 of the state labor law, instruct or, in the case of homecare services, day care services, head start services or services to persons with cerebral palsy, advise the relevant contracting agency to withhold any payment due the covered employer in order to safeguard the rights of the covered employees. Provided, however, that in the case of city service contractors providing services to persons with cerebral palsy, day care or head start services, no such withholding of payment may be ordered until such time as the comptroller or contracting agency, as applicable, has issued an order, determination or other disposition finding a violation of this section and the city service contractor has failed to cure the violation in a timely fashion. Based upon such investigation, hearing, and findings, the comptroller shall report the results of such investigation and hearing to the contracting agency, who shall issue such order, determination or other disposition. Such disposition may:

(i) Direct payment of wages and/or the monetary equivalent of benefits wrongly denied, including interest from the date of the underpayment to the worker, based on the rate of interest per year then in effect as prescribed by the superintendent of banks pursuant to section 14-a of the state banking law, but in any event at a rate no less than six percent per year;

(ii) Direct the filing or disclosure of any records that were not filed or made available to the public as required by this section;

(iii) Direct the reinstatement of, or other appropriate relief for, any person found to have been subject to retaliation or discrimination in violation of this section;

(iv) Direct payment of a further sum as a civil penalty in an amount not

exceeding twenty-five percent of the total amount found to be due in violation of this section;

(v) Direct payment of the sums withheld at the commencement of the investigation and the interest that has accrued thereon to the covered employer; and

(vi) Declare a finding of non-responsibility and bar the covered employer from receiving city service contracts from the contracting agency for a prescribed period of time. In assessing an appropriate remedy, a contracting agency shall give due consideration to the size of the employer's business, the employer's good faith, the gravity of the violation, the history of previous violations and the failure to comply with record-keeping, reporting, anti-retaliation or other non-wage requirements. Any civil penalty shall be deposited in the city general revenue fund.

(b) In circumstances where a city service contractor fails to perform in accordance with any of the requirements of this section and there is a continued need for the service, a contracting agency may obtain from another source the required service as specified in the original contract, or any part thereof, and may charge the non-performing city service contractor for any difference in price resulting from the alternative arrangements, may assess any administrative charge established by the contracting agency, and may, as appropriate, invoke

such other sanctions as are available under the contract and applicable law.

(c) Before issuing an order, determination or any other disposition, the comptroller or contracting agency, as applicable, shall give notice thereof together with a copy of the complaint, or a statement of the facts disclosed upon investigation, which notice shall be served personally or by mail on any person or covered employer affected thereby. The comptroller or contracting agency, as applicable, may negotiate an agreed upon stipulation of settlement or refer the matter to the office of administrative trials and hearings for a hearing and disposition. Such person or covered employer shall be notified of a hearing date by the office of administrative trials and hearings and shall have the opportunity to be heard in respect to such matters.

(d) In an investigation conducted under the provisions of this section, the inquiry of the comptroller or contracting agency, as applicable, shall not extend to work performed more than three years prior to the filing of the complaint, or the commencement of such investigation, whichever is earlier.

(e) When, pursuant to the provisions of this section, a final disposition has been entered against a covered employer in two instances within any consecutive six year period determining that such covered employer has failed to comply with the wage, benefits, anti-retaliation, record-keeping or reporting requirements of this section, such covered employer, and any principal or officer of such covered employer who knowingly participated in such failure, shall be ineligible to submit a bid on or be awarded any city service contract for a period of five years from the date of the second disposition.

(f) When a final determination has been made in favor of a covered employee or other person and the person found violating this section has failed to comply with the payment or other terms of the remedial order of the comptroller or contracting agency, as applicable, and provided that no proceeding for judicial review shall then be pending and the time for initiation of such proceeding shall have expired, the comptroller or contracting agency, as applicable, shall file a copy of such order containing the amount found to be due with the city clerk of the county of residence or place of business of the person found to have violated this section, or of any principal or officer thereof who knowingly participated in the violation of this section. The filing of such order shall have the full force and effect of a judgment duly docketed in the office of such clerk. The order may be enforced by and in the name of the comptroller or contracting agency, as applicable, in the same manner and with like effect as that prescribed by the state civil practice law and rules for the enforcement of a money judgment.

(g) Before any further payment is made, or claim is permitted, of any sums or benefits due under any city service contract covered by this section, it shall be the duty of the contracting agency to require the covered employer, including each city service subcontractor of the covered employer, that has been found to have violated the law, to file a written statement certifying to the amounts then due and owing from each such covered employer to or on behalf of all covered employees, or the city for wages or benefits wrongly denied them, or for civil penalties assessed, and setting forth the names of the persons owed and the amount due to or on behalf of each respectively. This statement shall be verified as true and accurate by the covered employer under penalty of perjury. If any interested person shall have previously filed a protest in writing objecting to the payment to any covered employer on the ground that payment is owing to one or more employees of the covered employer for violations of this section, or if for any other reason it may be deemed advisable, the comptroller, a contracting agency or the city department of finance may deduct from the whole amount of any payment to the covered employer sums admitted by the covered employer in the verified statement or statements to be due and owing to any covered employee before making payment of the amount certified for payment, and may withhold the amount so deducted for the benefit of the employees or persons that are owed payment as shown by the verified statements and may pay directly to any person the amount shown by the statements to be due them.

(h) The comptroller or any contracting agency shall be authorized to contract with non-governmental agencies to investigate possible violations of this section. Where a covered employer is found to have violated the requirements of this section, the covered employer shall be liable to the city for costs incurred in investigating and prosecuting the violation.

(2) Enforcement by Private Right of Action. (a) When a final determination has been made and such determination is in favor of a covered employee, such covered employee may, in addition to any other remedy provided by this section, institute an action in any court of appropriate jurisdiction against the covered employer found to

have violated this section. For any violation of this section, including failure to pay applicable wages, provide required benefits, or comply with other requirements of this section, including protections against retaliation and discrimination, the court may award any appropriate remedy at law or equity including, but not limited to, back pay, payment for wrongly denied benefits, interest, other equitable or make-whole relief, reinstatement, injunctive relief and/or compensatory damages. The court shall award reasonable attorney's fees and costs to any complaining party who prevails in any such enforcement action.

(b) Notwithstanding any inconsistent provision of this section or of any other general, special or local law, ordinance, city charter or administrative code, an employee affected by this law shall not be barred from the right to recover the difference between the amount paid

to the employee and the amount which should have been paid to the employee under the provisions of this section because of the prior receipt by the employee without protest of wages or benefits paid, or on account of the employee's failure to state orally or in writing upon any payroll or receipt which the employee is required to sign that the wages or benefits received by the employee are received under protest, or on account of the employee's failure to indicate a protest against the amount, or that the amount so paid does not constitute payment in full of wages or benefits due the employee for the period covered by such payment.

(c) Such action must be commenced within three years of the date of the alleged violation, or within three years of the final disposition of any administrative complaint or action concerning the alleged violation or, if such a disposition is reviewed in a proceeding pursuant to article 78 of the state civil practice law and rules, within three years of the termination of such review proceedings. No procedure or remedy set forth in this section is intended to be exclusive or a prerequisite for asserting a claim for relief to enforce any rights hereunder in a court of law. This section shall not be construed to limit an employee's right to bring a common law cause of action for wrongful termination.

(f). *Applicability, Monitoring, Investigation and Enforcement of Financial Assistance Recipients.* (1) *Within one hundred eighty days of the effective date of the law that added this section, the department of finance, in consultation with city agencies, shall publish a list of available types of financial assistance the recipient of which would be subject to the requirements of this section. Such list shall be updated and published as often as is necessary to keep it current.*

(2) *The contracting agency, in the cases where financial assistance is provided through a contract with an agency, or entity awarding the financial assistance shall monitor and investigate complaints about the financial assistance recipient's compliance with the requirements of this section. Whenever the contracting agency or entity awarding the assistance finds a violation of any provision of this section, the financial assistance recipient shall be given a written notice informing them of the violation. The recipient has thirty days to cure the violation. Should the recipient not cure the violation, the agency or entity awarding the assistance shall pursue all available legal remedies, including but not limited to any or all of the following penalties and relief:*

(i) *Suspension and/or termination of the financial assistance agreement for cause;*

(ii) *Payback of any or all of the financial assistance awarded by the City;*

(iii) *Deem the financial assistance recipient ineligible for future financial assistance until all the restitution has been paid to all the employees affected;*

(iv) *A fine payable to the city in the sum of five hundred dollars (\$500) for each week for each employee found not to have been paid in accordance with this chapter; and*

(v) *Wage restitution for each affected employee.*

[f.] (g) Other provisions. (1) Except where expressly provided otherwise in this section, the requirements of this section shall apply to city service contracts and financial assistance agreements entered into after the effective date of this section, and shall not apply to any existing city service contract and financial assistance agreement entered into prior to that date. Where a city service contract or financial assistance agreement is renewed or extended after the effective date of this section, such renewal or extension shall be deemed new city service contracts or financial assistance agreements and shall trigger coverage under this section if the terms of the renewed or extended city service contract or financial assistance agreement, otherwise meet the requirements for coverage under this section. However, city service contractors and city service subcontractors that provide services to persons with cerebral palsy, day care services or head start services shall be subject to the requirements of this section only upon the award or renewal of city service contracts after the effective date of this section. City service contractors and city service subcontractors that provide homecare services shall be subject to the requirements of this section immediately upon the effective date of this section.

§2. This law shall take effect ninety days after its enactment into law.

Referred to the Committee on Contracts.

Res. No. 2290

Resolution calling upon the New York State Assembly to pass A.5671, the New York State Senate to introduce and pass similar legislation, and the Governor to sign such legislation into law, amending the real property tax law in relation to the creation of a vacant land property classification.

By Council Member Mark-Viverito, Brewer, James and Palma.

Whereas, On February 17, 2009, the New York State Assembly introduced Assembly Bill A.5671, an act amending the real property tax law, in relation to the creation of a vacant land property classification; and

Whereas, Assembly Bill A.5671 would amend Subdivision 1 of section 1802 of the real property tax law by adding a new property tax class five, which would apply to real property which has remained vacant for a period of ninety days or longer during a tax year and is not under construction or rehabilitation; and

Whereas, According to the State Assembly Memorandum for Assembly Bill A.5671, vacant properties negatively impact their immediate neighborhoods, as well as the borough and city's available housing supply; and

Whereas, There is a great need for affordable housing in New York City and vacant properties represent an opportunity to utilize existing space to address that need; and

Whereas, The existing tax structure allows owners to hold properties for speculation without penalty; and

Whereas, In 2007, the Office of the Manhattan Borough President released the first ever vacant property survey of the borough, which found more than 2,228 vacant properties; and

Whereas, Assembly Bill A.5671 creates a clear disincentive to owners to leave a deteriorated building to further deteriorate or to fail to develop an empty lot; and

Whereas, The passage of this legislation would allow New York City to take steps to increase the supply of affordable housing, reduce neighborhood blight, and generate new revenues; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Assembly to pass A.5671, the New York State Senate to introduce and pass similar legislation, and the Governor to sign such legislation into law, amending the real property tax law in relation to the creation of a vacant land property classification.

Referred to the Committee on Finance.

Res. No. 2291

Resolution condemning the interrogation practices used by Immigration and Customs Enforcement officials on detainees housed in New York City Department of Corrections' facilities.

By Council Member Stewart, James, Mark-Viverito and Mealy.

Whereas, The United States Immigration and Customs Enforcement office (ICE), a division of the Department of Homeland Security (DHS), enters into agreements with state and local law enforcement agencies in order to enforce the nation's customs and immigration laws; and

Whereas, The New York City Department of Corrections (DOC) gives ICE a list of foreign-born detainees housed on Rikers Island and also provides ICE with no-cost space where ICE officials can interview such detainees; and

Whereas, When questioning inmates, ICE officials are often in plain clothes, do not provide interpreters and deny foreign-born inmates their constitutional rights to be presumed innocent, remain silent, and be represented by a lawyer; and

Whereas, Since 2004, at least 13,000 New York City residents, who at one time were detained on Rikers Island, have been placed in deportation proceedings as a result of this practice; and

Whereas, According to the New Sanctuary Coalition, an immigration policy reform group, many Rikers Island detainees are arrested on minor charges or are later determined to be not guilty; and

Whereas, In 2007, ICE officials interviewed 3,979 Rikers Island inmates and placed detainees on 3,212 inmates, sending them to immigration detention centers; and

Whereas, The current deportation practices of ICE officials at Rikers Island often leave families abandoned in New York City and render them dependent on the City's strained social service system; and

Whereas, New York City, home to approximately 2.9 million immigrants, has instituted several policies and procedures to protect immigrants and to encourage them to become active members in City life; and

Whereas, The current practices of ICE officials at Rikers Island go against New York City's long-standing commitment to its large immigrant population and, if continued, will result in an untenable level of vulnerability for immigrant New Yorkers; now, therefore, be it,

Resolved, That the Council of the City of New York condemns the interrogation practices used by Immigration and Customs Enforcement officials on detainees housed in New York City Department of Corrections' facilities.

Referred to the Committee on Immigration.

Int. No. 1106

By Council Member Weprin (by request of the Mayor).

A Local Law to amend the administrative code of the city of New York, in relation to authorizing an increase in the amount to be expended in eight business improvement districts.

Be it enacted by the Council as follows:

Section 1. Subdivision a of section 25-428.1 of the administrative code of the city of New York, as amended by local law number 60 for the year 2008, is amended to read as follows:

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Lower East Side business improvement district beginning on July 1, [2008] 2009, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of [two hundred ninety thousand four hundred dollars (\$290,400)] *three hundred thirty-five thousand six hundred dollars (\$335,600)*.

§ 2. Subdivision a of section 25-433.1 of the administrative code of the city of New York, as amended by local law number 44 for the year 1997, is amended to read as follows:

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Pitkin Avenue business improvement district beginning on July 1, [1997] 2009, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of [one hundred twenty-five thousand four hundred three dollars (\$125,403)] *two hundred twenty-five thousand dollars (\$225,000)*.

§ 3. Subdivision a of section 25-437.1 of the administrative code of the city of New York, as amended by local law number 61 for the year 2007, is amended to read as follows:

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the 125th Street business improvement district beginning on July 1, [2007] 2009, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of [seven hundred nineteen thousand seven hundred sixty-six dollars (\$719,766)] *eight hundred forty-two thousand one hundred twenty-six dollars (\$842,126)*.

§ 4. Subdivision a of section 25-444.1 of the administrative code of the city of New York, as amended by local law number 135 for the year 2005, is amended to read as follows:

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the 14th Street-Union Square business improvement district beginning on July 1, [2005] 2009, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of [one million four hundred thirty-nine thousand five hundred dollars (\$1,439,500)] *two million dollars (\$2,000,000)*.

§ 5. Subdivision a of section 25-454.1 of the administrative code of the city of New York, as added by local law number 30 for the year 2002, is amended to read as follows:

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Montague Street business improvement district beginning

on July 1, [2002] 2009, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of [one hundred twenty-four thousand five hundred dollars (\$124,500)] *one hundred seventy-five thousand dollars (\$175,000)*.

§ 6. Subdivision a of section 25-461 of the administrative code of the city of New York, as added by local law number 10 for the year 2004, is amended to read as follows:

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Columbus/Amsterdam business improvement district beginning on July 1, [2003] 2009, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of [two hundred one thousand six hundred dollars (\$201,600)] *two hundred sixty thousand dollars (\$260,000)*.

§ 7. Chapter 5 of title 25 of the administrative code of the city of New York is amended by adding a new section 25-467.1 to read as follows:

§25-467.1 Queens Plaza/Court Square business improvement district.

a. *The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Queens Plaza/Court Square business improvement district beginning on July 1, 2009, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of four hundred fifty thousand dollars (\$450,000).*

b. *The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the Queens Plaza/Court Square business improvement district plan.*

§ 8. Chapter 5 of title 25 of the administrative code of the city of New York is amended by adding a new section 25-469.1 to read as follows:

§25-469.1 DUMBO business improvement district.

a. *The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the DUMBO business improvement district beginning on July 1, 2009, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of five hundred thousand dollars (\$500,000).*

b. *The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the DUMBO business improvement district plan.*

§ 9. This local law shall take effect immediately and shall be retroactive to and deemed to have been in full force and effect as of July 1, 2009.

Referred to the Committee on Finance.

L.U. No. 1287

By Council Member Katz:

Application no. 20105215 PPK, the exchange of city-owned property located at 250 Baltic Street for state-owned property located at 338 Forbell Street, Borough of Brooklyn, Council Districts no. 39 and 37. This matter is subject to Council review and action pursuant to §72-h of the General Municipal Law.

Referred to the Committee on Land Use and the Subcommittee on Landmarks, Public Siting and Maritime Uses.

L.U. No. 1288

By Council Member Katz:

Uniform land use review procedure application no. C 100067 HAK, an Urban Development Action Area Designation and Project, located at 1612 Park Place and 404A, 408, 414 and 416 Hopkinson Avenue, and the disposition of such property, Borough of Brooklyn, Council District no. 41. This matter is subject to Council review and action pursuant to §197-c and §197-d of the New York City Charter and Article 16 of the General Municipal Law.

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions.

L.U. No. 1289

By Council Member Katz:

Application no. 20105212 HAX, an Urban Development Action Area Project located at 1100 Elder Avenue, Council District no. 18, Borough of the Bronx. This matter is subject to Council review and action pursuant to Article 16 of the New York General Municipal Law, at the request of the New York City Department of Housing Preservation and Development, and

pursuant to Section 577 of the Private Housing Finance Law for an exemption from real property taxes.

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions.

L.U. No. 1290

By Council Member Katz:

Application no. 20105213 HAM, an Urban Development Action Area Project located at 342 East 100th Street, Council District no. 8, Borough of Manhattan. This matter is subject to Council review and action pursuant to Article 16 of the New York General Municipal Law, at the request of the New York City Department of Housing Preservation and Development, and pursuant to Section 577 of the Private Housing Finance Law for an exemption from real property taxes.

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions.

L.U. No. 1291

By Council Member Katz:

Application no. 20105214 HAM, an Urban Development Action Area Project located at 310-312 West 122nd Street, Council District no. 9, Borough of Manhattan. This matter is subject to Council review and action pursuant to Article 16 of the New York General Municipal Law, at the request of the New York City Department of Housing Preservation and Development, and pursuant to Section 577 of the Private Housing Finance Law for an exemption from real property taxes.

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions.

L.U. No. 1292

By Council Member Katz:

Application no. 20105203 HKQ (N 100137 HKQ), pursuant to §3020 of the Charter of the City of New York, concerning the designation (List No.420, LP-2321) by the Landmarks Preservation Commission of the Herman A. Schleicher Mansion, located at 11-41 123rd Street (Block 3997, Lot 40) as an historic landmark, Council District no. 19.

Referred to the Committee on Land Use and the Subcommittee on Landmarks, Public Siting and Maritime Uses.

L.U. No. 1293

By Council Member Katz:

Application no. 20105147 TCM, pursuant to §20-226 of the Administrative Code of the City of New York, concerning the petition of Rajmar Holdings, Inc. d/b/a Hudson Bar & Books to continue, to maintain and operate an unenclosed sidewalk café located at 636 Hudson Street, Borough of Manhattan, Council District no. 3. This application is subject to review and action by the Land Use Committee only if called-up by vote of the Council pursuant to Rule 11.20b of the Council and §20-226(g) of the New York City Administrative Code.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

At this point the Speaker (Council Member Quinn) made the following announcements:

ANNOUNCEMENTS:

Thursday, December 10, 2009

★ Deferred

Committee on YOUTH SERVICES.....10:00 A.M.
Agenda to be announced
Hearing Room – 250 Broadway, 16th Floor Lewis A. Fidler, Chairperson

Committee on PARKS AND RECREATION10:00 A.M.

Int 1103 - By Council Members Avella, Barron, Brewer, Comrie, Dickens, Dilan, Felder, Ferreras, Foster, Gentile, Gerson, Gioia, Gonzalez, Ignizio, James, Liu, Mealy, Mendez, Mitchell, Nelson, Oddo, Palma, Recchia, Rivera, Sanders, Seabrook, Vacca, Ulrich, Weprin, White and Yassky - A Local Law In relation to the naming of 70 thoroughfares and public places, Ron Carey Avenue, Borough of Queens, Betty Pegen Way, Borough of Queens, Sol Soskin Way, Borough of Queens, Kenneth Jackson, Jr. Blvd., Borough of Brooklyn, Power Memorial Way, Borough of Manhattan, Morris R. Lee Place, Borough of Queens, John Hicks Way, Borough of Manhattan, Sugar Ray Robinson Way, Borough of Manhattan, Anthony Aristedes Delgado Way, Borough of Brooklyn, Thomas Joseph Sgroi A 9-11 Memorial Way, Borough of Brooklyn, Mitad del Mundo, Borough of Queens, Veterans Memorial Way, Borough of Brooklyn, Rev. Robert G. Lane Blvd., Borough of the Bronx, FF Alfred Ronaldson Place, Borough of the Bronx, Walter L. Johnson Corner Developer of Dyker Heights, Borough of Brooklyn, Rosemarie O' Keefe Way, Borough of Brooklyn, Hank Vogt Way, Borough of Brooklyn, Dr. Michael Brienza Way, Borough of Brooklyn, Hon. Thomas Tam Way, Borough of Manhattan, The Bowery Mission Way, Borough of Manhattan, Roger Laghezza Place, Borough of Queens, Nicolas A. Nowillo Place, Borough of Queens, Francesco "Frankie" Loccisano Way, Borough of Brooklyn, Dr. Jitendra Sukhadia Crossing, Borough of Staten Island, Benny A. Lyde Place, Borough of Brooklyn, Bernard L. Shapiro Boulevard, Borough of Queens, Janice Marie Knight Street, Borough of Brooklyn, Dr. Saul J. Farber Way, Borough of Manhattan, NYS Senator 1956-2006, Hon. John J. Marchi Way, Borough of Staten Island, Catherine Vanden-Heuvel Way, Borough of Staten Island, Elizabeth Stanton Way, Borough of Staten Island, Arthur F. Newcombe Sr. Way, Borough of Staten Island, FDNY Lt. John "Muzz" Murray Way, Borough of Staten Island, Corporal John C. Johnson, Sr. Road, Borough of Staten Island, Custodian Engineer Martin T. Cavanagh Way, Borough of Staten Island, Sergeant Gerald A. Johnson Corner, Borough of Staten Island, Carmine Narducci Way, Borough of Staten Island, Bobby Smith Court, Borough of Staten Island, Curtis High School Association of Alumni & Friends, Borough of Staten Island, Michael Coccozza Way, Borough of Staten Island, Rabbi Dr. Joseph I. Singer Way, Borough of Brooklyn, Sheila Nelson Way, Borough of Brooklyn, P.O. Kevin M. Lee Way, Borough of Staten Island, Eugene S. Devlin III Way, Borough of Staten Island, Michael A. Primiano Way, Borough of Staten Island, Sal Somma Way, Borough of Staten Island, PV2 Isaac T. Cortes Way, Borough of the Bronx, Sister Jane Talbot Way, Borough of Brooklyn, Ken Siegelman Way, Borough of Brooklyn, Lance Corporal Alberto Francesconi Place, Borough of the Bronx, Supervising Fire Dispatcher Dennis Patrick O' Connell Place, Borough of the Bronx, Mr. Joseph Zinzi Place, Borough of the Bronx, J. Clifford Gadsden Place, Borough of Queens, Edith Copeland Baldwin Way, Borough of the Bronx, Detective Rudolph Vinston Edwards, Sr. Way, Borough of the Bronx, Gloria D. Alexander Way, Borough of the Bronx, Dorothy Gomes Way, Borough of the Bronx, Christian Regenhart Way, Borough of the Bronx, Charles Carrocetto Corner, Borough of the Bronx, Port Authority Police Officer Dominick Pezzullo Triangle, Borough of the Bronx, Beverly Baxter Blvd., Borough of Queens, Sean Bell Way, Borough of Queens, Ghanwatti Boodram Way, Borough of Queens, Mike Lee Corner, Borough of Brooklyn, Burlingame Court, Borough of Queens, James Court, Borough of Queens, McKee Court, Borough of Queens, Calhoun Court, Borough of Queens, Moncrief Court, Borough of Queens, Lockwood Court, Borough of Queens and the repeal of sections 7 and 10 of local law number 46 for the year 2009, the repeal of sections 17 and 37 of local law number 48 for the year 2008 and the repeal of section 48 of local law number 64 for the year 2008.

Hearing Room – 250 Broadway, 14th Floor Helen Foster, Chairperson

Committee on ENVIRONMENTAL PROTECTION1:00 P.M.

Int 1062 - By Council Members Gennaro, Brewer, Comrie, Fidler, Gonzalez, James, Koppell, Liu, Nelson and Stewart - A Local Law to amend the administrative code of the city of New York, in relation to controlling emissions from businesses located in mixed-use buildings that use chemicals.

Hearing Room – 250 Broadway, 14th FloorJames F. Gennaro, Chairperson

Committee on HEALTH jointly with the

Committee on WOMEN'S ISSUES1:00 P.M.

Oversight - Evaluating New Recommendations in Breast Cancer Screening

Hearing Room – 250 Broadway, 16th Floor Joel Rivera, Chairperson

Darlene Mealy, Chairperson

★ Note Committee Addition

Committee on FIRE AND CRIMINAL JUSTICE SERVICES jointly with the

★ Committee on PUBLIC SAFETY and

Committee on TECHNOLOGY IN GOVERNMENT1:00 P.M.

Oversight - Examining the FDNY/NYPD Unified Call Taking System

Council Chambers – City HallJames Vacca, Chairperson

..... ★ Peter Vallone, Chairperson

..... Gale Brewer, Chairperson

Friday, December 11, 2009

★ Addition

Subcommittee on ZONING & FRANCHISES.....9:30 A.M.

See Land Use Calendar Available in Room 5 City Hall

Hearing Room – 250 Broadway, 16th Floor Tony Avella, Chairperson

★ Addition

Committee on LAND USE10:00 A.M.

All items reported out of the subcommittees

AND SUCH OTHER BUSINESS AS MAY BE NECESSARY

Hearing Room – 250 Broadway, 16th Floor Melinda R. Katz, Chairperson

Committee on HIGHER EDUCATION10:00 A.M.

Oversight - National Healthcare Reform: How Will CUNY Students be Affected?

Council Chambers – City Hall Charles Barron, Chairperson

Committee on GOVERNMENTAL OPERATIONS10:30 A.M.

Int 1025 - By Council Members Vallone Jr., Brewer, Fidler, Foster, Jackson, James, Liu, Mealy, Sanders Jr., Stewart, Weprin, White Jr. and Nelson - A Local Law to amend the administrative code of the City of New York, in relation to requiring the Corporation Counsel to submit quarterly reports to the City Council detailing the number and disposition of civil actions filed against the New York City Police Department.

Hearing Room – 250 Broadway, 14th Floor Helen Sears, Chairperson

Monday, December 14, 2009

★ Note Topic Additions

Committee on TRANSPORTATION.....10:00 A.M.

Oversight - Will TLC's livery stand and taxi group ride pilot projects improve service for riders?

★ Int 662-A - By Council Members Jackson, Comrie, Dickens, Gennaro, Gentile, Gerson, Gonzalez, Stewart, Arroyo, Seabrook, Mealy, Yassky, James, Reyna, White, Liu, Eugene, Koppell, Recchia and Weprin - A Local Law to amend the administrative code of the city of New York, in relation to clergy parking permits.

★ Int 907 - By Council Members Felder, Vacca, Barron, Comrie, Fidler, Gentile, Jackson, James, Nelson, Sears, Weprin, Stewart, Palma, Yassky, Gerson, Koppell, Gennaro, White, Liu, Eugene, Ulrich, Dickens, Vallone and Recchia - A Local Law to amend the administrative code of the city of New York, in relation to establishing a grace period for certain parking violations.

★ M 1688 - Communication from the Mayor - Mayors veto and disapproval message of Introductory Number 662-A, in relation to clergy parking permits.

★ M 1689 - Communication from the Mayor - Mayors veto and disapproval message of Introductory Number 907, in relation to establishing a grace period for certain parking violations.

Council Chambers – City Hall John Liu, Chairperson

★ Deferred

Committee on AGING.....1:00 P.M.

Agenda to be announced

Hearing Room – 250 Broadway, 14th Floor

..... Maria del Carmen Arroyo, Chairperson

★ Note Location Change

Committee on VETERANS 1:00 P.M.

Oversight - Housing Options for Veterans in NYC

Res 2256 - By Council Members Brewer, Sanders, Mark-Viverito and The Speaker (Council Member Quinn) - Resolution calling upon the New York State Legislature to pass, and the Governor to approve, legislation revising the priority occupancy clauses of the Mitchell-Lama housing program to give priority admission to veterans of the Iraq, Afghanistan and Gulf Wars and to their widows and widowers and to widowers of Vietnam War-era veterans.

★Hearing Room – 250 Broadway, 14th Floor..... James Sanders, Chairperson

★ Note Location Change

Committee on CIVIL SERVICE AND LABOR 1:00 P.M.

Proposed Int 1093-A - By Council Members Comrie, Barron, Fidler, Foster, Jackson, James, Seabrook, Stewart, White Jr., Weprin, Dilan, Mendez and Mealy - A Local Law to amend the administrative code of the city of New York, in relation to firefighter applicants who have completed high school in the city.

★ Council Chambers – City Hall..... Michael Nelson, Acting Chairperson

Tuesday, December 15, 2009

★ *Note Location Change*

Subcommittee on **ZONING & FRANCHISES**.....**9:30 A.M.**
See Land Use Calendar Available, Thursday, December 10, 2009 in Room 5 City Hall

★ Hearing Room – 250 Broadway, 16th Floor..... Tony Avella, Chairperson

Committee on **HOUSING AND BUILDINGS****10:00 A.M.**

Oversight - Mitchell-Lama Housing

Council Chambers – City HallErik Martin-Dilan, Chairperson

Committee on **COMMUNITY DEVELOPMENT**.....**10:00 A.M.**

Oversight - Community-Based Financial Institutions and Their Impact on Community Development

Hearing Room – 250 Broadway, 14th FloorAlbert Vann, Chairperson

★ *Note Location Change*

Subcommittee on **LANDMARKS, PUBLIC SITING & MARITIME USES**.....**11:00 A.M.**

See Land Use Calendar Available, Thursday, December 10, 2009 in Room 5 City Hall

★ Hearing Room – 250 Broadway, 16th Floor..... Jessica Lappin, Chairperson

★ *Addition*

Committee on **SMALL BUSINESS** jointly with the

Committee on **IMMIGRATION****11:30 A.M.**

Tour: Department of Small Business Services / Business Solutions Center

Location: 9 Bond Street

Brooklyn, NY

Details Attached..... David Yassky, Chairperson

..... Kendall Stewart, Chairperson

★ *Deferred*

Committee on **TECHNOLOGY IN GOVERNMENT****1:00 P.M.**

Agenda to be announced

Council Chambers – City Hall Gale Brewer, Chairperson

★ *Note Location Change*

Subcommittee on **PLANNING, DISPOSITIONS & CONCESSIONS**.....**1:00 P.M.**

See Land Use Calendar Available, Thursday, December 10, 2009 in Room 5 City Hall

★ Hearing Room – 250 Broadway, 16th Floor..... Daniel Garodnick, Chairperson

Committee on **SANITATION AND SOLID WASTE MANAGEMENT**.....**1:00 P.M.**

Agenda to be announced

Hearing Room – 250 Broadway, 14th Floor Simcha Felder, Chairperson

Wednesday, December 16, 2009

★ *Addition*

Committee on **TECHNOLOGY IN GOVERNMENT** jointly with the

Committee on **ECONOMIC DEVELOPMENT****10:00 A.M.**

Oversight - Promoting the High Technology Business Sector in New York City

Council Chambers – City Hall Gale Brewer, Chairperson

..... Thomas White, Chairperson

★ *Addition*

Committee on **LOWER MANHATTAN REDEVELOPMENT**.....**10:00 A.M.**

Oversight - The Impact of the Recession on Lower Manhattan Redevelopment

Hearing Room – 250 Broadway, 16th Floor Alan Gerson, Chairperson

★ *Deferred*

Committee on **SMALL BUSINESS**.....**10:00 A.M.**

~~Agenda to be announced~~

~~Hearing Room – 250 Broadway, 14th Floor David Yassky, Chairperson~~

★ *Addition*

Committee on **EDUCATION**.....**1:00 P.M.**

Oversight - DOE's Proposed Capital Plan Amendment

Council Chambers – City Hall Robert Jackson, Chairperson

★ *Deferred*

~~Committee on **GOVERNMENTAL OPERATIONS**.....**1:00 P.M.**~~

~~Agenda to be announced~~

~~Council Chambers – City Hall Helen Sears, Chairperson~~

Committee on **WATERFRONTS**.....**1:00 P.M.**

Agenda to be announced

Hearing Room – 250 Broadway, 16th Floor Michael Nelson, Chairperson

★ *Deferred*

~~Committee on **JUVENILE JUSTICE**.....**1:00 P.M.**~~

~~Agenda to be announced~~

~~Hearing Room – 250 Broadway, 14th Floor Sara M. Gonzalez, Chairperson~~

Thursday, December 17, 2009

★ *Note Location Change*

Committee on **LAND USE****10:00 A.M.**

All items reported out of the subcommittees

AND SUCH OTHER BUSINESS AS MAY BE NECESSARY

★ Hearing Room – 250 Broadway, 16th Floor Melinda R. Katz, Chairperson

★ *Deferred*

Committee on **EDUCATION**.....**10:00 A.M.**

Agenda to be announced

Council Chambers – City Hall Robert Jackson, Chairperson

★ *Addition*

Subcommittee on **PUBLIC HOUSING** **10:00 A.M.**

Oversight – NYCHA's Pet Policy

Hearing Room – 250 Broadway, 14th Floor Rosie Mendez, Chairperson

★ *Note Committee Addition*

Committee on **GENERAL WELFARE** jointly with the

★ Committee on **JUVENILE JUSTICE**..... **1:00 P.M.**

Oversight - ACS' Juvenile Justice Initiative

Council Chambers – City Hall Bill de Blasio, Chairperson

..... ★ Sara M. Gonzalez, Chairperson

\★ *Deferred*

~~Committee on **IMMIGRATION** **1:00 P.M.**~~

~~Agenda to be announced~~

~~Hearing Room – 250 Broadway, 14th Floor Kendall Stewart, Chairperson~~

★ *Addition*

Committee **ON CULTURAL AFFAIRS, LIBRARIES AND**

INTERNATIONAL INTERGROUP RELATIONS.... **3:30 P.M.**

Tour: MATERIALS FOR THE ARTS WAREHOUSE

Location: 33-00 Northern Boulevard, 3rd Floor

Long Island City, N.Y. 11101 Details Attached

..... Domenic Recchia, Chairperson

Friday, December 18, 2009

Committee on **CONTRACTS** **10:00 A.M.**

Oversight - Examining the New York City Office of Payroll Administration's CityTime Contract

Hearing Room – 250 Broadway, 14th Floor Letitia James, Chairperson

★ *Addition*

Committee on **YOUTH SERVICES**.....**10:00 A.M.**

Oversight - Should we increase the capacity of afterschool programs to offer environmental education and stewardship activities as part of their programs, and if so, how may this best be accomplished?

Council Chambers – City Hall Lewis A. Fidler, Chairperson

Monday, December 21, 2009

★ *Addition*

Committee on **FINANCE**.....**11:00 A.M.**
Int 1106 - By Council Member Weprin (by request of the Mayor) - A Local Law to amend the administrative code of the city of New York, in relation to authorizing an increase in the amount to be expended in eight business improvement districts.
AND SUCH OTHER BUSINESS AS MAY BE NECESSARY
Council Chambers – City HallDavid Weprin, Chairperson

Stated Council Meeting Ceremonial Tributes – **1:00 p.m.**
..... **Agenda – 1:30 p.m.**

MEMORANDUM

Tuesday, December 8, 2009

TO: ALL COUNCIL MEMBERS
RE: TOUR BY THE COMMITTEES ON **SMALL BUSINESS AND IMMIGRATION**

Please be advised that all Council Members are invited to attend a tour:

Department of Small Business Services / Business Solutions Center
9 Bond Street
Brooklyn, NY

The tour will be on **Tuesday, December 15, 2009 beginning at 11:30 a.m.** A van will be leaving City Hall at **11:00 a.m. sharp.**

Council Members interested in riding in the van should call Kristoffer Sartori at 212-788-9075.

David Yassky, Chairperson
Committee on Small Business
Kendall Stewart, Chairperson
Committee on Immigration

Christine C. Quinn
Speaker of the Council

MEMORANDUM

Tuesday, December 9, 2009

TO: ALL COUNCIL MEMBERS
RE: TOUR BY THE COMMITTEES ON **CULTURAL AFFAIRS, LIBRARIES & INTERNATIONAL INTERGROUP RELATIONS**

Please be advised that all Council Members are invited to attend a tour:

MATERIALS FOR THE ARTS WAREHOUSE
33-00 Northern Boulevard, 3rd Floor
Long Island City, N.Y. 11101 Details

The tour will be on **Thursday, December 17, 2009 beginning at 3:30 p.m.** A van will be leaving City Hall at **3:00 p.m. sharp.**

Council Members interested in riding in the van should call Rachel Cordero at **212-788-9073**

Domenic M. Recchia Jr., Chairperson
Committee on Cultural Affairs,
Libraries & International
Intergroup Relations
Christine C. Quinn
Speaker of the Council

Whereupon on motion of the Speaker (Council Member Quinn), the President Pro Tempore (Council Member Rivera) declared the Meeting in recess.

THE COUNCIL**Minutes of the
RECESSED MEETING**

of
December 9, 2009
held on
Monday, December 14, 2009 12:30 p.m.

The President Pro Tempore (Council Member Rivera)
Acting Presiding Officer

The President Pro Tempore (Council Member Rivera) called the Recessed Meeting to order and asked the Clerk to read the Roll Call for Attendance:

Council Members

Christine C. Quinn, Speaker

| | | |
|-------------------------|-----------------------|-------------------------|
| Maria del Carmen Arroyo | Vincent J. Gentile | Michael Nelson |
| Tony Avella | Alan J. Gerson | James S. Oddo |
| Charles Barron | Eric N. Gioia | Annabel Palma |
| Gale A. Brewer | Sara M. Gonzalez | Domenic M. Recchia, Jr. |
| Leroy G. Comrie, Jr. | Vincent M. Ignizio | Diana Reyna |
| Bill de Blasio | Robert Jackson | Joel Rivera |
| Inez E. Dickens | Letitia James | Ydanis A. Rodriguez* |
| Erik Martin Dilan | Melinda R. Katz | James Sanders, Jr.* |
| Mathieu Eugene | G. Oliver Koppell | Larry B. Seabrook* |
| Simcha Felder | Jessica S. Lappin | Helen Sears |
| Julissa Ferreras | John C. Liu* | Eric A. Ulrich |
| Lewis A. Fidler | Melissa Mark-Viverito | James Vacca |
| Helen D. Foster | Darlene Mealy | Peter F. Vallone, Jr. |
| Daniel R. Garodnick | Rosie Mendez | Albert Vann |
| James F. Gennaro | Kenneth C. Mitchell | Thomas White, Jr. |
| | | David Yassky |

Excused on December 14, 2009: Council Members Baez, Crowley**, Stewart**, and Weprin** (but see ***Editor's Note re: Attendance and Voting for the Recessed Council Meeting of December 9, 2009 held on December 14, 2009 below*)

The Majority Leader (Council Member Rivera) assumed the Chair as the President Pro Tempore and Acting Presiding Officer.

After being informed by the City Clerk and Clerk of the Council (Mr. McSweeney), the presence of a quorum was announced by the President Pro Tempore (Council Member Rivera).

There were 47 Council Members present at this Recessed Meeting of December 9, 2009 held on December 14, 2009 (but see Editor's Notes below).

At this point, Council Members Liu, Sanders, Seabrook, and Rodriguez were allowed to vote affirmative for the items coupled on the LU Call-up and General Orders calendars of the Stated Council Meeting held on December 9, 2009.

**Editor's Note No. 1---re: Attendance and Voting for the Stated Council Meeting of December 9, 2009 : The Stated Council Meeting of December 9, 2009 opened and was subsequently recessed on December 9, 2009 before being called to order again and subsequently adjourned on December 14, 2009. This Recessed Meeting held on December 14, 2009 is, therefore, the continuation and conclusion of the Stated Council Meeting of December 9, 2009. Though not present on December 9, 2009, Council Members Liu, Sanders, Seabrook, and Rodriguez were present at this Recessed Meeting of December 9, 2009 held on December 14, 2009, and are thereby considered present for attendance and voting purposes for the proceedings of the Stated Council Meeting of December 9, 2009. Council Members Liu, Sanders, Seabrook, and Rodriguez chose to cast affirmative votes on December 14, 2009 for the items coupled on the Land Use Call-up and General Order calendars of the Stated Council Meeting held on December 9, 2009.*

***Editor's Note No. 2 --- re: Attendance and Voting for the Recessed Council Meeting of December 9, 2009 held on December 14, 2009: The Stated Council Meeting of December 9, 2009 opened and was subsequently recessed on December 9, 2009 before being called to order again and subsequently adjourned on December 14, 2009. This Recessed Meeting held on December 14, 2009 is, therefore, the continuation and conclusion of the Stated Council Meeting of December 9, 2009. Council Members Crowley, Stewart, and Weprin were present at the Stated Council Meeting held on December 9, 2009 but were absent on December 14, 2009 and are thereby considered Present but Not Voting for the items coupled on the Supplemental General Order Calendar of this Recessed Council Meeting held on December 14, 2009.*

SUPPLEMENTAL REPORTS OF THE STANDING COMMITTEES**Supplemental Reports of the Committee on Land Use**

Report for L.U. No. 1256

Report of the Committee on Land Use in favor of disapproving Application no. C 090236 MMX submitted by the Economic Development Corporation and Related Retail Armory, LLC pursuant to Sections 197-c and 199 of the New York City Charter, and Section 5-430 et seq. of the New York City Administrative Code, for an amendment to the City Map. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to §197-d (b)(2) of the Charter or called up by vote of the Council pursuant to §197-d (b)(3) of the Charter.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on October 28, 2009 (Minutes, page 5524), respectfully

REPORTS:**SUBJECT**

BRONX CB - 7

C 090236 MMX

City Planning Commission decision approving an application submitted by the New York City Economic Development Corporation, Related Retail Armory, LLC, and the Department of Parks and Recreation, pursuant to Sections 197-c and 199 of the New York City Charter, and Section 5-430 et seq. of the New York City Administrative Code, for an amendment to the City Map involving:

- the elimination, discontinuance and closing of a portion of Reservoir Avenue at its intersection with West Kingsbridge Road;
- the establishment of a Park (Barnhill Square);
- the adjustment of legal grades necessitated thereby; and
- any acquisition or disposition of real property related thereto,

in accordance with Map No. 13126, dated May 11, 2009, and signed by the Borough President.

INTENT

To facilitate the development of an approximately 600,000 square foot retail, entertainment, and community facility development within an existing building, the Kingsbridge Armory in the Kingsbridge neighborhood of the Bronx.

Report Summary**COMMITTEE RECOMMENDATION AND ACTION**

DATE: December 14, 2009

The Committee recommends that the Council approve the attached resolution and thereby disapprove the decision of the City Planning Commission.

In connection herewith, Council Member Avella offered the following resolution:

Res. No. 2295

Resolution disapproving the decision of the City Planning Commission on ULURP No. C 090236 MMX, an amendment to the City Map (L.U. No. 1256).

By Council Member Avella .

WHEREAS, the City Planning Commission filed with the Council on October 19, 2009 its decision dated October 19, 2009 (the "Decision"), on the application submitted by the New York City Economic Development Corporation, Related Retail Armory, LLC, and the Department of Parks and Recreation, pursuant to Sections 197-c and 199 of the New York City Charter and Section 5-430 *et seq.* of the New York City Administrative Code, for an amendment to the City Map involving:

- the elimination, discontinuance and closing of a portion of Reservoir Avenue at its intersection with West Kingsbridge Road;
- the establishment of a Park (Barnhill Square);
- the adjustment of legal grades necessitated thereby; and
- any acquisition or disposition of real property related thereto,

in accordance with Map No. 13126, dated May 11, 2009, and signed by the Borough President, (ULURP No. C 090236 MMX), Community District 7, Borough of the Bronx (the "Application");

WHEREAS, the Application is related to ULURP Applications Numbers C 090237 MMX (L.U. No. 1257), an amendment to the City Map involving the elimination, discontinuance and closing of a portion of West 195th Street between Reservoir Avenue and Jerome Avenue; C 090437 ZMX (L.U. No. 1258), a Zoning Map Amendment, changing an R6 district to a C4-4 district; and C 090438 PPX (L.U. No. 1259), a disposition of City-owned property;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(2) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on November 17, 2009;

WHEREAS, the Council has considered the relevant environmental issues and the Final Environmental Impact Statement (FEIS) for which a Notice of Completion was issued on October 1, 2009 (CEQR No. 08DME004X); and

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Decision and Application;

RESOLVED:

Having considered the FEIS, with respect to the Application, the Council finds that:

- (1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;
- (2) Consistent with social, economic and other essential consideration from among the reasonable alternatives thereto, the actions to be approved are ones which minimize or avoids adverse environmental impacts to the maximum extent practicable; and
- (3) The adverse environmental impacts disclosed in the Final Environmental Impact Statement will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval those mitigative measures that were identified as practicable;
- (4) The Decision and the FEIS constitute the written statement of facts, and of social, economic and other factors and standards that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

Pursuant to Sections 197-d and 199 of the New York City Charter, the Council disapproves the Decision.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, VINCENT M. IGNIZIO, Committee on Land Use, December 14, 2009.

Coupled for Disapproval

Report for L.U. No. 1257

Report of the Committee on Land Use in favor of disapproving Application no. C 090237 MMX submitted by the Economic Development Corporation pursuant to Sections 197-c and 199 of the New York City Charter, and Section 5-430 *et seq.* of the New York City Administrative Code, for an amendment to the City Map. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to §197-d (b)(2) of the Charter or called up by vote of the Council pursuant to §197-d (b)(3) of the Charter

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on October 28, 2009 (Minutes, page 5524), respectfully

REPORTS:

SUBJECT

BRONX CB - 7

C 090237 MMX

City Planning Commission decision approving an application submitted by the New York City Economic Development Corporation pursuant to Sections 197-c and 199 of the New York City Charter, and Section 5-430 *et seq.* of the New York City Administrative Code, for an amendment to the City Map involving:

- the elimination, discontinuance and closing of a portion of West 195th Street between Reservoir Avenue and Jerome Avenue;
- the adjustment of legal grades necessitated thereby; and
- any acquisition or disposition of real property related thereto,

in accordance with Map No. 13127, dated May 11, 2009, and signed by the Borough President.

INTENT

To facilitate the development of an approximately 600,000 square foot retail, entertainment, and community facility development within an existing building, the Kingsbridge Armory in the Kingsbridge neighborhood of the Bronx.

Report Summary

COMMITTEE RECOMMENDATION AND ACTION

DATE: December 14, 2009

The Committee recommends that the Council approve the attached resolution and thereby disapprove the decision of the City Planning Commission.

In connection herewith, Council Member Avella offered the following resolution:

Res. No. 2296

Resolution disapproving the decision of the City Planning Commission on ULURP No. C 090237 MMX, an amendment to the City Map (L.U. No. 1257).

By Council Member Avella.

WHEREAS, the City Planning Commission filed with the Council on October 19, 2009 its decision dated October 19, 2009 (the "Decision"), on the application submitted by the New York City Economic Development Corporation, pursuant to Sections 197-c and 199 of the New York City Charter and Section 5-430 *et seq.* of the New York City Administrative Code, for an amendment to the City Map involving:

- the elimination, discontinuance and closing of a portion of West 195th Street between Reservoir Avenue and Jerome Avenue;
- the adjustment of legal grades necessitated thereby; and

- any acquisition or disposition of real property related thereto,

in accordance with Map No. 13127, dated May 11, 2009, and signed by the Borough President, (ULURP No. C 090237 MMX), Community District 7, Borough of the Bronx (the "Application");

WHEREAS, the Application is related to ULURP Applications Numbers C 090236 MMX (L.U. No. 1256), an amendment to the City Map involving the elimination, discontinuance and closing of a portion of Reservoir Avenue and West Kingsbridge Road, and the mapping of Barnhill Triangle as parkland; C 090437 ZMX (L.U. No. 1258), a Zoning Map Amendment, changing an R6 district to a C4-4 district; and C 090438 PPX (L.U. No. 1259), a disposition of City-owned property;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(2) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on November 17, 2009;

WHEREAS, the Council has considered the relevant environmental issues and the Final Environmental Impact Statement (FEIS) for which a Notice of Completion was issued on October 1, 2009 (CEQR No. 08DME004X); and

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Decision and Application;

RESOLVED:

Having considered the FEIS, with respect to the Application, the Council finds that:

- (1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;
- (2) Consistent with social, economic and other essential consideration from among the reasonable alternatives thereto, the actions to be approved are ones which minimize or avoids adverse environmental impacts to the maximum extent practicable; and
- (3) The adverse environmental impacts disclosed in the Final Environmental Impact Statement will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval those mitigative measures that were identified as practicable;
- (4) The Decision and the FEIS constitute the written statement of facts, and of social, economic and other factors and standards that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

Pursuant to Sections 197-d and 199 of the New York City Charter, the Council disapproves the Decision.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, VINCENT M. IGNIZIO, Committee on Land Use, December 14, 2009.

Coupled for Disapproval.

Report for L.U. No. 1258

Report of the Committee on Land Use in favor of disapproving Application no. C 090437 ZMX submitted by Related Retail Armory, LLC and the Economic Development Corporation pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 3c: changing from an R6 District to a C4-4 District property bounded by West 195th Street*, Jerome Avenue, West Kingsbridge Road, and Reservoir Avenue.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on October 28, 2009 (Minutes, page 5525), respectfully

REPORTS:

SUBJECT

BRONX CB - 7

C 090437 ZMX

City Planning Commission decision approving an application submitted by Related Retail Armory, LLC and the Economic Development Corporation pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 3c: changing from an R6 district to a C4-4 District property bounded by West 195th Street, Jerome Avenue, West Kingsbridge Road, and Reservoir Avenue, as shown in a diagram (for illustrative purposes only) dated May 18, 2009.

INTENT

To facilitate the development of an approximately 600,000 square foot retail, entertainment, and community facility development within an existing building, the Kingsbridge Armory in the Kingsbridge neighborhood of the Bronx.

Report Summary

COMMITTEE RECOMMENDATION AND ACTION

DATE: December 14, 2009

The Committee recommends that the Council approve the attached resolution and thereby disapprove the decision of the City Planning Commission.

In connection herewith, Council Member Avella offered the following resolution:

Res. No. 2297

Resolution disapproving the decision of the City Planning Commission on ULURP No. C 090437 ZMX, a Zoning Map amendment (L.U. No. 1258).

By Council Member Avella.

WHEREAS, the City Planning Commission filed with the Council on October 19, 2009 its decision dated October 19, 2009 (the "Decision"), on the application submitted by Related Retail Armory, LLC and the Economic Development Corporation, pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment to the Zoning Map to facilitate the development of an approximately 600,000 square foot retail, entertainment, and community facility development within an existing building, the Kingsbridge Armory in the Kingsbridge neighborhood of Community District 7, Borough of the Bronx (ULURP No. C 090437 ZMX) (the "Application");

WHEREAS, the Application is related to ULURP Applications Numbers C 090236 MMX (L.U. No. 1256), an amendment to the City Map involving the elimination, discontinuance and closing of a portion of Reservoir Avenue and West Kingsbridge Road, and the mapping of Barnhill Triangle as parkland; C 090237 MMX (L.U. No. 1257), an amendment to the City Map involving the elimination, discontinuance and closing of a portion of West 195th Street between Reservoir Avenue and Jerome Avenue; and C 090438 PPX (L.U. No. 1259), a disposition of City-owned property;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on November 17, 2009;

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues and the Final Environmental Impact Statement (FEIS) for which a Notice of Completion was issued on October 1, 2009 (CEQR No. 08DME004X).

RESOLVED:

Having considered the FEIS, with respect to the Application, the Council finds that:

- (1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;

(2) Consistent with social, economic and other essential consideration from among the reasonable alternatives thereto, the actions to be approved are ones which minimize or avoids adverse environmental impacts to the maximum extent practicable; and

(3) The adverse environmental impacts disclosed in the Final Environmental Impact Statement will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval those mitigative measures that were identified as practicable;

(4) The Decision and the FEIS constitute the written statement of facts, and of social, economic and other factors and standards that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, the Council disapproves the Decision.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, VINCENT M. IGNIZIO, Committee on Land Use, December 14, 2009.

Coupled for Disapproval.

Report for L.U. No. 1259

Report of the Committee on Land Use in favor of disapproving Application no. C 090438 PPX submitted by the Department of Citywide Administrative Services (DCAS), pursuant to Section 197-c of New York City Charter, for the disposition of one city-owned property located at 29 West Kingsbridge Road (Block 3247, Lots 10 and p/o 2), pursuant to zoning. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to §197-d (b)(2) of the Charter or called up by vote of the Council pursuant to §197-d (b)(3) of the Charter.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on October 28, 2009 (Minutes, page 5525), respectfully

REPORTS:

SUBJECT

BRONX CB - 7 C 090438 PPX

City Planning Commission decision approving an application submitted by the Department of Citywide Administrative Services (DCAS), pursuant to Section 197-c of New York City Charter, for the disposition of one city-owned property located at 29 West Kingsbridge Road (Block 3247, Lots 10 and p/o 2), pursuant to zoning.

INTENT

To facilitate the development of an approximately 600,000 square foot retail, entertainment, and community facility development within an existing building, the Kingsbridge Armory in the Kingsbridge neighborhood of the Bronx.

Report Summary

COMMITTEE RECOMMENDATION AND ACTION

DATE: December 14, 2009

The Committee recommends that the Council approve the attached resolution and thereby disapprove the decision of the City Planning Commission.

In connection herewith, Council Member Avella offered the following resolution:

Res. No. 2298

Resolution disapproving the decision of the City Planning Commission on ULURP No. C 090438 PPX, for the disposition of one (1) city-owned property located at 29 West Kingsbridge Road (Block 3247, Lots 10 and p/o 2), Borough of the Bronx (L.U. No. 1259).

By Council Member Avella.

WHEREAS, the City Planning Commission filed with the Council on October 19, 2009 its decision dated October 19, 2009 (the "Decision") on the application submitted pursuant to Section 197-c of the New York City Charter by the Department of Citywide Administrative Services (DCAS) for disposition of one (1) city-owned property located 29 West Kingsbridge Road (Block 3247, Lots 10 and p/o 2), pursuant to zoning, to facilitate the development of an approximately 600,000 square foot retail, entertainment, and community facility development within an existing building, the Kingsbridge Armory in the Kingsbridge neighborhood of Community District 7, Borough of the Bronx (ULURP Application Number C 090438 PPX) (the "Application");

WHEREAS, the Application is related to ULURP Applications Numbers C 090236 MMX (L.U. No. 1256), an amendment to the City Map involving the elimination, discontinuance and closing of a portion of Reservoir Avenue and West Kingsbridge Road, and the mapping of Barnhill Triangle as parkland; C 090237 MMX (L.U. No. 1257), an amendment to the City Map involving the elimination, discontinuance and closing of a portion of West 195th Street between Reservoir Avenue and Jerome Avenue; and C 090437 ZMX (L.U. No. 1258), a Zoning Map Amendment, changing an R6 district to a C4-4 district;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(3) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on November 17, 2009;

WHEREAS, the Council has considered the relevant environmental issues and the Final Environmental Impact Statement (FEIS) for which a Notice of Completion was issued on October 1, 2009 (CEQR No. 08DME004X); and

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Decision and Application;

RESOLVED:

Having considered the FEIS, with respect to the Application, the Council finds that:

(1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;

(2) Consistent with social, economic and other essential consideration from among the reasonable alternatives thereto, the actions to be approved are ones which minimize or avoids adverse environmental impacts to the maximum extent practicable; and

(3) The adverse environmental impacts disclosed in the Final Environmental Impact Statement will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval those mitigative measures that were identified as practicable;

(4) The Decision and the FEIS constitute the written statement of facts, and of social, economic and other factors and standards that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

Pursuant to Section 197-d of the City Charter and on the basis of the Application and the Decision, the Council disapproves the Decision.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, VINCENT M. IGNIZIO, Committee on Land Use, December 14, 2009.

Coupled for Disapproval.

Report for L.U. No. 1260

Report of the Committee on Land Use in favor of approving Application no C 090408 MMM. submitted by the Department of City Planning pursuant to Sections 197-c and 199 of the New York City Charter, for an amendment to the City Map involving a change in grade on West 33rd Street, between Eleventh and Twelfth Avenues.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on October 28, 2009 (Minutes, page 5526), respectfully

REPORTS:**SUBJECT****MANHATTAN CB - 4****C 090408 MMM**

City Planning Commission decision approving an application submitted by the Department of City Planning pursuant to Sections 197-c and 199 of the New York City Charter, for an amendment to the City Map involving a change in grade on West 33rd Street, between Eleventh and Twelfth avenues, in accordance with Map No. C.P.C. 090408 MMM (Acc. No. 30230), dated May 18, 2009, and signed by the Director of the Department of City Planning.

INTENT

To facilitate the development of a mixed-use building, tentatively known as The Westside Rail Yard/DEP Site, with residential and retail space.

Report Summary:**COMMITTEE RECOMMENDATION AND ACTION****DATE:** December 14, 2009

The Committee recommends that the Council approve the prepared resolution and thereby approve the decision of the City Planning Commission with modification. The proposed modification is to be filed with the City Planning Commission to determine whether the proposed modification is subject to additional environmental review or additional review pursuant to Section 197-c of the City Charter.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, VINCENT M. IGNIZIO, Committee on Land Use, December 14, 2009.

Approved with Modifications and Referred to the City Planning Commission pursuant to Rule 11.70(b) of the Rules of the Council and Section 197-(d) of the New York City Charter.

Report for L.U. No. 1261

Report of the Committee on Land Use in favor of approving Application no. C 090422 HAM submitted by the Department of Housing Preservation and Development (HPD) pursuant to Article 16 of the General Municipal Law of New York State for: the designation of property located at West 48th and West 49th streets, west of 10th Avenue (Block 1077, part of Lot 29), as an Urban Development Action Area; and an Urban Development Action Area Project for such area; and pursuant to Section 197-c of the New York City Charter for the disposition of such property to a developer to be selected by HPD; to facilitate the development of a mixed-use building, tentatively known as The Westside Rail Yards/DEP Site, with residential and retail space.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on October 28, 2009 (Minutes, page 5526), respectfully

REPORTS:**SUBJECT****MANHATTAN CB - 4****C 090422 HAM**

City Planning Commission decision approving an application submitted by the Department of Housing Preservation and Development (HPD):

1) pursuant to Article 16 of the General Municipal Law of New York State for:

- a) the designation of property located at West 48th and West 49th streets, west of 10th Avenue (Block 1077, part of Lot 29), as an Urban Development Action Area; and

- b) an Urban Development Action Area Project for such area; and

- 2) pursuant to Section 197-c of the New York City Charter for the disposition of such property to a developer to be selected by HPD.

INTENT

To facilitate the development of a mixed-use building, tentatively known as The Westside Rail Yard/DEP Site, with residential and retail space.

Report Summary:**COMMITTEE RECOMMENDATION AND ACTION****DATE:** December 14, 2009

The Committee recommends that the Council approve the prepared resolution and thereby approve the decision of the City Planning Commission with modification. The proposed modification is to be filed with the City Planning Commission to determine whether the proposed modification is subject to additional environmental review or additional review pursuant to Section 197-c of the City Charter.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, VINCENT M. IGNIZIO, Committee on Land Use, December 14, 2009.

Approved with Modifications and Referred to the City Planning Commission pursuant to Rule 11.70(b) of the Rules of the Council and Section 197-(d) of the New York City Charter.

Report for L.U. No. 1262

Report of the Committee on Land Use in favor of approving Application no. C 090423 HAM submitted by the Department of Housing Preservation and Development (HPD):1) pursuant to Article 16 of the General Municipal Law of New York State for: a. the designation of property located at 806 Ninth Avenue (Block 1044, p/o Lot 3); as an Urban Development Action Area; and an Urban Development Action Area Project for such area; and pursuant to Section 197-c of the New York City Charter for the disposition of such property to a developer to be selected by HPD; to facilitate the development of a mixed-use building, tentatively known as the Westside Rail Yard/MTA Site, with residential and commercial space.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on October 28, 2009 (Minutes, page 5526), respectfully

REPORTS:**SUBJECT****MANHATTAN CB - 4
HAM****C 090423**

City Planning Commission decision approving an application submitted by the Department of Housing Preservation and Development (HPD):

- 1) pursuant to Article 16 of the General Municipal Law of New York State for:

- a) the designation of property located at 806 Ninth Avenue (Block 1044, part of Lot 3), as an Urban Development Action Area; and
a) an Urban Development Action Area Project for such area; and

- 2) pursuant to Section 197-c of the New York City Charter for the disposition of such property to a developer to be selected by HPD.

INTENT

City Planning Commission decision approving an application submitted by RG WRY LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 8b, by changing from an M2-3 District to a C6-4 District and establishing a Special Hudson Yards District on property bounded by West 33rd Street, Eleventh Avenue, West 30th Street, and Twelfth Avenue, Borough of Manhattan Community District 4, as shown in a diagram (for illustrative purposes only) dated May 18, 2009.

INTENT

To facilitate the development of a mixed-use building, tentatively known as The Westside Rail Yard/DEP Site, with residential and retail space.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: December 14, 2009

The Committee recommends that the Council approve the prepared resolution and thereby approve the decision of the City Planning Commission with modification. The proposed modification is to be filed with the City Planning Commission to determine whether the proposed modification is subject to additional environmental review or additional review pursuant to Section 197-c of the City Charter.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, VINCENT M. IGNIZIO, Committee on Land Use, December 14, 2009.

Approved with Modifications and Referred to the City Planning Commission pursuant to Rule 11.70(b) of the Rules of the Council and Section 197-(d) of the New York City Charter.

Report for L.U. No. 1266

Report of the Committee on Land Use in favor of approving Application no. N 090434 ZRM submitted by RG WRY LLC, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, concerning Article IX, Chapter 3 (Special Hudson Yards District) relating to the addition of Western Rail Yard Subdistrict F and the expansion of the Special Hudson Yards District, Community District 4, Borough of Manhattan.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on October 28, 2009 (Minutes, page 5528), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 4

N 090434 ZRM

City Planning Commission decision approving an application submitted by RG WRY LLC, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, concerning Article IX, Chapter 3 (Special Hudson Yards District) relating to the addition of Western Rail Yard Subdistrict F and the expansion of the Special Hudson Yards District, Community District 4, Borough of Manhattan.

INTENT

To facilitate the development of a mixed-use building, tentatively known as The Westside Rail Yard/DEP Site, with residential and retail space.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: December 14, 2009

The Committee recommends that the Council approve the prepared resolution and thereby approve the decision of the City Planning Commission with modification. The proposed modification is to be filed with the City Planning Commission to determine whether the proposed modification is subject to additional environmental review or additional review pursuant to Section 197-c of the City Charter.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, VINCENT M. IGNIZIO, Committee on Land Use, December 14, 2009.

Approved with Modifications and Referred to the City Planning Commission pursuant to Rule 11.70(b) of the Rules of the Council and Section 197-(d) of the New York City Charter.

Report for L.U. No. 1267

Report of the Committee on Land Use in favor of approving Application no. C 090435 ZSM submitted by RG WRY LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Sections 93-052* and 13-561 of the Zoning Resolution to allow an attended accessory parking garage (North Parking Garage) with a maximum capacity of 1100 spaces on portions of the ground floor and plaza level of a proposed mixed-use development (Block 676, Lot 3), in a C6-4 District, within the Special Hudson Yards District. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to §197-d (b)(2) of the Charter or called up by vote of the Council pursuant to §197-d (b)(3) of the Charter.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on October 28, 2009 (Minutes, page 5528), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 4

C 090435 ZSM

City Planning Commission decision approving an application submitted by RG WRY LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Sections 93-052 and 13-561 of the Zoning Resolution to allow an attended accessory parking garage (North Parking Garage) with a maximum capacity of 1100 spaces on portions of the ground floor and plaza level of a proposed mixed-use development on property bounded by West 33rd Street, Eleventh Avenue, West 30th Street, and Twelfth Avenue (Block 676, Lot 3), in a C6-4 District, within the Special Hudson Yards District.

INTENT

To facilitate the development of a mixed-use building, tentatively known as The Westside Rail Yard/DEP Site, with residential and retail space.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: December 14, 2009

The Committee recommends that the Council approve the prepared resolution and thereby approve the decision of the City Planning Commission with modification. The proposed modification is to be filed with the City Planning Commission to determine whether the proposed modification is subject to additional environmental review or additional review pursuant to Section 197-c of the City Charter.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, VINCENT M. IGNIZIO, Committee on Land Use, December 14, 2009.

Approved with Modifications and Referred to the City Planning Commission pursuant to Rule 11.70(b) of the Rules of the Council and Section 197-(d) of the New York City Charter.

Report for L.U. No. 1268

Report of the Committee on Land Use in favor of approving Application no. C 090436 ZSM submitted by RG WRY LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Sections 93-052* and 13-561 of the Zoning Resolution to allow an attended accessory parking garage (South Parking Garage) with a maximum capacity of 800 (Block 676, Lot 3), in a C6-4 District within the Special Hudson Yards District. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to §197-d (b)(2) of the Charter or called up by vote of the Council pursuant to §197-d (b)(3) of the Charter.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on October 28, 2009 (Minutes, page 5528), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 4

C 090436 ZSM

City Planning Commission decision approving an application submitted by RG WRY LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Sections 93-052 and 13-561 of the Zoning Resolution to allow an attended accessory parking garage (South Parking Garage) with a maximum capacity of 800 spaces on portions of the plaza level, mezzanine 1 level, mezzanine 2 level and cellar level of a proposed mixed-use development on property bounded by West 33rd Street, Eleventh Avenue, West 30th Street, and Twelfth Avenue (Block 676, Lot 3), in a C6-4 District, within the Special Hudson Yards District.

INTENT

To facilitate the development of a mixed-use building, tentatively known as The Westside Rail Yard/DEP Site, with residential and retail space.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: December 14, 2009

The Committee recommends that the Council approve the prepared resolution and thereby approve the decision of the City Planning Commission with modification. The proposed modification is to be filed with the City Planning Commission to determine whether the proposed modification is subject to additional environmental review or additional review pursuant to Section 197-c of the City Charter.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, VINCENT M. IGNIZIO, Committee on Land Use, December 14, 2009.

Approved with Modifications and Referred to the City Planning Commission pursuant to Rule 11.70(b) of the Rules of the Council and Section 197-(d) of the New York City Charter.

SUPPLEMENTAL GENERAL ORDER CALENDAR

ROLL CALL ON SUPPLEMENTAL GENERAL ORDERS FOR THE DAY (Items Coupled on Supplemental General Order Calendar)

- (10) L.U. 1256 & Res 2295 - App. C 090236 MMX submitted by the Economic Development Corporation and Related Retail Armory, LLC pursuant to Sections 197-c and 199 of the New York City Charter, and Section 5-430 *et seq.* of the New York City Administrative Code, for an amendment to the City Map (Coupled for Disapproval).
- (11) L.U. 1257 & Res 2296 - App. C 090237 MMX submitted by the Economic Development Corporation pursuant to Sections 197-c and 199 of the New York City Charter, and Section 5-430 *et seq.* of the New York City Administrative Code, for an amendment to the City Map (Coupled for Disapproval).
- (12) L.U. 1258 & Res 2297 - App. C 090437 ZMX submitted by Related Retail Armory, LLC and the Economic Development Corporation pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 3c: changing from an R6 District to a C4-4 District property bounded by West 195th Street*, Jerome Avenue, West Kingsbridge Road, and Reservoir Avenue Map (Coupled for Disapproval).
- (13) L.U. 1259 & Res 2298 - App. C 090438 PPX submitted by the Department of Citywide Administrative Services (DCAS), pursuant to Section 197-c of New York City Charter, for the disposition of one city-owned property located at 29 West Kingsbridge Road (Block 3247, Lots 10 and p/o 2), pursuant to zoning Map (Coupled for Disapproval).

The President Pro Tempore (Council Member Rivera) put the question whether the Council would agree with and adopt such reports which were decided in the affirmative by the following vote:

Affirmative –Arroyo, Avella, Barron, Brewer, Comrie, de Blasio, Dickens, Dilan, Eugene, Felder, Ferreras, Fidler, Foster, Garodnick, Gennaro, Gentile, Gerson, Gioia, Gonzalez, Ignizio, Jackson, James, Koppell, Lappin, Liu, Mark-Viverito, Mealy, Mendez, Mitchell, Nelson, Palma, Recchia, Reyna, Rodriguez, Sanders, Seabrook, Ulrich, Vacca, Vallone, Jr., Vann, White, Yassky, Oddo, Rivera, and the Speaker (Council Member Quinn) – 45.

Negative - Sears - 1.

Abstention - Katz - 1.

(Not Voting – Crowley**, Stewart**, and Weprin**)

The Supplemental General Order vote recorded for this Recessed Meeting was 45-1-1 as shown above with the exception of the votes for the following legislative items:

*Please see the **Editor's Note re: Attendance and Voting for the Recessed Council Meeting of December 9, 2009 held on December 14, 2009 printed after the Roll Call for Attendance of December 14, 2009 in these Recessed Meeting Minutes.*

At this point the Speaker (Council Member Quinn) made the following announcements:

ANNOUNCEMENTS:

Monday, December 14, 2009

★ Addition

Subcommittee on **ZONING & FRANCHISES**.....**9:30 A.M.**
See Land Use Calendar Available in Room 5 City Hall
Council Chambers – City Hall Tony Avella, Chairperson

★ Addition

Committee on LAND USE.....**10:00 A.M.**
All items reported out of the subcommittees
AND SUCH OTHER BUSINESS AS MAY BE NECESSARY
Council Chambers – City Hall

★ Note Location Change

Committee on TRANSPORTATION.....**10:00 A.M.**
Oversight - Will TLC’s livery stand and taxi group ride pilot projects improve service for riders?
Int 662-A - By Council Members Jackson, Comrie, Dickens, Gennaro, Gentile, Gerson, Gonzalez, Stewart, Arroyo, Seabrook, Mealy, Yassky, James, Reyna, White, Liu, Eugene, Koppell, Recchia and Weprin - A Local Law to amend the administrative code of the city of New York, in relation to clergy parking permits.

Int 907 - By Council Members Felder, Vacca, Barron, Comrie, Fidler, Gentile, Jackson, James, Nelson, Sears, Weprin, Stewart, Palma, Yassky, Gerson, Koppell, Gennaro, White, Liu, Eugene, Ulrich, Dickens, Vallone and Recchia - A Local Law to amend the administrative code of the city of New York, in relation to establishing a grace period for certain parking violations.

M 1688 - Communication from the Mayor - Mayors veto and disapproval message of Introductory Number 662-A, in relation to clergy parking permits.

M 1689 - Communication from the Mayor - Mayors veto and disapproval message of Introductory Number 907, in relation to establishing a grace period for certain parking violations.

★ Hearing Room – 250 Broadway, 14th Floor..... John Liu, Chairperson

★ Addition (Continuation of Recessed Meeting)

Stated Council Meeting..... *Agenda – 11:00 a.m.*

★ Deferred

Committee on AGING **1:00 P.M.**
~~Agenda to be announced~~
~~Hearing Room – 250 Broadway, 14th Floor – Maria del Carmen Arroyo, Chairperson~~

★ Note Location Change

Committee on VETERANS **1:00 P.M.**
Oversight - Housing Options for Veterans in NYC
Res 2256 - By Council Members Brewer, Sanders, Mark-Viverito and The Speaker (Council Member Quinn) - Resolution calling upon the New York State Legislature to pass, and the Governor to approve, legislation revising the priority occupancy clauses of the Mitchell-Lama housing program to give priority admission to veterans of the Iraq, Afghanistan and Gulf Wars and to their widows and widowers and to widowers of Vietnam War-era veterans.

★ Hearing Room – 250 Broadway, 14th Floor..... James Sanders, Chairperson

★ Note Location Change

Committee on CIVIL SERVICE AND LABOR..... **1:00 P.M.**
Proposed Int 1093-A - By Council Members Comrie, Barron, Fidler, Foster, Jackson, James, Seabrook, Stewart, White Jr., Weprin, Dilan, Mendez and Mealy - A Local Law to amend the administrative code of the city of New York, in relation to firefighter applicants who have completed high school in the city.

★ Hearing Room – 250 Broadway, 16th Floor
..... Michael Nelson, Acting Chairperson

Tuesday, December 15, 2009

★ Note Location Change

Subcommittee on **ZONING & FRANCHISES**.....**9:30 A.M.**

See Land Use Calendar Available, Thursday, December 10, 2009 in Room 5 City Hall

★ Hearing Room – 250 Broadway, 16th Floor..... Tony Avella, Chairperson

Committee on **HOUSING AND BUILDINGS****10:00 A.M.**
Oversight - Mitchell-Lama Housing
Council Chambers – City Hall Erik Martin-Dilan, Chairperson

Committee on **COMMUNITY DEVELOPMENT**.....**10:00 A.M.**
Oversight - Community-Based Financial Institutions and Their Impact on Community Development
Hearing Room – 250 Broadway, 14th Floor Albert Vann, Chairperson

★ Note Location Change

Subcommittee on **LANDMARKS, PUBLIC SITING & MARITIME USES**.....**11:00 A.M.**
See Land Use Calendar Available, Thursday, December 10, 2009 in Room 5 City Hall

★ Hearing Room – 250 Broadway, 16th Floor..... Jessica Lappin, Chairperson
Melinda R. Katz, Chairperson

★ Addition

Committee on **SMALL BUSINESS** jointly with the
Committee on **IMMIGRATION****11:30 A.M.**
Tour: Department of Small Business Services / Business Solutions Center
Location:9 Bond Street
Brooklyn, NY
Details Attached..... David Yassky, Chairperson
..... Kendall Stewart, Chairperson

★ Deferred

~~Committee on Technology in **GOVERNMENT**..... **1:00 P.M.**~~
~~Agenda to be announced~~
~~Council Chambers – City..... Gale Brewer, Chairperson~~

★ Note Location Change

Subcommittee on **PLANNING, DISPOSITIONS & CONCESSIONS**..... **1:00 P.M.**
See Land Use Calendar Available, Thursday, December 10, 2009 in Room 5 City Hall
★ Hearing Room – 250 Broadway, 16th Floor..... Daniel Garodnick, Chairperson

Committee on **SANITATION AND SOLID WASTE MANAGEMENT**... **1:00 P.M.**
Agenda to be announced
Hearing Room – 250 Broadway, 14th Floor Simcha Felder, Chairperson

Wednesday, December 16, 2009

★ Addition

Committee on **TECHNOLOGY IN GOVERNMENT** jointly with the
Committee on **ECONOMIC DEVELOPMENT****10:00 A.M.**
Oversight - Promoting the High Technology Business Sector in New York City
Council Chambers – City Gale Brewer, Chairperson
..... Thomas White, Chairperson

★ Addition

Committee on **LOWER MANHATTAN REDEVELOPMENT****10:00 A.M.**
Oversight - The Impact of the Recession on Lower Manhattan Redevelopment
Hearing Room – 250 Broadway, 16th Floor Alan Gerson, Chairperson

★ Deferred

~~Committee on **SMALL BUSINESS**..... **10:00 A.M.**~~
~~Agenda to be announced~~
~~Hearing Room – 250 Broadway, 14th Floor David Yassky, Chairperson~~

★ Addition

Committee on **EDUCATION**..... **1:00 P.M.**
Oversight - DOE’s Proposed Capital Plan Amendment
Council Chambers – City Hall Robert Jackson, Chairperson

★ Deferred

~~Committee on **GOVERNMENTAL OPERATIONS**..... **1:00 P.M.**~~

Agenda to be announced
 Council Chambers — City Hall Helen Sears, Chairperson

★ *Deferred*
 Committee on **WATERFRONTS** **1:00 P.M.**
 Agenda to be announced
 Hearing Room — 250 Broadway, 16th Floor Michael Nelson, Chairperson

★ *Deferred*
 Committee on **JUVENILE JUSTICE** **1:00 P.M.**
 Agenda to be announced
 Hearing Room — 250 Broadway, 14th Floor Sara M. Gonzalez, Chairperson

Thursday, December 17, 2009

★ *Addition* (Continuation of Recessed Meeting)
 Subcommittee on **LANDMARKS, PUBLIC SITING & MARITIME USES** **9:30 A.M.**
 See Land Use Calendar Available in Room 5 City Hall
 Hearing Room – 250 Broadway, 16th Floor Jessica Lappin, Chairperson

★ *Note Location Change*
 Committee on **LAND USE** **10:00 A.M.**
 All items reported out of the subcommittees
AND SUCH OTHER BUSINESS AS MAY BE NECESSARY
 ★ Hearing Room – 250 Broadway, 16th Floor Melinda R. Katz, Chairperson

★ *Deferred*
 Committee on **EDUCATION** **10:00 A.M.**
 Agenda to be announced
 Council Chambers — City Hall Robert Jackson, Chairperson

★ *Addition*
 Subcommittee on **PUBLIC HOUSING** **10:00 A.M.**
 Oversight – NYCHA’s Pet Policy
 Hearing Room – 250 Broadway, 14th Floor Rosie Mendez, Chairperson

★ *Note Committee Addition*
 Committee on **GENERAL WELFARE** jointly with the
 ★ Committee on **JUVENILE JUSTICE** **1:00 P.M.**
 Oversight - ACS’ Juvenile Justice Initiative
 Council Chambers – City Bill de Blasio, Chairperson
 ★ Sara M. Gonzalez, Chairperson

★ *Deferred*
 Committee on **IMMIGRATION** **1:00 P.M.**
 Agenda to be announced
 Hearing Room — 250 Broadway, 14th Floor Kendall Stewart, Chairperson

★ *Addition*
 Committee on **PARKS AND RECREATION** **1:00 P.M.**
 Int 1103 - By Council Members Avella, Barron, Brewer, Comrie, Dickens, Dilan, Felder, Ferreras, Foster, Gentile, Gerson, Gioia, Gonzalez, Ignizio, James, Liu, Mealy, Mendez, Mitchell, Nelson, Oddo, Palma, Recchia, Rivera, Sanders, Seabrook, Vacca, Ulrich, Weprin, White and Yassky - A Local Law In relation to the naming of 70 thoroughfares and public places, Ron Carey Avenue, Borough of Queens, Betty Pegen Way, Borough of Queens, Sol Soskin Way, Borough of Queens, Kenneth Jackson, Jr. Blvd., Borough of Brooklyn, Power Memorial Way, Borough of Manhattan, Morris R. Lee Place, Borough of Queens, John Hicks Way, Borough of Manhattan, Sugar Ray Robinson Way, Borough of Manhattan, Anthony Aristedes Delgado Way, Borough of Brooklyn, Thomas Joseph Sgroi A 9-11 Memorial Way, Borough of Brooklyn, Mitad del Mundo, Borough of Queens, Veterans Memorial Way, Borough of Brooklyn, Rev. Robert G. Lane Blvd., Borough of the Bronx, FF Alfred Ronaldson Place, Borough of the Bronx, Walter L. Johnson Corner Developer of Dyker Heights, Borough of Brooklyn, Rosemarie O’ Keefe Way, Borough of Brooklyn, Hank Vogt Way, Borough of Brooklyn, Dr. Michael Brienza Way, Borough of Brooklyn, Hon. Thomas Tam Way, Borough of Manhattan, The Bowery Mission Way, Borough of Manhattan, Roger Laghezza Place, Borough of Queens, Nicolas A. Nowillo Place, Borough of Queens, Francesco “Frankie” Loccisano Way, Borough of Brooklyn, Dr. Jitendra Sukhadia Crossing, Borough of Staten Island, Benny A. Lyde Place, Borough of Brooklyn, Bernard L. Shapiro Boulevard, Borough of Queens, Janice Marie Knight Street, Borough of Brooklyn, Dr. Saul J. Farber Way, Borough of Manhattan, NYS Senator 1956-2006, Hon. John J. Marchi Way, Borough of Staten Island, Catherine Vanden-Heuvel Way, Borough of Staten Island, Elizabeth Stanton Way, Borough of Staten Island, Arthur F. Newcombe Sr. Way, Borough of Staten Island, FDNY Lt. John “Muzz” Murray

Way, Borough of Staten Island, Corporal John C. Johnson, Sr. Road, Borough of Staten Island, Custodian Engineer Martin T. Cavanagh Way, Borough of Staten Island, Sergeant Gerald A. Johnson Corner, Borough of Staten Island, Carmine Narducci Way, Borough of Staten Island, Bobby Smith Court, Borough of Staten Island, Curtis High School Association of Alumni & Friends, Borough of Staten Island, Michael Coccozza Way, Borough of Staten Island, Rabbi Dr. Joseph I. Singer Way, Borough of Brooklyn, Sheila Nelson Way, Borough of Brooklyn, P.O. Kevin M. Lee Way, Borough of Staten Island, Eugene S. Devlin III Way, Borough of Staten Island, Michael A. Primiano Way, Borough of Staten Island, Sal Somma Way, Borough of Staten Island, PV2 Isaac T. Cortes Way, Borough of the Bronx, Sister Jane Talbot Way, Borough of Brooklyn, Ken Siegelman Way, Borough of Brooklyn, Lance Corporal Alberto Francesconi Place, Borough of the Bronx, Supervising Fire Dispatcher Dennis Patrick O’ Connell Place, Borough of the Bronx, Mr. Joseph Zinzi Place, Borough of the Bronx, J. Clifford Gadsden Place, Borough of Queens, Edith Copeland Baldwin Way, Borough of the Bronx, Detective Rudolph Vinston Edwards, Sr. Way, Borough of the Bronx, Gloria D. Alexander Way, Borough of the Bronx, Dorothy Gomes Way, Borough of the Bronx, Christian Regenhard Way, Borough of the Bronx, Charles Carrocetto Corner, Borough of the Bronx, Port Authority Police Officer Dominick Pezzulo Triangle, Borough of the Bronx, Beverly Baxter Blvd., Borough of Queens, Sean Bell Way, Borough of Queens, Ghanwatti Boodram Way, Borough of Queens, Mike Lee Corner, Borough of Brooklyn, Burlingame Court, Borough of Queens, James Court, Borough of Queens, McKee Court, Borough of Queens, Calhoun Court, Borough of Queens, Moncrief Court, Borough of Queens, Lockwood Court, Borough of Queens and the repeal of sections 7 and 10 of local law number 46 for the year 2009, the repeal of sections 17 and 37 of local law number 48 for the year 2008 and the repeal of section 48 of local law number 64 for the year 2008.

Hearing Room – 250 Broadway, 14th Floor Helen Foster, Chairperson

★ *Addition*
 Committee on **CULTURAL AFFAIRS, LIBRARIES AND INTERNATIONAL INTERGROUP RELATIONS** **3:30 P.M.**
 Tour: MATERIALS FOR THE ARTS WAREHOUSE
 Location: 33-00 Northern Boulevard, 3rd Floor
 Long Island City, N.Y. 11101
 Details Attached Domenic Recchia, Chairperson

Friday, December 18, 2009

Committee on **CONTRACTS** **10:00 A.M.**
 Oversight - Examining the New York City Office of Payroll Administration’s CityTime Contract
 Hearing Room – 250 Broadway, 14th Floor Letitia James, Chairperson

★ *Addition*
 Committee on **YOUTH SERVICES** **10:00 A.M.**
 Oversight - Should we increase the capacity of afterschool programs to offer environmental education and stewardship activities as part of their programs, and if so, how may this best be accomplished?
 Council Chambers – City Hall Lewis A. Fidler, Chairperson

★ *Addition*
 Committee on **WATERFRONTS** **1:00 P.M.**
 Oversight - Combating Invasive Species in the New York Harbor
 Hearing Room – 250 Broadway, 14th Floor Michael Nelson, Chairperson

Monday, December 21, 2009

★ *Addition*
 Committee on **FINANCE** **11:00 A.M.**
 Int 1106 - By Council Member Weprin (by request of the Mayor) - A Local Law to amend the administrative code of the city of New York, in relation to authorizing an increase in the amount to be expended in eight business improvement districts.
AND SUCH OTHER BUSINESS AS MAY BE NECESSARY
 Council Chambers – City Hall David Weprin, Chairperson

Stated Council Meeting *Ceremonial Tributes – 1:00 p.m.*
 *Agenda – 1:30 p.m.*

Whereupon on motion of the Speaker (Council Member Quinn), the President Pro Tempore (Council Member Rivera) adjourned these proceedings to meet again for the Stated Meeting on Monday, December 21, 2009.

MICHAEL M. McSWEENEY, City Clerk
Clerk of the Council

***Editor's Local Law Note:** Int Nos. 138-A, 935-A, 998-A (adopted by the Council at the November 30, 2009 Stated Council Meeting) and Int Nos. 1017-A, 1057, and 1076-A (adopted by the Council at the November 16, 2009 Stated Council Meeting) were signed by the mayor into law on December 7, 2009 as, respectively, Local Law Nos. 75, 76, 77, 78, 79, and 80 of 2009.*

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