

CITY COUNCIL  
CITY OF NEW YORK

----- X

TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON HOUSING AND BUILDINGS

----- X

November 19, 2014  
Start: 1:27 p.m.  
Recess: 2:09 p.m.

HELD AT: Committee Room - City Hall

B E F O R E:

JUMAANE D. WILLIAMS  
Chairperson

COUNCIL MEMBERS:

Rosie Mendez  
Ydanis A. Rodriguez  
Karen Koslowitz  
Robert E. Cornegy, Jr.  
Rafael L. Espinal, Jr.  
Mark Levine  
Antonio Reynoso  
Helen K. Rosenthal  
Ritchie J. Torres  
Eric A. Ulrich

## A P P E A R A N C E S (CONTINUED)

Gina Bocra  
Chief Sustainability Officer  
NYC Department of Buildings

Patrick Whaley [sp?]  
Assistant Commissioner of External  
Affairs  
NYC Department of Buildings

Emily Hoffman  
Director of Energy Code Compliance  
NYC Department of Buildings

Dottie Harris  
Vice President  
State and Local Government Relations  
International Code Council

Cecil Scheib  
Urban Green Council

Michael English  
Senior Partner  
Horizon Engineering

[background comments]

[gavel]

CHAIRPERSON WILLIAMS: Good afternoon everyone. My name is Jumaane Williams, Chair of the Council's Committee on Housing and Buildings; joined today by Council Member Ydanis Rodriguez and I know Council Member Rosie Mendez was in here just a few seconds ago and will be coming back shortly.

We are here today to discuss Int. No. 0550, which is a series of revisions to the New York City Energy Code. The State Energy Code codified under the Energy Conservation Construction Code sets the minimum standards for the energy performance of buildings throughout New York. In order for New York City to maintain its own energy code, the City must establish an energy code that is more stringent than the State standards. The State expects to amend its current energy code before January 1st, which means that timely passage of Int. No. 0550 by the City Council is essential. Int. 0550 specifically incorporates changes made by the State; 2. preserves improvements already codified in the New York City Energy Code and 3. incorporates recommendations from the Green Codes Task Force and lastly, 4. includes

1  
2 amendments to make the NYC Energy Code more stringent  
3 than the State Energy Code.

4 In a city of almost one million  
5 buildings, New York has consistently strived to serve  
6 as a paradigm of energy conservation innovation,  
7 increasing efficiency while decreasing the ultimate  
8 impact to the environment. The amendments proposed  
9 in this bill call for more stringent energy  
10 conservation and optimization processes, such as  
11 commissioning, which for every dollar spent towards  
12 the process can yield a \$4.00 cost savings to the  
13 owner. When enacted, the code revisions in Int. 0550  
14 will yield an energy savings of almost 18.2 percent  
15 to building owners across the city.

16 I'd like to thank my staff for the work  
17 they did to assemble this hearing, including Nick  
18 Smith, my Deputy Chief of Staff; Jen Wilcox and  
19 Shidrad [sp?] Shijelidy [sp?]... they have another  
20 thing here... [background comment] did they change it,  
21 Shija... Shijorde... [background comment] yeah, Shijorde  
22 [sp?] Cadre [sp?], Counsel of the Committee;  
23 Guillermo Patino and Jose Conde, Policy Analysts of  
24 the Committee; Sarah Gastelum, the Committee's  
25 Finance Analyst.

1  
2 And as a reminder for those of you  
3 testifying today, please be sure to fill out a card  
4 with the sergeant. With that said, I'm gonna call up  
5 representatives from the administration as our first  
6 panel.

7 [pause]

8 Before you begin, can you please raise  
9 your right hand? Do you affirm to tell the truth,  
10 the whole truth and nothing but the truth in your  
11 testimony before the Committee and to respond  
12 honestly to Council Member questions? [background  
13 comments] Thank you and you can begin at your  
14 convenience.

15 GINA BOCRA: Good afternoon Chair  
16 Williams and Members of the City Council. My name is  
17 Gina Bocra and I'm the Chief Sustainability Officer  
18 of the Department of Buildings. I'm joined today by  
19 Mr. Patrick Whaley [sp?], Assistant Commissioner of  
20 External Affairs and Emily Hoffman, our Director of  
21 Energy Code Compliance.

22 We are pleased to be here this afternoon  
23 to offer testimony in support of Introductory No.  
24 0550, sponsored at the request of the administration,  
25

1  
2 which makes important updates to the New York City  
3 Energy Conservation Code.

4 On September 21st, Mayor de Blasio  
5 unveiled One City Built to Last: Transforming New  
6 York City's Buildings for a Low-Carbon Future. This  
7 plan commits to holding buildings to the highest  
8 standards for construction and energy performance.  
9 The legislature before you today embodies this  
10 commitment.

11 As this Council is aware, as part of the  
12 Greener, Greater Buildings Plan, Local Law 85 of 2009  
13 established the first New York City Energy  
14 Conservation Code, the City Energy Code, which was  
15 amended in 2010. The City Energy Code is part of our  
16 New York City Construction Codes and provides  
17 performance standards for building energy use.

18 The current City Energy Code is based on  
19 the New York State Energy Code or State Energy Code  
20 and includes the requirements for automatic lighting  
21 controls in most commercial buildings that were added  
22 by Local Law 48 of 2010, as well as an administrative  
23 chapter that is tailored to our procedures at the  
24 Department of Buildings.

1  
2 Yesterday the New York State Fire  
3 Prevention and Building Code Council voted to update  
4 the State Energy Code with technical changes to  
5 commercial provisions that align it with the 2012  
6 edition of the International Energy Conservation Code  
7 (IECC). This update will be more stringent than the  
8 current 2010 State Energy Code, as well as our  
9 current City Energy Code.

10 This change is being adopted in response  
11 to a federal mandate and has an effective date of  
12 January 1st, 2015. The primary benefit of this code  
13 update by the State is that it has been determined by  
14 the U.S. Department of Energy to result in an annual  
15 energy savings of 18.2 percent. In accordance with  
16 the State Energy Law, Section 11-109, an energy code  
17 adopted by a local jurisdiction must be more  
18 stringent than the State Energy Code. Our changes  
19 at the local level proposed in Int. 0550 will add to  
20 these energy savings. Energy savings also translates  
21 directly to financial savings and increasing energy  
22 efficiency in buildings is a key strategy to  
23 mitigating climate change throughout the city.

24 In sum, these changes will bring the best  
25 energy efficiency to our building equipment and

1  
2 facades and ensure that the City's buildings consume  
3 energy more efficiently as we work toward meeting our  
4 goal of reducing greenhouse gas emissions by 80  
5 percent by 2050.

6 Specifically, Int. 0550 is being advanced  
7 to serve the following four goals: First, to  
8 preserve the existing improvements in the City Energy  
9 Code; second, to adopt the State Energy Code as the  
10 basis of our technical provisions; third, to make  
11 several enhancements that will make our City Energy  
12 Code more stringent than the State Energy Code;  
13 fourth, to incorporate technical enhancements  
14 contributed by the Green Codes Task Force and others.

15 The local changes that are being proposed  
16 were developed by the Department of Buildings with  
17 the consultation of an Energy Code Advisory  
18 Committee. This committee included our partners from  
19 the design industry, real estate, representatives  
20 from construction industries and trades, other City  
21 agencies, representatives from Affordable Housing and  
22 advocates from environmental interest groups. The  
23 more substantive local amendments can be found in  
24 Chapter C-4 of the proposals included in this bill;  
25 they are as follows:

1  
2 It introduces technical changes relative  
3 to slightly more stringent equipment efficiencies for  
4 larger boilers, which was a Green Codes Task Force  
5 proposal and to commissioning requirements.

6 Commissioning is the practice of verifying and  
7 documenting that all of the energy-using systems are  
8 planned, designed, installed and tested to meet the  
9 owner's requirements. The Department will be  
10 publishing a rule to define the reporting  
11 requirements, procedures and fees for commissioning.

12 [background comment] It retains the automatic  
13 lighting requirements of Local Law 48 of 2010. It  
14 introduces a requirement in new buildings over 50,000  
15 square feet for submetering of commercial spaces over  
16 10,000 square feet, which will support the  
17 requirements of Local Law 88 of 2009. It eliminates  
18 a provision that previously exempted lighting in  
19 dwelling units of multi-family buildings from the  
20 efficiency provisions when following ASHRAE 90.1  
21 requirements that all other dwelling units are  
22 subject to when following the City Energy Code for  
23 either one- or two-family residences or for multi-  
24 family buildings. ASHRAE 90.1 serves as an alternate  
25 compliance path under the City or State Energy Code.

1  
2 Eliminating this provision subjects dwelling units to  
3 the same provisions regardless of the compliance  
4 path.

5 With the State Energy Code becoming  
6 effective on January 1st, 2015, it is vitally  
7 important that the City Energy Code be effective by  
8 then or we will lose the improvements that our code  
9 provides and be subject to the State's energy code.  
10 Therefore we respectfully request swift and careful  
11 consideration and approval of this legislation, which  
12 will enable our department and stakeholders to  
13 smoothly transition to the requirements of the new  
14 City Energy Code.

15 Thank you for your attention and the  
16 opportunity to testify before you today. My  
17 colleagues and I welcome any questions you may have.

18 CHAIRPERSON WILLIAMS: Thank you very  
19 much for the testimony. We've been joined by Council  
20 Member Torres and rejoined by Council Member Mendez  
21 and we're being joined by Council Member Koslowitz  
22 now. My colleagues all of course are welcome to  
23 listen to all of the exciting testimony, but in case  
24 you were wondering, there won't be a vote today, we  
25

1 will be voting later; I'm sure that won't affect your  
2 decisions at all.

3  
4 I have a couple questions. First,  
5 increasing boiler efficiency, one NYC-specific  
6 amendment would increase the NYC minimum boiler  
7 efficiency by 1-3 percent; will this be burdensome to  
8 owners and what impact would I have on greenhouse gas  
9 emissions?

10 GINA BOCRA: This would be for large  
11 buildings, because these are large boilers and we  
12 believe that the cost savings that will come from  
13 increasing the efficiency will offset in a short  
14 amount of time the increase costs of a more efficient  
15 boiler. So we believe that this is a justified  
16 increase in the premium efficiency of the equipment.

17 CHAIRPERSON WILLIAMS: And it would also  
18 eliminate the State Energy Code performance path; why  
19 is the State Energy Code performance path being  
20 eliminated; what impact would the elimination of the  
21 State Energy Code performance path have on the  
22 industry?

23 GINA BOCRA: Currently there are six  
24 options [background comment] in complying with the  
25 State Energy Code. The modeling option within the

1 energy code we believe is not well-defined and leaves  
2 many aspects open for interpretation. The ASHRAE  
3 90.1 option for modeling is better defined and we  
4 believe is well thought out. The industry has these  
5 six options available now, but with this code change  
6 at the state level, there will be seven options,  
7 [background comments] as a second pathway in ASHRAE  
8 is also being made available as a part of the code.  
9 So while we are eliminating one of these, which we  
10 feel is not well-defined, there will still be six  
11 options available to the industry.  
12

13 CHAIRPERSON WILLIAMS: So the industry  
14 doesn't commonly use the State Energy Code  
15 performance path?

16 GINA BOCRA: They do now...

17 CHAIRPERSON WILLIAMS: They do now.

18 GINA BOCRA: but... [interpose]

19 CHAIRPERSON WILLIAMS: And there are six  
20 paths?

21 GINA BOCRA: There are six right now.

22 CHAIRPERSON WILLIAMS: Of the State or  
23 State is one of the paths?

24 GINA BOCRA: Six different paths in the  
25 State and the City Energy Code for compliance.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CHAIRPERSON WILLIAMS: Say it again.

GINA BOCRA: There are six paths  
available... [interpose]

CHAIRPERSON WILLIAMS: Okay.

GINA BOCRA: we have the same options as  
the state does now.

CHAIRPERSON WILLIAMS: Okay. What are  
those six?

GINA BOCRA: [laugh] There's a  
prescriptive option, a performance option that allows  
tradeoffs in only one discipline and then a  
performance option that allows tradeoffs among all  
three disciplines. So... [crosstalk]

CHAIRPERSON WILLIAMS: That's three?

GINA BOCRA: there's one for residential  
in each of those categories and one for commercial in  
each of those categories.

CHAIRPERSON WILLIAMS: And they can  
choose whichever one they prefer; is that right?

GINA BOCRA: Yes, they are open to make  
that choice.

CHAIRPERSON WILLIAMS: And these changes  
affect all of the paths?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

GINA BOCRA: This change eliminates only one of them, the total performance path of the energy code in favor of two performance paths available in ASHRAE.

CHAIRPERSON WILLIAMS: Okay. Okay. This is kinda confusing. Okay; think I got it.

GINA BOCRA: So the state will have seven and we will still have six.

CHAIRPERSON WILLIAMS: So the city can't choose the seventh that the state has?

GINA BOCRA: We could, but we feel that it's an inadequate path.

CHAIRPERSON WILLIAMS: Okay. Int. No. 0550 would expand the commission requirements to renewable energy systems and water heating systems and remove the exception for systems that serve dwelling or sleeping units; Int. 0550 would further require that commission reports be filed with DOB. Can you tell us more about the commission reports and which builders will have to submit commission reports? Before you do that, we've been joined by Council Members Rosenthal and Levine.

GINA BOCRA: Alright. The commissioning trigger is defined by the state and we have adopted

1 the same triggers. So any building that installs  
2 over a certain capacity of heating or cooling  
3 equipment will have to commission that equipment and  
4 provide a report to the department. We have...  
5 [background comments] or I should say, that amount of  
6 equipment, if you were planning a new building, would  
7 translate to approximately 25,000 square feet, we  
8 believe; it could be a smaller building, if they have  
9 complicated equipment and unusual heating and cooling  
10 needs. So at this time we can only say that for new  
11 buildings we anticipate that this will affect perhaps  
12 250-300 applications per year. What we're unable to  
13 estimate is the number of equipment replacements that  
14 may be affected by this new provision from the  
15 state's code. So there may be large buildings that  
16 choose to replace several pieces of equipment at one  
17 time, which would then trigger the commissioning  
18 requirement that has been introduced by the state.  
19 The change that the City has made is to include hot  
20 water heating systems as part of the commissioning  
21 requirements and to include any on-site electric  
22 generating equipment in the commissioning  
23 requirements, and then the City is also asking for  
24 the registered design professional to certify that  
25

1 the commissioning was actually completed on the  
2 project and we've looked at two different size  
3 categories of buildings; the smaller buildings would  
4 have to report 18 months of their first temporary  
5 certificate of occupancy or certificate of occupancy  
6 and the largest of buildings would have to report to  
7 the Department of Buildings within 30 months of that  
8 same requirement.  
9

10 [background comments]

11 GINA BOCRA: We convened a committee of  
12 commissioning experts in the city and asked their  
13 advice on what they felt would be a reasonable size,  
14 so we arrived at buildings over 500,000 square feet  
15 could have up to 30 months to provide their final  
16 commissioning report to the Department.

17 CHAIRPERSON WILLIAMS: And my mic wasn't  
18 on for that, so I'm gonna just repeat the question  
19 that you just answered. My question was; how was the  
20 filing schedule determined? What does DOB expect the  
21 fee for filing commissioning reports to be?

22 GINA BOCRA: We don't know yet, it will  
23 be established by rule and it will be based on the  
24 user costs or rather the costs that it takes us to  
25 review the report and process it.

1  
2 CHAIRPERSON WILLIAMS: So do you know of  
3 any economic impact to the owner?

4 GINA BOCRA: Commissioning requirement is  
5 coming from the State; new commissioning on  
6 buildings, a general rule of thumb is that it costs a  
7 dollar per square foot, but as we have conveyed, it  
8 has a good return on investment and usually generates  
9 much higher energy savings costs over the first few  
10 years of the life of the building.

11 CHAIRPERSON WILLIAMS: So how many  
12 additional commissioning reports are gonna be needed  
13 than would have been needed without this change?

14 GINA BOCRA: It's hard to say because  
15 owners don't report to us at this time on whether  
16 they're doing commissioning or not.

17 CHAIRPERSON WILLIAMS: But the  
18 commissioning... without this goes to the state; this  
19 would... will they be doing a commissioning report to  
20 us now?

21 GINA BOCRA: They are not giving us a  
22 commissioning report right now.

23 CHAIRPERSON WILLIAMS: But this bill  
24 would have them give it to us?

25 GINA BOCRA: Yes.

2 CHAIRPERSON WILLIAMS: But they should be  
3 giving it to the state?

4 GINA BOCRA: The state actually requires  
5 that the commissioning report be conveyed to the  
6 owner and they don't actually [crosstalk]

7 CHAIRPERSON WILLIAMS: Say that again,  
8 sorry.

9 GINA BOCRA: check themselves.

10 CHAIRPERSON WILLIAMS: Say that again,  
11 I'm sorry.

12 GINA BOCRA: The state's provisions  
13 require that a commissioning report be delivered only  
14 to the owner, not to the state.

15 CHAIRPERSON WILLIAMS: Ah. How many  
16 commissioning reports does the state ask for?

17 GINA BOCRA: They don't ask for any as a  
18 regulator.

19 CHAIRPERSON WILLIAMS: I mean but how  
20 many... you said it requires they present it to the  
21 owner; how many commissioning reports are required?

22 GINA BOCRA: A preliminary report at the  
23 end of construction and a final commissioning report.

24 CHAIRPERSON WILLIAMS: So two?

25 GINA BOCRA: Uhm-hm.

1  
2 CHAIRPERSON WILLIAMS: And this also has  
3 two?

4 GINA BOCRA: Yes.

5 CHAIRPERSON WILLIAMS: So the two that  
6 we're requiring now be given to us, would that  
7 satisfy the already existing state?

8 GINA BOCRA: It would.

9 CHAIRPERSON WILLIAMS: Will DOB incur any  
10 costs as a result of the change?

11 GINA BOCRA: We will probably have to add  
12 one staff member at least.

13 CHAIRPERSON WILLIAMS: And that will  
14 covered by the cost of the commissioning report?

15 GINA BOCRA: Yes.

16 CHAIRPERSON WILLIAMS: So you anticipate  
17 the costs of the commissioning reports that are now  
18 gonna be given to the City be more than what's  
19 already asked for by the state, required by the  
20 state?

21 GINA BOCRA: The City has requested that  
22 we include commissioning of hot water systems as well  
23 as on-site generation of electricity, so those are  
24 two components that we are requiring to be included  
25 within the scope of commissioning that the state has

1  
2 not included, so this would slightly increase the  
3 cost of the commissioning exercise for the building.

4 CHAIRPERSON WILLIAMS: Do you know what  
5 slightly means?

6 GINA BOCRA: The variables would vary  
7 widely, based on the size of the building and the  
8 complexity of the equipment.

9 CHAIRPERSON WILLIAMS: One example; you  
10 can just pick an example of...

11 GINA BOCRA: It's... we can't give you a  
12 number.

13 CHAIRPERSON WILLIAMS: Okay. No example;  
14 you can't pick a size of a boiler and...

15 GINA BOCRA: [laugh] I'm not a  
16 commissioning agent, so I apologize... [crosstalk]

17 CHAIRPERSON WILLIAMS: Okay.

18 GINA BOCRA: that I don't have, you know,  
19 specific costs to commissioning various systems.

20 CHAIRPERSON WILLIAMS: Okay. [pause]  
21 Okay. I don't think any of my colleagues have any  
22 questions, that I know of, so I just wanna say thank  
23 you very much for your testimony; greatly  
24 appreciated.

25 GINA BOCRA: Thank you.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CHAIRPERSON WILLIAMS: So we have one panel that signed up, with four names; if there's anyone else, please make sure that the sergeant of arms has your card filled out -- Dottie Harris from ICC; Michael English from Horizon Engineering; Scott Frank, ACEC New York, and Cecil Shreb [sic], Urban Green Council. [pause] [background comments] [pause] Can you all raise your right hands, please? Do you affirm to tell the truth, the whole truth and nothing but the truth in your testimony before the Committee and to respond honestly to Council Member Questions? [background comments] Thank you; you can start at your leisure in the order you prefer.

[background comments]

DOTTIE HARRIS: Good afternoon, Chairman Williams, Members and staff of the City Council Committee on Housing and Buildings. My name is Dottie Harris; I'm the Vice President of State and Local Government Relations and your liaison to the International Code Council.

The International Code Council, a membership association dedicated to building safety and fire prevention, develops the codes used to construct residential and commercial buildings,

1 including homes and schools. The mission of the  
2 International Code Council (ICC) is to provide the  
3 highest quality code standards, products and services  
4 for all concerned with building safety and  
5 performance of the built environment. I would like  
6 to commend the City Council for its outstanding work  
7 to ensure safety, health and well-being of its  
8 citizens. I'm here today speaking in support of Int.  
9 0550, which will update the New York City Energy  
10 Conservation Code to the New York State Energy Code  
11 with amendments unique to the construction in the  
12 City. The update will have a positive effect on  
13 sustainability in a built environment and includes  
14 provisions outlined in Mayor de Blasio's One City  
15 Built to Last report.  
16

17 Just yesterday, November 18th, 2014, the  
18 State Fire Prevention and Building Code Council voted  
19 to move forward with the implementation of the  
20 commercial provisions of the 2012 International  
21 Energy Conservation Code and ASHRAE 90.1, 2010  
22 version so that the state will be in compliance with  
23 the requirements of the U.S. Department of Energy.  
24 The updated Energy Conservation and Construction Code  
25 of New York State will become effective on January

1  
2 1st, 2015 and therefore, the City of New York must  
3 update its energy code so that it can continue to  
4 stay in compliance with Article 11 of the New York  
5 State Energy Law.

6 The International Energy Conservation  
7 Code (IECC) is adopted at the state or local level in  
8 46 states, including Washington, D.C., Puerto Rico  
9 and the U.S. Virgin Islands. Presently, Colorado,  
10 Delaware, Washington, D.C., Illinois, Iowa, Maryland,  
11 Massachusetts, Missouri, Nevada, North Dakota,  
12 Oregon, Rhode Island, Utah, Virginia, Washington and  
13 Wyoming have adopted the 2012 IECC statewide, and New  
14 York of course will update theirs as well.

15 The International Codes, including the  
16 IECC, are regularly revised and updated by a national  
17 consensus process that strikes a balance between the  
18 latest technology and new building products,  
19 economics and cost while providing for an acceptable  
20 level of public and first responder safety; it is an  
21 open, inclusive process that encourages input from  
22 all individuals and groups and allows those  
23 governmental members that are the public safety  
24 officials to determine the final code provisions. I  
25 am pleased that several staff from the New York City

1 Department of Buildings and other New York-based  
2 organizations participated in the 2012 IECC code  
3 development hearings and as a result, several  
4 provisions have been incorporated into the 2012 IECC.  
5 This involvement is critical to the success of the  
6 next version of the International Codes, the  
7 expertise of the Department of Buildings, the Fire  
8 Department, design professionals, builders,  
9 contractors, labor representatives and all  
10 organizations interested in building safety and  
11 resiliency are vital to your adoption efforts as well  
12 as ours.  
13

14 Thank you for the opportunity to submit  
15 this testimony regarding the City's adoption of the  
16 commercial provisions of the IECC, the International  
17 Code Council is honored to partner with the City of  
18 New York and we look forward to continuing to serve  
19 your needs. Thank you for the opportunity and I'm  
20 happy to answer any questions that you might have.

21 CHAIRPERSON WILLIAMS: Thank you. Before  
22 the next person, sergeant, can you put three minutes  
23 for a time; I didn't mention it before, but you did  
24 fall under three minutes, which we appreciate and  
25 hopefully people can follow suit. Thank you.

1  
2 CECIL SCHEIB: Good afternoon. My name  
3 is Cecil Scheib, Urban Green Council; we are the New  
4 York chapter of the U.S. Green Building Council.  
5 Thank you, Chair Williams and Members of the  
6 Committee.

7 As you're opening statement said, you  
8 guys get the basic gist and we've got some experts up  
9 here; you're asking really great questions, so I'll  
10 keep my comments short; just hopefully add a couple  
11 things.

12 You know as was said, we're gonna get  
13 these sort of regular code updates from the state  
14 'cause there's a federal law that says we have it;  
15 that doesn't mean this bill isn't still very  
16 important and in fact while we have to do this 'cause  
17 it's a federal law, when we make the code local and  
18 make it New York specific, that makes our buildings  
19 better and then makes it easier for DOB to actually  
20 enforce the law, and so our little tweaks, our  
21 improvements are making it streamlined; those are  
22 really crucial to making the code valid for our city.  
23 Codes are sort of you like the DNA of the building  
24 industry; every new building is basically governed by  
25 the laws and in fact many of the buildings we already

1  
2 have will come under the purview as they receive some  
3 sort of renovation over the upcoming years. So  
4 having a strong energy code that is local to our city  
5 is a big part of making it useful.

6 This is a great bill, great work on a  
7 tight timeline by DOB and folks from the Council and  
8 the Mayor's Office; it has a lot of great features,  
9 as been mentioned -- boilers that are gonna waste  
10 less fuel in winter, commercial tenants knowing their  
11 energy usage so they can do more to save it,  
12 inspecting air conditioners in people's dwelling  
13 units so they're not leaking air all winter and all  
14 summer and wasting energy, easier to enforce, better  
15 lighting -- these are all low-cost or often no-cost  
16 items that are gonna increase energy affordability  
17 for our residents, while also cutting our carbon  
18 pollution, which this Council is very strongly in  
19 favor of.

20 I have a couple friendly amendments,  
21 things that were discussed on the committee that are  
22 not in the present version of the bill and we're  
23 hoping that they will be incorporated into the bill's  
24 A version before the vote; they are here in the  
25 written testimony, but they are fairly technical, so

1 unless I'm asked about it, I won't go into them. We  
2 think it's great that the state and the city are  
3 acting in concert to make this easiest on the  
4 industry; I will point out that this new code, which  
5 is going to be adopted to take effect in 2015, is  
6 gonna be based on code language that was being worked  
7 on by the industry in 2008, maybe 2009, so what we're  
8 gonna make law now is things that the building  
9 industry agreed was a good idea six years ago. So  
10 this is a great bill, but there are still greater  
11 opportunity. The new versions of these energy codes  
12 are already out and are under consideration. The  
13 federal law says the slowest we can improve the  
14 codes, but it does not stop us from moving faster.  
15 So while this is a great bill, we would certainly  
16 encourage the Council not to wait another three years  
17 before we do this again. Thank you very much and I  
18 look forward to your questions.

19 [bell]

20 [background comments]

21 SCOTT FRANK: Good morning. I'm Scott  
22 Frank; on behalf of the American Council of  
23 Engineering Companies of New York I'd like to thank  
24 the Mayor's Office, the City Council and the New York  
25

1  
2 City Department of Buildings for the referenced  
3 update to the City's Energy Code.

4 I am a partner at Jaros, Baum & Bolles  
5 Consulting Engineers located in the City and as Chair  
6 of the ACEC New York Energy Codes Committee I'm here  
7 today to testify in favor of the proposed update to  
8 the New York City Energy Conservation Code.

9 First I'd like to call attention to the  
10 precedent-setting step in the proposed energy code  
11 update in modifying Section C-407, Total Billing for  
12 Performance, of the code by replacing the  
13 requirements of the International Energy Conservation  
14 Code with the analogous requirements of ASHRAE  
15 standard 90.1, 2010. This step will greatly simplify  
16 the complexity of the energy code by removing a  
17 redundant energy modeling base compliance path that  
18 is not well articulated nor clearly defined in the  
19 International Code and instead utilizing the national  
20 standard compliance path of ASHRAE standard 90.1.  
21 This step will reduce the total number of compliance  
22 paths available in the code for commercial buildings  
23 in New York City from six to five, [background  
24 comment] this is a critically important step and  
25 hopefully just a first step towards rationalizing

1  
2 this important code toward a balance point similar to  
3 that currently found in all of the New York City  
4 construction codes.

5 I wish to call attention to a critical  
6 omission in the current administration of the energy  
7 code and which remains unchanged in the proposed  
8 energy code update; namely the issue of code  
9 interpretations and code variances. Unlike any other  
10 New York City construction code, New York City  
11 currently provides no opportunity for applicants to  
12 receive interpretations from an authorized City  
13 agency or to engage in dialogue about possible  
14 variances to the energy code to hardships or unique  
15 circumstances. This is in stark contrast to the  
16 implementation procedures and practices for all of  
17 the other New York City construction codes. The only  
18 recourse an applicant currently has when applying the  
19 energy code is to approach the New York State  
20 Department of the State in Albany, which is at best  
21 reluctant to provide interpretations and the  
22 variances to the State Code and at worst, not staffed  
23 properly to address the unique issues arising from  
24 existing and new buildings in a dense urban  
25 environment like New York City. This lack of

1  
2 administrative process is becoming a significant  
3 [background comments] problem in the City of New  
4 York, especially as the performance requirements of  
5 the City Energy Code continue to increase. We  
6 strongly recommend that in some form or another this  
7 critical issue be specifically addressed in the  
8 proposed energy code update such that implementation  
9 of the City Energy Code can continue to be  
10 successful. We understand that the New York State  
11 Energy Law restricts the ability [bell] of  
12 municipalities to issue interpretations and variances  
13 to the State Energy Code; we therefore respectfully  
14 request that that issue be included in the Mayor's  
15 state legislative program for 2015 to provide an  
16 amendment to the State Energy Law to allow  
17 municipalities to provide these interpretations and  
18 variances and that the City Council support this  
19 effort.

20 Thank you for your consideration of these  
21 comments; I'd be pleased to answer any questions you  
22 have.

23 MICHAEL ENGLISH: Good afternoon  
24 Councilman Williams and staff. My name is Michael  
25 English; I'm Senior Partner with Horizon Engineering;

1  
2 I am a license professional engineer in the State of  
3 New York and 17 other states across the United States  
4 of America and I am a commissioning provider and have  
5 been providing commissioning services for the last 20  
6 years.

7           Why is commissioning essential in  
8 reaching our energy goals? Building commissioning is  
9 a systematic process that provides documentation that  
10 systems are designed, installed and operate in  
11 accordance with the other's project requirements.  
12 The commissioning process is accomplished with a  
13 thorough review of the design documents,  
14 commissioning proved [sic] sequence of operations by  
15 inspecting equipment during installation and when  
16 ready, testing of system performances. Commissioning  
17 integrates design, construction and operations to  
18 facilitate a big picture, project success,  
19 controlling conditions often underserved in a typical  
20 design and construction process. [sic]

21           Commissioning also validates system  
22 performance and our philosophy dictates that we treat  
23 each facility if we were to operate that building  
24 over the next 20 years; this enhances the quality of  
25 the project which reflects by improved energy

1  
2 efficiency, sufficient access to equipment, better  
3 operational characteristics and improved training of  
4 personnel.

5           Commissioning for new construction in  
6 existing buildings are no longer a new and untried  
7 concept, the commissioning process has been around  
8 long enough to have proven real world results. A  
9 recent Pike research study has found that retro-  
10 commissioning services can result in savings of 10  
11 and 20 percent in average payback periods of less  
12 than a year. The benefits of commissioning are well  
13 documented as far as energy savings, organizations  
14 such as NYSERDA, United States Green Building Council  
15 and Portland Energy Conservation, Inc. have  
16 calculated anywhere between 15 and 30 percent energy  
17 reduction for buildings than are commissioned to  
18 buildings that are not. The owner-operator community  
19 also realizes the operation and maintenance benefits  
20 when maintenance costs are reduced by 15-35 percent.  
21 A study by Evan Mills on building commissioning that  
22 was pushed in ASHRAE reported that commissioning is  
23 the single-most cost-effective strategy for reducing  
24 energy costs and greenhouse gas emissions in  
25 buildings today; it also reports that if we were to

1  
2 commission the stock of the U.S. non-residential  
3 buildings, the energy savings potential would be \$30  
4 billion by the year 2030 and annual greenhouse gas  
5 emissions reduction of 340 megatons of CO2 each year.

6           The cost of commissioning is minimal in  
7 the lift of the project. Typical commissioning costs  
8 range from a quarter percent to a half percent of  
9 construction costs, depending on the complexity of  
10 the building, a cost avoidance of change orders,  
11 energy consumption, operations or maintenance savings  
12 outweighs these costs significantly. Return  
13 investment in case studies have commissioning a less  
14 than one-year payback.

15           Key qualifications of a commissioning  
16 provider are the vital points for success in building  
17 commissioning is to have and hire appropriate  
18 qualifying engineers to perform the services. At a  
19 minimum, commissioning providers should have a  
20 professional engineering license, commissioning  
21 industry certifications that are ANSI certified and  
22 not something that is [bell] found out of just by  
23 taking a test and being certified.

24           Commissioning is needed and a quality  
25 assurance measure for today's complex buildings'

1  
2 designs and equipment and face-paced construction  
3 timelines, the economic ramifications for delayed  
4 occupancy and the early detection of design  
5 installation faults alone can provide economic  
6 justification for many for commissioning projects.

7 I look forward to answering any questions  
8 you may have about our efforts and look forward to  
9 working with members of the Committee and others to  
10 ensure energy and operational efficiency of the  
11 buildings in the City of New York.

12 CHAIRPERSON WILLIAMS: Thank you very  
13 much for all of your testimony; we are also joined by  
14 Council Member Ulrich who's here and Council Member  
15 Espinal, who stepped in and is actually in another  
16 hearing.

17 Just a couple of quick questions. Miss  
18 Harris, I have a very simple question, actually.  
19 Where is Niskayuna New York?

20 [laughter]

21 DOTTIE HARRIS: It's right outside of  
22 Albany.

23 CHAIRPERSON WILLIAMS: Okay.

24 DOTTIE HARRIS: It's in Schenectady  
25 County, but...

1  
2 CHAIRPERSON WILLIAMS: Oh, I had never  
3 heard of it.

4 DOTTIE HARRIS: I was very official; I  
5 told you exactly where I live. [laughter]

6 CHAIRPERSON WILLIAMS: Alright. Thank  
7 you. Mr. Frank, I wanted to get some more  
8 information about the inability to get  
9 interpretations from authorized City agencies; can  
10 you tell me a little bit more about that?

11 SCOTT FRANK: Yes, certainly. For all of  
12 the other construction codes -- the electrical code,  
13 the building code, the mechanical code, the plumbing  
14 code and the fire code -- there's a very well-defined  
15 and very functional mechanism for applicants who have  
16 difficulties or questions to approach either the  
17 Department of Buildings or the New York City Fire  
18 Department for clarification of the requirements,  
19 [background comments] including specific nuances that  
20 may be applicable to a particular project that aren't  
21 clear in the code language or in some cases to  
22 actually discuss an alternative or a variance from a  
23 literal requirement in the code essentially trading  
24 off for another measure that could be implemented to  
25 achieve the same intent of the code. I think most

1  
2 practitioners would agree that is an essential aspect  
3 of implementing prescriptive codes like we have in  
4 the City of New York. And as I said, this is an  
5 aspect of implementation of the energy code that has  
6 simply been missing from New York City from the  
7 passage of the energy law decades ago, and it is a  
8 significant problem in that we really don't have  
9 recourse as practitioners to receive this guidance,  
10 to appeal hardship cases and have this give and take  
11 dialogue with an agency in order to effectively and  
12 efficiently [background comments] proceed with  
13 projects.

14 CHAIRPERSON WILLIAMS: Thank you. And  
15 Mr. English, I asked for an example of some of the  
16 costs that may come from the commissioning; do you  
17 have any examples of what it might cost?

18 MICHAEL ENGLISH: In the documentation  
19 that I submitted, it's anywhere between a quarter  
20 percent and a half percent of constructions cost.

21 CHAIRPERSON WILLIAMS: And in your mind,  
22 that can be made up also in the costs that she said  
23 will be saved throughout...

24

25

1  
2 MICHAEL ENGLISH: Due to the energy  
3 savings that you're gonna obtain, yes; usually the  
4 payback is less than a year.

5 CHAIRPERSON WILLIAMS: Okay. Thank you  
6 very much. Actually, Miss Bocra, I was gonna ask  
7 you, when they finish, I wanted to ask you another  
8 question, if that was okay.

9 Thank you so much for your testimony;  
10 very much appreciate it.

11 First, thank you for staying and hearing  
12 the rest of the testimony. I did wanna ask about the  
13 one issue that seemed interesting, which is this is  
14 the only code where they can get interpretation on  
15 the code, so I wanted to know if you can respond to  
16 that.

17 GINA BOCRA: The authority to grant a  
18 variance or a modification to the energy code is  
19 retained by the state under the State Energy Law, so  
20 it's Section 11-106 that establishes the authority  
21 for a variance and that law indicates that any  
22 applicant who seeks a variance or a modification must  
23 get it granted by the Secretary of State. So in the  
24 two years that I have been with Department of  
25 Buildings, the state has contacted us to discuss

1  
2 variance applications and get our input as the  
3 Department of Buildings; for projects that are  
4 specific to the boroughs they do work with us, but  
5 the authority has not been granted to the City to  
6 issue a variance from the energy code.

7 [background comment]

8 CHAIRPERSON WILLIAMS: The  
9 interpretations they're asking for are only for  
10 variances or do they just want sometimes  
11 clarification of the code?

12 GINA BOCRA: We have outreach and support  
13 for applicants who need interpretation of the code;  
14 if they can't understand what the code is requiring  
15 they can contact our unit and we reach out to them  
16 and help them work through the issues, but we're  
17 unable to grant a variance.

18 CHAIRPERSON WILLIAMS: Alright. I just...  
19 Give me one second; sorry. So if they do want a  
20 variance, they can get interpretation and information  
21 from the state, that will then contact you?

22 GINA BOCRA: No, often they can contact  
23 us and then we point them to the state, but they must  
24 get the variance from the state.

1  
2 CHAIRPERSON WILLIAMS: And that's based  
3 on the State Code?

4 GINA BOCRA: Because of the State Energy  
5 Law.

6 CHAIRPERSON WILLIAMS: But you can  
7 provide information interpretations of the code?

8 GINA BOCRA: We can, yes and we do.

9 CHAIRPERSON WILLIAMS: Okay. Thank you  
10 very much... [crosstalk]

11 GINA BOCRA: Sure. Thank you.

12 CHAIRPERSON WILLIAMS: much appreciate..  
13 appreciated. We also have testimony for the record  
14 from REBNY and BOMA. Is there anyone else?  
15 [background comment] Okay. Alright, I wanna say  
16 thank you everyone for coming out and testifying and  
17 again, we're hoping to get this passed before the  
18 state goes into effect and I also wanna thank the  
19 Mayor for his request in getting this done. And this  
20 meeting is adjourned.

21 [gavel]

22

23

24

25

C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date November 24, 2014