

**NEW YORK CITY DEPARTMENT OF TRANSPORTATION
TESTIMONY FOR HEARING BEFORE THE
CITY COUNCIL COMMITTEE ON TRANSPORTATION
REGARDING INTRODUCTIONS 411, 412, 427, 453, 687, and 1209
JUNE 23, 2016**

Good morning Chair Rodriguez and members of the Committee. My name is Vincent Maniscalco and I am Assistant Commissioner for Highway Inspection and Quality Assurance for the New York City Department of Transportation (DOT). I am joined by Leon Heyward, Deputy Commissioner for Sidewalks and Inspection Management, and Jenna Adams, Director of Legislative Affairs.

Thank you for the opportunity to testify on important legislation that addresses how DOT can better manage newsracks on our sidewalks. Legislation addressing this challenge is not new and has some history: Local Law 23 of 2002 established a framework to allow DOT to regulate the maintenance and placement of newsracks on sidewalks around the City. Passed in response to the growing number of complaints from residents, community groups, and elected officials, that law was designed to address damaged and poorly maintained newsracks on increasingly crowded sidewalks.

Two years later, Local Law 36 of 2004 was enacted, which amended the framework established under Local Law 23 of 2002 in an attempt to further streamline the regulatory process. These amendments reduced some administrative burden for DOT, but we now know they created certain challenges in ensuring proper newsrack maintenance and installation. Further amendments to the law are needed to encourage orderly placement, ensure secure installation, and provide adequate enforcement tools when newsracks are improperly maintained or abandoned, which brings us here today.

To illustrate, of the several hundred newsracks complaints that DOT receives annually, a majority of them relate to dirty newsracks or debris in newsracks. It is difficult to know whether owners are in fact keeping their newsracks clean, in large part because the law as amended in 2004 relies on a self-certification process documenting that "best efforts" have been made to remove graffiti and other unauthorized markings. In other words, the law as amended does not

directly require that a newsrack be kept free of graffiti or other improper markings, but rather, requires a *certification* that *best efforts* have been made to remove graffiti or other markings.

DOT may issue a violation to an owner for not submitting their self-certification or for not providing a maintenance log during an audit, but this may not address the actual dirty newsrack generating complaints.

For complaints regarding newsracks filled with debris or empty or damaged newsracks, the law requires that owners be given a Notice of Correction and a period in which to correct the condition before being issued a Notice of Violation. A Notice of Violation can only be issued after DOT conducts a second inspection at the end of the correction period and determines that the condition was not corrected. For debris, the correction period is 48 hours. For empty or damaged newsracks, the correction period is seven business days. Under the current process, and factoring in the required mailing periods, it can take weeks before DOT is permitted to issue a single Notice of Violation for these conditions.

Even when DOT determines that a Notice of Violation is warranted, owners have successfully argued for dismissal of the violation on the grounds that the problem was remedied during the correction period, and that any maintenance problem found during the second inspection was new. Under these circumstances, the condition discovered at the time of DOT's re-inspection requires a new Notice of Correction – starting the process all over again.

As population in New York City continues to grow and we experience record number of visitors, many of our dense and bustling neighborhoods and commercial corridors are now packed with pedestrians. Every inch of sidewalk space is not only incredibly precious for pedestrians, but for all of the other competing uses: loading and unloading at curbside; street vendors; a growing range of street furniture and amenities, including LinkNYC kiosks; wayfinding signage; bike racks and bike share stations; MTA Select Bus off-board payment machines; and of course newsracks.

Accordingly, as we seek to balance access for publishers to disseminate information with the safe and orderly use of sidewalks for all users, we strongly support Intros 411, 412, 427, 687 and 1209.

Taken together, Intros 411, 427 and 1209 would strengthen cleaning and maintenance requirements; allow DOT to set and enforce standards on the materials, size and installation of newsracks; allow for stronger enforceability of violations and easier removal of neglected or abandoned newsracks; and provide for better registration and oversight of newsracks by DOT.

Intro 411 would end the “best efforts” self-certification system and replace it with a requirement for owners to maintain each newsrack in good repair, in a clean and neat condition and free of graffiti.

The Intro would also amend the law to allow DOT to issue a Notice of Violation if a newsrack does not contain the publication and contains refuse within a twenty-four hour period before and a twenty-four hour period after the scheduled delivery date. This is a change from the current law, which only allows a Notice of Correction to be issued when a publisher fails to keep a newsrack supplied with a publication for more than seven consecutive days without securing the door. This continuous monitoring of a newsrack for a week is impractical and unnecessarily time-intensive, so we welcome this change.

And lastly, Intro 411 would also allow give DOT better enforcement tools to address neglected newsracks, and greater flexibility to remove particular newsracks to a place of safety under certain circumstances such as temporary construction.

Intro 427 would authorize DOT to develop standards regarding the size, shape, materials, appearance, and installation of newsracks. These standards would be promulgated through agency rules. This change allows DOT to create uniform standards of design and construction that will allow newsracks to take up less space on the sidewalks and be more easily secured together, less likely to tip over, harder to steal or move, and less subject to damage, all of which benefits both owners and the public.

Another crucial change, proposed in Intro 1209, would require unique identifying decals provided by DOT on all registered newsracks. This proposal would assist DOT in enforcing many of the requirements of the law, both when it comes to ensuring that a newsrack on the street is duly registered and identifying the owner.

In addition, decals with unique identifiers would allow DOT to document that a violation issued for a particular condition is being issued to the same newsrack for which a required Notice of Correction was previously issued, which can be difficult to prove under the current law, as I discussed earlier.

This new system of registration and identifying decals would help ensure that all newsracks placed on the street meet DOT's requirements (for newsrack design, as well as for providing proof of insurance requirements and publications schedule). The proposal would permit DOT to remove a newsrack that is not properly registered and identified.

I would like to turn now for a moment to multi-rack or modular newsracks, which are currently being used by institutions and Business Improvement Districts to effectively address the aesthetic, maintenance, and street safety concerns posed by single newsracks. To encourage the installation of more modular newsracks, Intro 412 would codify a modular newsrack plan approval process.

The application and approval requirements outlined in Intro 412 would put in place a process for ensuring space within new modular newsracks for publications currently at that location as well as a process for new publications to request space in such modular newsrack. At the same time, it would restrict the placement of single racks on blocks with modular newsracks that have an approved plan and available space.

Owners of modular newsracks currently approved by DOT will not be required to submit new modular newsrack plans although the restrictions on single newsracks would only be in force if such owners obtain approval for a plan under the new law.

Any entity, including Business Improvement Districts, publishers, or not-for-profit organizations would be eligible to submit a modular newsrack plan for review, which includes an opportunity for comment by the local community board, and allows DOT to require changes to meet the requirements spelled out in the law.

Finally, Intro 687 would amend the newsrack law to prohibit newsracks from being placed too close to a taxi stand. We support this common sense policy to promote the safe and expeditious loading and unloading of passengers at these locations.

Distance requirements from particular types of amenities—including taxi stands, bike racks, bike share stations, water sampling stations, and city benches and other street furniture—can also be addressed through our agency rules and accordingly we look forward to working with the sponsor on the best way to achieve the goals of the bill.

In addition to the proposals discussed today, further strategies may be needed to improve DOT's authority to respond effectively to the complaints we receive from individuals, community boards, and elected officials. For example, when our inspectors find a newsrack containing no publications that has suffered severe damage and is becoming a dumping ground for all manner of refuse, the newsrack will remain on the street inviting further abuse and damage and degrading quality of life. It is only after a process of issuing a Notice of Correction, then a Notice of Violation, followed by a hearing at which the violation may or may not be upheld, and the original condition is still not corrected would DOT be authorized to take such a newsrack off the street. Accordingly, we look forward exploring these challenges in further discussions.

As you know, Business Improvement Districts and civic groups have advocated for many years to improve the way newsracks are managed. We have heard their concerns and the proposals before the Council today are the result of a thorough examination by DOT and the Council to improve the current process in order to maintain safety on our sidewalks. We must be given the tools to effectively deal with the problems caused by dirty, broken, abandoned, or poorly placed newsracks plaguing commercial corridors from Midtown Manhattan to Jackson Heights in

Queens. We look forward to continuing a dialogue with the Council and stakeholders to finalize a comprehensive set of updates to the law.

Now, moving away from newsracks, I will address Intro 453, Chairman Rodriguez's proposal to require DOT to post on its website a list of sidewalk locations for which the Department is responsible for removing snow or otherwise making repairs, and to update this information within thirty days of any changes. DOT would welcome the opportunity to have a collaborative discussion exploring ways to address the goals of this bill.

Now I would be very happy to answer any questions from the Committee.

Additional Sample Newsrack Photos







Sample Multi-Rack or Modular Newsrack



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Gale A. Brewer, Borough President

**Testimony of Manhattan Borough President Gale A. Brewer
New York City Council Committee on Transportation
Proposed Int. No. 427, 411, 412, 1209, 687
June 23, 2016**

My name is Gale Brewer and I am the Manhattan Borough President. Thank you Chair Rodriguez and members of the Transportation Committee for holding this hearing on Intros 427, 411, 412, 1209, and 687 relating to the installation, placement, and operation of news racks in New York City. While I urge the Committee and Council to support and pass commonsense regulations of news racks throughout the city, I also want to ensure that new regulations have minimal impact on the vital community newspapers which rely on them.

Over my many years in public office I have heard concerns from my constituents about this quality of life issue. Throughout Manhattan and elsewhere in our city many news racks are poorly-maintained and clutter our sidewalks. Currently they are just as likely to be used as a trash can than as a place to pick up your favorite neighborhood newspaper. DOT also tells me that most complaints against news racks are for those placed in Manhattan, so this is a particular quality of life concern for my office.

These often graffiti-covered news racks can be an eyesore. At worst they pose a safety hazard, particularly for New Yorkers who use wheelchairs or have low or no vision. Last year my office conducted a survey of 1,209 pedestrian ramps along Broadway in Manhattan to check for accessibility issues. Among our main findings: 18% of curb cuts were completely or partially blocked by street furniture such as a news rack, which can be easily moved or pushed over.

The package of bills before the committee today seeks to fix many of the issues posed by news racks by creating new regulations and a process to enforce them. DOT tells me that they currently have no practical way to enforce violations, particularly for operators of news racks that first require a notice of correction. Intro 1209, sponsored by Council Member Rodriguez, would rectify this situation by requiring all news racks to have a DOT issued decal with a unique identifier. DOT would then be allowed to remove any news rack not bearing such a decal, and to enforce violations against individual news racks as needed.

However, current regulations already require that news racks must display an identifying sticker that includes the name and address of the owner. I am told by news rack owners that these stickers are often removed. The identifier proposed by Intro 1209 should therefore be permanently affixed to news racks and tamper proof. DOT, moreover, should help cover the cost of installing the new identifier system.

Intro 427, sponsored by Council Member Vacca, would likewise help DOT better regulate the placement of new racks by ensuring they are installed at a required distance from bike racks, Citibike stations, and fire hydrants. Intro 687, sponsored by Council Member Koslowitz, would enact a similar requirement that no news rack be placed in a manner that blocks access to the easy loading and unloading of passengers at a taxi stand. These are commonsense regulations that will ensure pedestrians can access all necessary features of our city streets.

Intro 427 would also require news racks to conform to design standards developed by DOT. While the intent of this legislation seems clear— to create a more uniform, appealing, and tamperproof system of news racks throughout our city— owners of news racks may have difficulty complying. I am told by news rack owners, for example, that few sizes are available from current vendors, and that it is difficult to buy replacement parts for existing models.

Intro 412, sponsored by Council Member Garodnick, would help encourage the use of multi-rack news racks instead of single racks— which, DOT points out, are often more easily vandalized, knocked over, and moved. Council Member Garodnick's bill contains provisions that ensure that all currently available publications are given space in a multi-rack, and also creates a process by which Community Boards can review new publications that seek to be represented.

These multi racks, such as those installed by the Madison Avenue BID, can provide a more secure, cleaner, and aesthetically pleasing way for pedestrians to access their favorite neighborhood newspapers. However, I am concerned that the cost of these multi-rack units will fall on neighborhood newspapers— and again, I would encourage DOT to help cover the cost of purchase and installation.

Thank you to Chair Rodriguez for holding this hearing. As noted above I am supportive of commonsense regulations regarding news racks including some of those proposed in the package of bills before you today. However, we must make sure these and other proposed regulations do not unduly burden the community newspapers that news racks are meant to serve.



**Grand Central
PARTNERSHIP**

**MADISON AVENUE
BUSINESS IMPROVEMENT DISTRICT**

TESTIMONY OF KATHY KAHNG
OF CITYRAX INC
PRESENTED ON BEHALF OF GRAND CENTRAL PARTNERSHIP AND
THE MADISON AVENUE BUSINESS IMPROVEMENT DISTRICT
TO THE NEW YORK CITY COUNCIL TRANSPORTATION COMMITTEE
JUNE 23, 2016

Good morning. My name is Kathy Kahng and I'm here this morning on behalf of the Grand Central Partnership and the Madison Avenue Business Improvement District, the operators of nearly 8 out of every 10 modular multiple newsrack units in New York City.

In addition to currently managing the Grand Central and Madison Avenue programs, I've also helped to launch the 34th Street Partnership and Bryant Park programs some twenty years ago, and oversaw the creation of modular newsrack programs at Hunter College and for Park Tower Group, owner of 535 Madison Avenue, after working in the newspaper circulation business.

So having played a role in launching or currently managing just about every modular newsrack program in the city, I'd like to thank the chair and the Transportation Committee for this opportunity to share some thoughts and comments about the legislation before the Committee today, and their impact on the two largest modular newsrack programs in the city.

Madison Avenue and Grand Central currently have about 50 paid and free publishers voluntarily participating in their programs. Our philosophy is simple: work collaboratively with the publishers to achieve our collective goals. For the BIDs, it is to promote clean and orderly sidewalks free of the clutter of individual newspaper boxes. For the publishers, it is to distribute their publications where allowed in high pedestrian traffic areas in a cost effective manner.

In return for participating in our programs, the publishers remove their individual boxes from within the boundaries of the Grand Central and Madison Avenue BIDs. As a result of this cooperative effort, Grand Central and Madison Avenue don't generally have any problems with individual newspaper boxes in their areas.

But the cost of fabricating, installing, and maintaining these modular units is quite expensive, and the programs are challenging to manage. Which is why, despite the city's desire to see the use of modular newsracks expand, there has been very little interest to do so because of the significant financial investment to launch such programs and the myriad of regulations confronting operators of such programs. Regrettably I am concerned that some of the provisions of the bills before the Committee will further discourage expansion of modular programs.

For example, a common thread in Intro No. 411, 412, and 1209 is to seek to burden the owners of modular units with a new requirement to disclose detailed delivery information and to maintain the quantity of publications in our units. While we take full responsibility for installing, repairing, and maintaining the physical structures of our modular units, we do not control the distribution process. Most of the 50 publishers participating in our programs use a third party to deliver their publications and fill the news boxes. Quite frankly I do not know how the City could enforce this requirement unless it posted an inspector in front of each modular unit. This troublesome requirement is a further disincentive to perpetuate large modular newsrack programs.

Intro. No. 427 seeks to limit publisher logos appearing on the doors each individual news box. Our modular units currently include logos of all the publications on individual doors and on the sides of the newsracks as well. Under this bill, we would be prohibited from continuing to identify the publications if we wanted to expand our programs – something we've done for close to twenty years without issue.

Intro. No. 412 also seeks to establish complicated standards that would severely restrict the flexibility of modular newsrack operators to negotiate with publishers regarding box placement – a voluntary cooperative process that operators like Madison Avenue and Grand Central have initiated and maintained with publishers for two decades – if we chose to expand our existing programs. This is especially evident in the bill's block requirements would require operators to double and triple the number of modular newsrack units in their programs in order to replace single news boxes. We wish to preserve our successful and longstanding ability to negotiate with publishers regarding box placement.

In conclusion we appreciate the fact that this Committee and the Council is focused on the regulation of newsracks. For the past two decades, Grand Central and Madison Avenue have been able to work cooperatively and collegially with publishers in a voluntary private partnership to run successful modular newsrack programs. We would welcome the opportunity to work with the Committee and its staff, and the sponsors of each bill on any of these issues.

Thank you for your consideration.

**Council of the City of New York
Council Committee on Transportation
Intro on Newsracks**

Thursday, June 23, 2016

**Testimony: Dan Biederman, President
34th Street Partnership
1065 Avenue of the Americas, Suite 2400, New York, NY 10110
Tel: 212-719-3434**

As the owner of 40-plus multi-rack newsboxes, we are spending considerable resources to maintain and improve the appearance and utility of these sidewalk units. We have spent more than \$200,000 in the last two years on the 300 to 350 newsbox compartments we provide to publishers.

We believe that some of the increased reporting requirements proposed in the legislation will be a burden to us and may undermine our efforts to maintain a successful newsbox program.

The intent behind the proposed legislation is to improve the appearance of newsboxes across the City; it is something we all agree is needed, and our partners at AM New York and Metro would concur.

Vandalism and graffiti deface single and multi-rack newsboxes and make for a serious burden on both proprietary and BID-owned multi-boxes. We need strong penalties for those who damage newsboxes.

Abandoned newsboxes, such as the Learning Annex and City Fig, are unsightly and in terrible condition; they detract from the appearance of our sidewalks.

Repair and maintenance of newsboxes is considerable and, if increased, could be the demise of several newsbox programs and / or publishers.

We believe a few “adjustments” are called for:

We agree with the requirement to display a new DOT identification number for a specific newsbox at a given location.

We suggest that this decal features the specific approved location for this DOT ID number. It would help us to identify new single newsboxes placed on our district sidewalks.

The DOT should make available to the public the mapping and location of all newsboxes, per publication, per BID.

This impedes the proposed requirement for a newsbox to have publications 24 hours before and after a delivery date. Consider a requirement that contends with the publication size, schedule and number of pages.

As for the requirement to 'lock' a newsbox of a non-performing / non-filling publication, we suggest an alternate method: permit a "weekly cleaning rule." We clean every newsbox at least once a week; no lock is needed.

Concerning removal requirements when a sidewalk shed is installed, we suggest that removal be required if there is reasonable interference in pedestrian flow and / or specific construction work.

Finally, while newsboxes may not be used for advertising and marketing, there would be an improvement in the state of newsboxes throughout the City if multi-newsboxes were afforded a source of revenue, such as reasonably providing sponsorship opportunities.

Thank for four your consideration.





OUR MEMBERS • 9th

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www.chekpeds.com

My name is Christine Berthet, the co-founder of CHEKPEDS an 800-member organization in New York City the only one with a primary focus on pedestrians, sidewalk and safety.

We applaud the proposed legislation to organize and improve the appearance of news racks. Their proliferation and placement has been a source of numerous complaints. In particular, the fact that they are movable reduces the control over their placement: one can be found in the middle of the sidewalk, or obstructing the pedestrian crossing. Lately they have been laid on the side and used as benches for groups of people to listen to music and you tube on the new LINKS appliances.

We wish this legislation would go further and include:

- Strict rules on placement: at least 25 ' form links installations and from pedestrian crossings
- A design with water weight so that the boxes cannot be easily moved from their assigned locations
- The metallic stands often stored with the racks are banned. In the morning newspapers deploy personnel who install these metallic stands in the middle of the sidewalk and obstruct the flow of pedestrians. This mixed with tour bus ticket sellers forces pedestrian to walk in the street on 8th avenue at the approaches of the Port Authority
- Further it should be illegal to have personnel handing out newspapers. The boxes are there to be self-service. Self service

As to the question of making our sidewalks more beautiful, in the Central Business district, where the numbers of tourists has swelled to 54 million a year and the height of the building has gone from 6 stories to 60 stories, sidewalk sizes have not changed in 100 years. In some cases, sidewalk has shrunk to make space for automobile, as is the case on 9th Avenue.

75% of New Yorkers walk at some point during their commute. 50% of Port Authority commuters walk to their final destination in midtown. The sidewalk is really a Walklane that serves a mode of transportation like the bus lane, the drive lane or the parking lane. Imagine if the car lane had Links newspaper boxes, A frames, storm enclosures, and sidewalk café obstructing it?

It is urgent that we make it so that pedestrains can move most effectively and in comfort.

- Change the name of the sidewalk to “ Walklane along the measures recently adopted on Times Square.
- Give to the Department of Transportation (DOT) the mission to enforce all the rules related to obstruction, furniture that are located on the Sidewalk
- Give DOT the mission to establish rules for placement of all obstructions to reduce clutter and improve walking capacity, depending on foot traffic
- Return the maintenance of Walklane to the city. Why are my taxes paying f the maintenance of car lanes and not walk lanes? Also property owners who pay for the maintenance of their sidewalk consider it their right to install furniture on it.
- This would let DOT specify rational placement Trees and utilities like ConEd grids which are a major obstacle to walking and greening. It Would also accelerate the adoption of the permeable concrete for sidewalks a critical sustainability initiative
- Signals and lighting poles should not be located in pedestrian crossing. And a whole discussion should be open about catch basins and flooding at corners.

A beautiful sidewalk is a sidewalk that 8 millions new Yorkers can walk on to go to my destination.



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June 23, 2016

Statement to
Transportation Committee
New York City Council

My name is Michael Gruen. I am President of The City Club of the City of New York. The position I am stating has been approved by the City Club's Streetscape Committee, but has not been passed on by the City Club's governing boards.

New York's Newsrack Law is almost 25 years old, to the day. It was adopted following demonstration of strong public support. It was then amended in 2004 at the behest of publishers, and over strong public opposition.

One would not expect to see strong public opposition to the present proposals which are, by and large, helpful. But they do not adequately address the most serious problems of the present law, especially in the area of enforcement.

The content of the Law now, insofar as it concerns setting standards for appearance, function, cleanliness, and the like, is relatively satisfactory and would be improved by the pending proposals. Enforcement has been a disaster. For 25 years, one administration after another has done little to nothing to achieve the goals of this Law. Yet, newsracks continue to clutter the sidewalks, often knocked over or piled one against the other. Graffiti and lack of maintenance render them eyesores. Many are not even reliably stocked with publications. And many serve only as garbage containers.

We should not, however, overstate the situation. The clutter has somewhat abated over time. Why? Because the economic foundation of newsracks has radically changed. They are no longer a prime means of newspaper distribution. The larger publications don't use them at all. The shift to electronic means of communication has reduced the need for newsracks. Now is the time to act with care and determination.

It is pointless to apply cosmetic surgery to a Law whose profound problems go far beyond details of appearance. The Committee has wisely cast the revision of this Law as a part of a wider campaign to make our sidewalks more attractive and functional.

In that spirit, our suggestions fall into several categories:

Newsracks are just a part of the complex of street furniture. The solution should start with a determination of their relative role, and how that can fit in with other issues affecting sidewalks.

Possible solutions range from the proposed minor cosmetic surgery, through allowing modular racks but not individual newsracks, to a total ban. Any solution must include major strengthening of enforcement measures.

Let's do this right. The Council's action on newsracks to date has reflected what appears to be about a 12 year cycle of activity, starting with enactment in 1991, amendment in 2004, and renewed attention in 2016. The public does not want to see a half-hearted amendment now and then face another 12 years of clutter before the Council addresses the issue again.

Context: Competing Uses of Sidewalks; Changed Needs for Newsracks

Sidewalks serve many purposes. Primarily, they serve the public need for conveyance of people by foot. Secondarily, they provide access to adjacent buildings, stores, and other providers. They also host a broad array of necessary accoutrements: trees, plantings, hydrants, traffic signals, parking signs, payment centers for your bus trip or your car park, public phones (now evolving into electronic communications modules), subway entrances, bus shelters, and many more. That does not cover the unnecessary accoutrements including far too much advertising signs. Nor does it cover all the relationships between sidewalks and adjacent streets, including the need for undisturbed access to pedestrian crossings, taxis, buses, and bicycle stands.

Issue one is to ascertain where newsracks should fit into this scheme. What rung do they occupy in the hierarchy of competing needs for sidewalk space? How much space if any do we set aside for them? Should the answer vary from borough to borough, or neighborhood to neighborhood? Is there less need, for example, where grocery or other stores may act as community communication centers?

In the early days of newsracks, it was widely assumed that there was no choice in this regard. Many thought that publishers have a constitutional right to use public property as a base for installation of newsracks so that they could conveniently distribute speech in the form of written publications. This thesis confused the speech itself (e.g. the newspaper) with the means of distribution (i.e. newsracks). It failed to consider that an old-fashioned newsboy could move about to accommodate pedestrians, and went home or to school after the morning or evening rush hour. The newsrack, in contrast, is a fixed structure, blocking the way and preventing alternative uses.

This distinction was made by the Supreme Court in a 1984 case that recognized that a municipality could legitimately ban posting of signs on city property even for so important a glued-on message as informing the public of the need to elect a particular candidate for public office. So long as it does so without discriminating against particular speakers or their messages, a municipality is free to

choose among the uses it will permit on its streets and sidewalks.¹ It may ban newsracks altogether, or it may allow limited but non-discriminatory use of newsracks.²

Alternative Solutions

Quantitatively unlimited presence of newsracks, subject only to restrictions on location, size and the like, has not worked well. The proposed legislation wisely encourages multi-racks in lieu of single racks so as to consolidate the locations where the racks can provide adequate service with minimal interference with other uses.

But look around. Just as one often sees empty individual racks, one also often sees empty multi-racks.

If one has racks, they must be located in places where they are likely to be used. One might logically inquire whether that is in business improvement districts where one is likely to find news vendors in almost every building.

Given the diminished use of newsracks, it may well be that the wisest choice is to eliminate them or at least sharply reduce their presence. Adequate consideration of such an option requires careful and reliable evaluation of demand, of alternative means of communicating, as well as of competing demands for sidewalk space. We are not aware of any such study.

Whether the solution is something akin to what we have now or something akin to a ban, enforcement is essential. Without it, we will never achieve any control over our clutter.

That takes serious study too. Is DOT right in blaming a budget that allows hiring of only two or three enforcement officers? Or could that budget be used more effectively by putting electronically readable identifiers on every newsrack and giving the enforcers electronic readers that would enable them, in a moment, to record and transmit to headquarters (with photographs) the identity of the rack, its location, its state of maintenance, and all other aspects of compliance? If that requires a larger budget, that's another factor to consider. Aside from ease of use at the newsrack site, such a system could automatically issue violation notices out of headquarters.

The present enforcement system is hog-tied by procedures that cater to the non-compliant operator. A notice of correction starts the process, by simply letting the owner know that there is a violation which the owner may correct within 12 days and suffer no consequences whatsoever. DOT may, after that, in the absence of satisfactory correction, issue a notice of violation and follow that with a hearing. If the hearing produces a determination against the owner, he still has 12 more days to correct the violation. Only then does DOT acquire the authority to remove the rack to a place of safety. Even that is not such an attractive solution from DOT's point of view, as it may have to hold the rack at

¹ Members of City Council of City of Los Angeles v. Taxpayers for Vincent, 466 U.S. 789, 806 (1984).

² Leading cases applying Vincent to newsracks include Globe Newspaper Co. v. Beacon Hill Architectural Commission, 100 F.3d 175, 183 (1st Cir. 1996); and Hop Publications, Inc. v. City of Boston, 334 F.Supp.2d 35, 46 ff. (D. Mass. 2004).

its expense until the owner decides to redeem it. Penalties are minimal and can be absorbed as a small cost of doing business.

The proposed legislation would replace self-certification of condition of racks by an affirmative obligation to keep them clean and well-maintained. That and other improvements are better than nothing. But they will accomplish little without an enforcement system that reliably assures owners that dereliction will lead to sufficiently serious consequences that compliance becomes the path of least resistance.

The proposals contain many other modest improvements, and still others come to mind. But we believe that discussion of these should come after the more comprehensive issues are thoroughly analyzed.

Let's Do This Right

Facing the newsrack problem effectively requires considering it in the context of countless other sidewalk uses. It requires study of the need of the public for newsracks, and the ability of providers to communicate by alternative means.

We strongly urge that the Committee extend the time for hearings on this important issue. If at all possible, it should commission an independent study of the issues. That should be followed by hearings at which witnesses are sworn and the Committee members ask questions to learn directly and in public how the industry operates and what alternatives are available.

At an absolute minimum, the hearing record should remain open now for a sufficient time to allow the public, including community organizations, to formulate alternatives.

Since USA Today promoted newsracks to a starring role in distribution of newspapers in the early 1980's, I have believed that they must and can be controlled. Other cities have succeeded. New York has failed. It's time we get serious, look around at how it's done elsewhere, and adopt a solution that will work.

Testimony to the Committee on Transportation
Thursday, June 23, 2016
Council Chambers, City Hall
Garment District Alliance
Barbara A. Blair, President

Dear Council Member Rodriguez, and Members of the Committee on Transportation:

Good Morning. My name is Barbara Blair, I am the president of the Garment District Alliance, a business improvement district in midtown Manhattan.

I commend you for proposing legislation to improve regulation of newsracks on our sidewalks and to ensure that they are well-maintained, individually trackable and registered with the City of New York. We support all of the proposed legislation.

The Garment District, for many reasons including our proximity to commuter transportation hubs, has extremely high pedestrian counts. At many times during the day, especially during rush hours, the sidewalk congestion overflows onto the street, creating a safety hazard for pedestrians. As such, any regulations which serve to improve the condition and the public safety impact of the newsracks are welcomed and encouraged.

With ever-increasing numbers of people on the sidewalks, it is imperative that the City take this opportunity to expand its review of street furniture conditions and its impact on public safety. I would like to suggest that an overall governing entity be responsible for considering the amount of street furniture on each block and that such an entity have the authority to reject additional furniture

after a specified percentage of sidewalk space has been used. This responsibility generally falls to DOT, however certainly the Department of Buildings, DoITT and other agencies have a role.

My concern is with the governance of furniture on our streets. The Garment District Alliance strongly recommends that one entity should have overriding power to determine what goes on our streets and how much of it. At this time we have newsstands, bus shelters, phone booths/Links, newsracks, wayfinding systems, waste receptacles, parking and traffic signage, parking meter pay stalls, store signage, standpipes, fire hydrants, building sheds, subway entrances and probably some items that I am forgetting. And this is not including human furniture such as the panhandling homeless with their cardboard signs, pets and belongings, tour bus hawkers, menu and other paper leafleteers, illegal vendors, delivery trucks stacking their good for distributions, sidewalk cafes, or people exercising first amendment free speech rights. All of these items reduce the amount of space for pedestrians, restricting and redirecting their movement, often into bike lanes, parking spots and roadways.

With a population that is increasing and will continue to increase for the foreseeable future, I submit to you that we need the sidewalk space for people. None of the above-mentioned obstructions are in and of themselves negative or things we would want to do without. Certainly we need subway entrances, newsstands and trash receptacles. However, it would make sense to have a survey of each block and then determine that, in addition to the other placement restrictions, only a specific percentage of sidewalk space or corners could be taken up by street furniture. The City's overriding sidewalk entity would determine which items are critical to that location and which can be combined or eliminated.

As an example, the Garment District has 68 telephone booths on the 24 blocks in our district which are thankfully undergoing a replacement with a new LINKs wi-fi totem. We strongly urged DoITT to reduce the number of locations without sacrificing coverage. We identified 47 locations that could be eliminated while preserving the coverage area but the replacement is going on one-for-one.

Likewise we are objecting to a new newsstand application for 39th Street and Seventh Avenue wherein you already have two newsstands in close proximity. We make these objections solely because we desperately need the space on the sidewalks for people.

As the Garment District is surrounded by the Port Authority Bus Terminal, Penn Station, Path and subway stations, we experience a great tide of people moving through the area during commuting hours. These commuters unsafely overflow the sidewalks and sometimes even take full lanes of traffic. An oversight entity could map every single piece of street furniture on every block and ensure that once the predetermined percentage of allowable space is at capacity, nothing else can go there.

As another step in opening space on the sidewalks, you could also require that multi-unit newsstands give space to free publications thus eliminating the need for excess newsracks. You could also downsize the number of LINKS since many people do not require free WiFi, or combine signage poles. The proposed newsrack legislation is a positive step but there are many other steps to go. I encourage the council to remember what the first and most important use of our sidewalks: safe space for people to walk.



Columbia University
MAILMAN SCHOOL
OF PUBLIC HEALTH

Testimony of Gina S. Lovasi, PhD MPH
Assistant Professor of Epidemiology
Co-Director of the Urban+Health Initiative

Columbia University Mailman School of Public Health

Before the New York City Council on June 23, 2016

INTRODUCTION AND OVERVIEW

Good morning. I am Dr. Gina Lovasi, Assistant Professor of Epidemiology and Co-Director of the Urban+Health Initiative at Columbia University's Mailman School of Public Health. I have worked closely over the last 10 years with the Built Environment and Health Project at Columbia, and my testimony today is informed by our research together, as well as by a literature review I oversaw last year for a planning effort in the South Bronx in collaboration with the New York Restoration Project (<https://beh.columbia.edu/2015/03/04/evidence-based-investment-in-public-spaces/>).

THE URBAN ENVIRONMENT AND PUBLIC HEALTH

People are drawn to cities, with more than half of the human population now living in urban environments. Our challenge in an era of urbanization is to make sure cities are living up to their full potential by creating the conditions for healthier lives. New York City has been leading the way in supporting public health through multi-sectoral municipal action, yet further attention is needed to address the barriers to health and health equity that remain.

RESEARCH RELEVANT TO PEDESTRIAN SAFETY

In New York City, and globally through the UN's Decade for Action for Road Safety, the VisionZero approach has brought pedestrian safety to the foreground of transportation planning. Pedestrian safety concerns are important to both injury prevention and physical activity promotion. I want to highlight several key lessons that can be drawn from previous research on pedestrian safety:

- First, motor vehicle accidents involving pedestrians are a leading cause of injury and death. This is particularly true in low-income populations and among individuals under age 35. Across the US, annual estimates for the number of pedestrians injured or killed by motor vehicles is approximately 70,000. Pedestrians are the most physically vulnerable of road users, and on a trip-by-trip basis they are 50% more likely to be killed than motor vehicle occupants.
- Second, feeling unsafe because of automobile traffic reduces the likelihood that individuals will choose active forms of transportation like walking, and that children will engage in outdoor play. We conducted a study of preschool aged children with detailed measurement of physical activity and adiposity. We saw that where local pedestrian-

vehicle fatalities were high, the kids were less active and had more subcutaneous fat as measured by skinfold thicknesses.¹ However, our other research in New York City with less detailed measures such as body mass index, or in adult populations have not consistently detected such patterns. One complication is that the number of pedestrians is much higher in some places than others, and where more pedestrians are at risk, we would expect to see more injuries and fatalities. Even if the risk to each pedestrian is the same no matter where they walk, we would expect to see higher pedestrian injuries in places with more pedestrians. This may explain why in an adult population in NYC we found that more local pedestrian-vehicle fatalities were actually associated with more walking and bicycling for transportation.²

- But in fact, the risk to pedestrians is not equal at all locations. One aspect of the local environment that appears to protect pedestrians is other pedestrians. Having many pedestrians tends to make roads safer for walking,³ possibly because drivers are more primed to watch out for walkers. Thus features of the local environment that attract and support pedestrians may also provide “safety in numbers.” Among the environment characteristics linked to walking, I’ll point to two key categories: indicators of walkable urban form (e.g., density of homes and potential walking destinations, proximity to public transit) and aesthetic amenities (e.g., street trees, sidewalk cafes).
- Beyond pedestrian volume, the number of cars also clearly matters for understanding where risk is high. High volume roads and high-speed traffic increase the number of pedestrian collisions and fatalities. Billboards and bus stops have also been found in our recent work³ to also be linked to pedestrian injuries. However, billboards and bus stops may simply occur along more hazardous roads, rather than being a direct source of driver distraction. Likewise, crosswalks have been associated with injuries, but that may reflect that the creation of crosswalks is in response to a perceived hazard. These chicken-and-egg problems make the current research on why some locations are more hazardous than others difficult to translate into clear cause and effect statements.
- Finally, there are a number of positive changes to particular streets or intersections that have been evaluated. Some of these such as signage and traffic signals have been evaluated for their effect on pedestrian-vehicle collisions; other changes such as improved lighting or other path enhancements have been more closely linked to perceived safety. Streetscape design improvements including “Complete Streets” to accommodate all users appear to both increase physical activity and pedestrian safety (<http://www.countyhealthrankings.org/policies/streetscape-design>). Streetscape improvements include landscaping, sidewalk coverage and connectivity, and traffic calming measures.

CAUTIONS AND CAVEATS

While the public health importance of creating safe sidewalks and pedestrian supportive neighborhoods is clear, the evidence currently available to guide action has several limitations. Recent investigations attempt to overcome these limitations by more directly estimating pedestrian counts, making comparisons over time, and incorporating novel measurement approaches such as using Google Street View. As changes to sidewalks, streets, and intersection go forward, careful evaluation can continue building our understanding of what works. In doing so, I would encourage attention not only to the overall effects on pedestrian safety and physical activity, but also the effects on vulnerable groups such as young children and the local conditions that can amplify or undermine the benefits to pedestrians.

THANK YOU

In closing I just want to thank you for the opportunity to join this important conversation. While I've emphasized recent research findings relevant to pedestrian and sidewalk safety, this is of course building on a long history of work on these topics in New York City. In writing about sidewalk safety half a century ago, Jane Jacobs said "the sidewalk must have users on it fairly continuously, ...to add to the number of effective eyes on the street." Having more pedestrians keeps pedestrians safer. Thus approaches to increase sidewalk safety and pedestrian supportive environments have the potential to set off a virtuous cycle of increased safety leading to increased pedestrian activity leading to increased safety. Thank you for your efforts on behalf of the city and for your attention.

KEY CITATIONS

1. Lovasi GS, Jacobson JS, Quinn JW, Neckerman KM, Ashby-Thompson MN, Rundle A. Is the environment near home and school associated with physical activity and adiposity of urban preschool children? *J Urban Health* 2011;88(6):1143-57.
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3. Mooney SJ, DiMaggio CJ, Lovasi GS, Neckerman KM, Bader MD, Teitler JO, Sheehan DM, Jack DW, Rundle AG. Use of Google Street View to Assess Environmental Contributions to Pedestrian Injury. *Am J Public Health* 2016;**106**(3):462-9.



twitter.com/urbanhealthmsph



 Columbia University
Built Environment & Health Project

www.beh.columbia.edu



Newsrack Council Hearing
June 23, 2016

I am Walter Sanchez, a resident of Maspeth Queens and publisher and editor of the Queens Ledger/Brooklyn Star Weekly Newspaper Group for more than thirty years. I publish a collection of eight weekly community newspapers, some of which have been published every week since the late eighteen hundreds and early nineteen hundreds.

Some of my newspapers are paid, newsstand and some are free circulation. They are also mailed through the post office by subscription. I have dozens of street news boxes throughout Brooklyn and Queens and rely on them for distribution every Wednesday or Thursday in a number of neighborhoods which I consider underserved by community news. My 15 staffers put out newspapers which are typically 48-pages with more than 50% editorial content.

My industry considers street news boxes essential to getting the word out about local events, analytical news and essential community meetings. Although we have hundreds of indoor locations where the newspapers are available, street news boxes allow us the freedom to write about dicey editorial subjects which might create ire in the eyes of some. One example of the need for a street news box is a story about a burglary at an Astoria supermarket recently. Our responsibility as a news organization was to inform the community about this event and a description of a suspect was given to us by the police department to seek help from the community. There are few other ways for the police department to solicit the help of the public in these cases. What happened is that the supermarket which typically allows us to place 200 newspapers at their store did not want their customers to know they were robbed, so they did not allow the newspaper in the store that week. Luckily we have a news box on the sidewalk just 100 feet from the store to report the story and help the police.

This is more typical than one would think and it is just one reason street news boxes are essential to the public.

News boxes are even more important to smaller news organizations than mine. There are dozens of newspapers which serve minority communities of Queens and they have a tougher time getting their papers distributed in local stores and supermarkets. Their news distribution efforts are significantly hampered by the legislation which is being considered in some of the council bills offered.

We need to be able to place a news-box in a location without having to register and wait for approval. There was a time recently when a college in Clinton Hill Brooklyn was planning to build a large athletic facility which would dwarf the surrounding buildings. Neighbors had no way of knowing and a public meeting was happening in 3 weeks. We then placed Brooklyn Downtown Star news-boxes with 200 newspapers in each, along Vanderbilt Avenue at Dekalb and also Myrtle as well as on Clinton Avenue at Dekalb and on Myrtle. Those newspapers were gone every week and 300 people turned out for the meeting. These are the things we do. It is in our DNA to inform the public for the public good. If we had to register every time we put out our boxes it would hamper our ability to fulfill our mission and in the case of the athletic facility few would have been able to give input on its development.

Our industry is interested in keeping these boxes clean and in working condition so our brand is protected. If you were more aware of some of the obstacles we face with our news boxes, I believe you might reconsider some of the legislation. Although we visit those boxes every week it is still difficult to be informed when they are vandalized or just moved. Therefore we need ample electronic notice to correct news-box violations. There have been times when someone had just moved them a block away, and even 10 blocks away, and they can't be found. Since we really can't chain them up, it's going to happen from time to time, just as nearly every pay phone in the city was vandalized when pay phones were in fashion. As soon as I am informed we would send any one of our half dozen delivery people to fetch it or clean it. We just need electronic notice.

6/20/16

To the NY City Council Transportation Committee:

I am distressed to hear that our elected leaders are once again trying to infringe on the 1st Amendment and on the public's right to know. At a time when a presidential candidate is banning media organizations like The Washington Post from covering his campaign, this is even more worrisome.

New York has a vibrant local media ecosystem and our elected leaders should be doing all they can to help these struggling media organizations. In fact, it is the ethnic and community press that are the only ones covering Council members and the neighborhood issues that matter.

I know this from a lot of experience. I started my career three decades ago as the editor of The West Side Spirit, a community newspaper that was famous for fighting the crime and disorder that made New York such a tough place to live until the mid-1990s. As a result of the journalism we did exposing these problems, and the great work of the Police Department and the Mayor's office, the West Side of Manhattan, like many other parts of the City, is now a safe and great place to live.

After a brief career as an editor, I gravitated to the business side of publishing and eventually became the co-owner of a chain of community newspapers in Manhattan, including Our Town, The West Side Spirit, The Chelsea Clinton News and The Westsider. One of our chief means of disseminating our important reporting was through street boxes that were accessible to all. If you were a resident of Manhattan who didn't live in a building that allowed one of our newspapers, you would go to the street box on your corner to find out all the news that mattered most – the news of your community.

In more than 25 years of community journalism, the most distressing period I remember was in 2002 when a former councilmember named Eva Moskowitz proposed legislation that was very damaging to the media industry. Within a year, because of her misguided legislation, newspapers around the city incurred more than \$1 million in fines. At my newspaper company, because of the onerous fines,

I contemplated laying off 2 journalists on our small news team. But we fought back, got the legislation changed and for years things were better.

But now, I fear, because of this new push to regulate street racks, a newspaper industry under assault on many fronts will suffer due to misguided elected leaders again. Ms. Moskowitz learned the hard way; she lost her next campaign and has been out of politics since then.

Please do not go down the road of attacking the free press and the public's right to know. Do not enact new regulations that will likely have harmful and unintended consequences to local newspapers. This has failed in the past and it will ultimately fail again.

Support your local newspapers by ensuring that our readers have equal access to information through the local street racks.

Sincerely,

Tom Allon
President/CEO
City & State

TOM ALLON
President/CEO

**CITY&
STATE**

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Testimony of Michelle Rea, executive director of the New York Press Association, before the Committee on Transportation, June 23, 2016.

Thank you for providing us with an opportunity to discuss the impact of the proposed amendments to the administrative code in relation to the requirements and enforcement of newsrack registrations, newsrack regulations, newsrack requirements and modular newsracks.

My name is Michelle Rea. I am the executive director of the New York Press Association, the trade association representing more than 750 daily, weekly, ethnic, religious and business newspapers published in New York State.

The New York Press Association and I were very involved in the negotiations and enactment of the current set of newsrack regulations which were initiated by the passage of Local Law 23 in 2002.

The intention of that law was to regulate the placement and maintenance of newsracks on the city's sidewalks to ensure the safety and welfare of people using the sidewalks, and persons performing essential public service, such as utility, traffic control and emergency services. It also sought to improve the appearance of the city's sidewalks, while recognizing the Constitutional protections afforded to newspapers and other publications under the First Amendment. The law intended to accommodate all of these interests in a **"complementary and mutually advantageous manner."**

Enforcement of the law got off to a rocky start. The NYC Department of Transportation and the Environmental Control Board were well intended when they crafted regulations to enforce the new law, but the new regulations and restrictions went well beyond the intent of the law, and within six months DOT had issued 12,000 notices of correction and assessed more than 2,000 fines, totaling almost \$1M.

Soon thereafter, then DOT Commissioner Iris Weinshall called for a moratorium on enforcement of the regulations and the City Council repealed the rules that DOT had promulgated. It then took 3 more years for the players involved to negotiate the regulations that are in place today.

I share this information with you because we don't need to add additional regulations now and repeat the mistakes of the past.

Since that time, many of the larger newspapers have removed their newsracks from the city's streets and opted for more expensive forms of distribution, because they find the regulations so onerous. The New York Times once had more than 13,000 racks and today they have no newsracks in NYC. USA Today also pulled all of its newsracks from NYC.

According to our records, there are approximately 10,000 registered newsracks on the sidewalks of New York today. That's down 2,500 (or 25%) from 3 years ago.

Most of the newsrack owners in New York today, are small independent publishers of community and ethnic newspapers. And most of these newspaper publishers are diligent about self-policing their own newsracks. These publishers live here too, and they work hard to be good citizens and good neighbors. The majority of publishers have engaged independent contractors who deliver their newspapers according to their publication schedules, cleaning out refuse, removing graffiti, and loading racks with their publications, often more than once a week.

These newsrack owners already adhere to a long list of newsrack regulations. More regulations aren't the answer. Enforcing the current regulations is a better solution.

We also hope you understand that newsrack owners are in many ways, the victims. We aren't the ones filling our racks with garbage or marking them up with graffiti. We don't move our racks or tip them over. But we understand that the racks are our property and we work hard to maintain them. Remember, these racks are symbols of our brand, and we don't

want to give our newspapers a bad name by letting our racks become a blight on the city's landscape.

Which brings me to my next point. Newspaper publishers recognize that the City Council is under fire from well-meaning, well-heeled civic organizations including the Municipal Art Society, the Times Square Bid, Civitas and others. Their collective mission is to save NYC by banning newsracks. Our filthy newsracks are rotting the Big Apple. But the city has a strong interest in protecting the rights of all citizens, and the vast majority of those citizens read our newspapers.

72 newspapers are published in Queens, with a combined distribution of 1.4M. 47 newspapers are published in Brooklyn, with a combined distribution of 1M. 96 newspapers, including 69 ethnic newspapers are published in Manhattan with a combined distribution of 3.8M. And 17 newspapers are published in the Bronx, with a combined distribution of 223K. So lots of New Yorkers like newspapers.

Competing interests are in play here, and it is the City Council's responsibility to reconcile them in a manner that is fair to all.

Attached to my testimony for your convenience, is the complete list of regulations from DOT – including registration, maintenance logs, a list of locations, change forms, proof of insurance, and more.

The New York Press Association and New York's community and ethnic newspaper publishers urge the Transportation Committee and the City Council not to adopt any additional newsrack regulations, but instead, to enforce the existing regulations and to use its authority to remove abandoned newsracks from the sidewalks immediately.

Thank you for your time and consideration.

CURRENT DOT NEWSRACK REGULATIONS:

Before installing a newsrack on City sidewalks, the newsrack owners must register with DOT, indemnify DOT, and certify insurance coverage for the newsracks. Completed registration forms must include a comprehensive list of all racks and their locations.

Owners must inform DOT within 7 days of any changes affecting registration information, including removal of newsracks from sidewalks. Newsrack owners must re-register annually by November 1 every year that a newsrack is installed.

The owner of each newsrack must post his or her name, address, telephone number and email address on the newsrack in a readily visible location. Newsracks may not be used for any other advertising or promotional purposes.

The size and placement of newsracks are specifically regulated to ensure safety and pedestrian access to sidewalk space, curb cuts, crosswalks, subways and bus stops. Newsracks may not be placed in parks nor compromise landscaping.

Newsracks must be weighted down to ensure that they cannot be tipped over. Racks may not be bolted to the sidewalk unless they are permitted multiracks.

Newsrack owners must certify to DOT every four months that each newsrack under his or her ownership or control has been repainted, or that best efforts have been made to remove graffiti and other unauthorized markings. Newsrack owners also must keep daily logs detailing maintenance activities pertaining to newsracks on the attached Newsrack Maintenance Log. The logs do not have to be submitted to DOT, but they must be kept on file by the owner for a period of three years and must be made available to DOT on request.

Newsrack owners must maintain a commercial general liability insurance policy, which names the City of New York as additional insureds, indemnifying and holding harmless those additional insureds from losses, judgments or liabilities that result from the placement, installation and/or maintenance of such newsrack.

The combined minimum single limit for owners of fewer than 100 newsracks is \$300,000. For the owners of 100 newsracks or more, the limit is \$1 million.

An insurance certificate demonstrating compliance with these requirements must be submitted before newsracks are installed.

Insurance certifications must be submitted every year by December 31 or by the expiration date of the insurance policy, whichever is earlier.

If DOT determines that the records do not accurately demonstrate compliance with the regulations or that the owner failed to keep adequate records, DOT may issue a Notice of Violation to the owner with a penalty ranging from \$375 to \$4,000 dollars, depending upon the number of newsracks owned.

If, after inspecting a newsrack, DOT finds that it is not in compliance with the law or rules, it must first notify the newsrack owner to correct the problem by sending a Notice of Correction with a photograph of the non-complying condition. If the condition is not corrected, DOT can serve a Notice of Violation on the newsrack owner. For violations of the administrative provisions of the law, such as not registering or submitting evidence of having insurance, DOT may issue a Notice of Violation without a Notice of Correction before issuing a Notice of Violation. Notices of Violation are answerable at the Environmental Control Board (ECB), an administrative tribunal that holds hearings and adjudicates various "quality of life" infractions of the City's laws and rules.

If the ECB finds a newsrack to be in violation, the owner is subject to a civil penalty of \$250 to \$4000 for each violation depending upon the nature of the violation and, in some cases, the number of newsracks owned.

The City can remove a newsrack if the name, address or other identifying material of the newsrack owner is not affixed to the newsrack and the Newsrack Owner has not registered with DOT.

The City can remove a newsrack if it poses an imminent threat to public health or safety.

If a newsrack is at a location to be used for public utility work, public transportation purposes, public safety purposes or in connection with construction or a capital project, the City must notify the newsrack owner to remove it. If the owner fails to do so, the City may issue a violation. The City can remove the rack if the newsrack is not removed by the owner within seven days after receipt of a decision from ECB upholding the violation.

Testimony on behalf of the Times Square Alliance
Intro. 411-A, Intro. 412, Intro. 427, Intro. 453, Intro. 687, Intro. 1209: Newsrack Regulations
New York City Council Committee on Transportation
June 23, 2016

Thank you to Council Members Dromm, Garodnick, Vacca, Rodriguez, Koslowitz and Members of the Committee on Transportation for allowing me the opportunity to testify here today. My name is Caitlin Lewis, Director of External Affairs for the Times Square Alliance.

The Times Square Alliance, founded in 1992, is a business improvement district focused on public space management, local business promotion, economic development and public improvements, and advocacy on behalf of our constituents.

We commend this effort to bring coherence to the many rules and regulations governing the placement, use and maintenance of newsracks on New York City streets and sidewalks. This will serve the communities where newsracks are often placed, as well as the agencies that make permitting and regulatory decisions with regards to our public spaces.

We appreciate the attention paid to community consultation, as in Intro. 412, which requires newsrack owners to consult with the City and local community board members on newsrack placement decisions. We also encourage communication with BIDs and other neighborhood organizations that have a holistic understanding of the area in question.

In general, whenever an encumbrance is placed on a public sidewalk, we believe that there should be a high-level consideration of the neighborhood's facts and circumstances, including pedestrian flow and density of the surrounding area. In Times Square, for example, pedestrian counts range from 350,000 to as many as 480,000 people passing through each day. We feel that whenever any encumbrance is to be placed on a sidewalk in the area, this significant pedestrian congestion should be taken into account when deciding upon the appropriateness of location. Intro. 427 in particular places stricter measurements on newsrack locations on city streets, which will help to decongest areas such as Times Square.

While we support Intro. 687, we also feel strongly that hotel loading zones should be added to this list, as these areas have trucks constantly entering and exiting and sidewalk encumbrances often prove problematic.

Ultimately, the Times Square Alliance urges the Council to pass these bills that will allow the City to better regulate newsracks on city streets and sidewalks and to communicate with newsrack owners.

Thank you for the opportunity to testify, and for your attention to this important topic.

C.O.M.E.T. Civic

Communities of Maspeth Elmhurst Together, Inc.
PO Box 780151, Maspeth, NY 11378
Email: roedaraio@gmail.com Phone: (718) 803-1265

June 3, 2016

RE: Int. No. 411

A Local Law to amend the administrative code of the city of New York in relation to requirements and enforcement of newsrack provisions.

We enthusiastically support Int. No. 411 which will mandate any person or entity that owns or administers the location of a newsrack and its contents to maintain the newsrack and insure any material being distributed to the public is current.

Newsracks are usually placed in high-traffic areas such as our commercial strips and are commonly placed near intersections. If not maintained, these racks become a target for graffiti vandals, dirty and inoperative. The newsracks on our commercial strip in Maspeth have been abandoned for years and have become eyesores and obstructions for those who live, work or attend school in our community.

We believe this legislation will mandate those who own these racks to act responsibly or remove them entirely. We have been trying to accomplish this for years.



69th Place at Grand Avenue, Maspeth

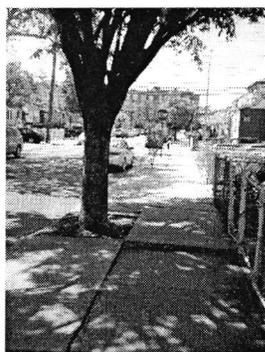
RE: Oversight Hearing on Sidewalks

We are pleased to hear the City Council is looking at the conditions of our sidewalks. Many of them are a concern for pedestrians, homeowners and businesses.

The biggest problem that we have encountered civically are sidewalks that have been damaged by city trees. Although trees fall under the auspices of the Parks Department, their actions affect our sidewalks. We are concerned about our environment and believe trees not only help with excess water runoff resulting in Combined Sewer Overflow pollution (CSO) but also help clean our air and cool us during the summer months. However the proper species of trees need to be planted to avoid clogged sewers and cracked and raised sidewalks. It is difficult, if not impossible, to get the city to trim the tree roots and replace the damaged sidewalk flags. Instead, the city targets homeowners and issues violations for hairline cracks! Seniors, children heading to school and disabled people are at risk of tripping and falling.

Those of us who have grass ribbons in front of our homes try to maintain them and keep them green. However, since the regulations changed and dogs can relieve themselves on sidewalks and grass ribbons makes this task impossible. Oftentimes the homeowner is stuck cleaning up the mess. It's no wonder people are concreting these areas and adding to the Combined Sewer Overflow!

The recent court ruling that allows motorists to park their vehicle in a handicapped ramp in a T-intersection is a huge concern. Many of our communities have streets that do not warrant traffic signals in residential areas. The nearest traffic signal can be several blocks away. Many pedestrians (seniors, disabled and schoolchildren) get to their destination by crossing at a T-intersection. A prime example is 70th Street at 54th Avenue where IS 73 is located. There are many such intersections and something needs to be done to address this issue.



These two photos were taken in Maspeth. It is also a direct route to Grand Avenue, our main shopping strip.



This photo was also taken in Maspeth. It's hard to believe no one has tripped and fallen of this raised sidewalk flag!

Rosemarie Daraio

Rosemarie Daraio, President

**Council of the City of New York
Council Committee on Transportation
Intro on Newsracks**

Thursday, June 23, 2016

**Testimony: Dan Biederman, President
34th Street Partnership
1065 Avenue of the Americas, Suite 2400, New York, NY 10018
Tel: 212-719-3434**

As the owner of 40-plus multi-rack newsracks, we are spending considerable resources to maintain and improve the appearance and utility of these sidewalk units. We have spent more than \$200,000 in the last two years on the 300 to 350 newsrack compartments we provide to publishers.

We believe that some of the increased reporting requirements proposed in the legislation will be a burden to us and might undermine our efforts to maintain a successful newsrack program.

The intent behind the proposed legislation is to improve the appearance of newsracks across the City; it is something we all agree is needed, and our partners at AM New York and Metro would concur.

Vandalism and graffiti deface single and multi-rack newsracks and make for a serious burden on both proprietary and BID-owned multi-news racks. We need strong penalties for those who damage newsracks.

Abandoned newsracks, such as by the Learning Annex and City Fig, are unsightly and in terrible condition; they detract from the appearance of our sidewalks. A streamlined procedure for their removal is called for. The NYC Department of Sanitation could be given the authority to remove and temporarily store newsracks that violate the existing DOT regulations.

Repair and maintenance costs of newsracks are considerable. If some of the proposed regulations come into effect, the increased burden could be the demise of several newsrack programs.

A few suggestions as related to the proposed legislation:

We support the requirement to display a new DOT identification number for each specific newsrack; we suggest that these decals should also feature the exact location for the specific newsrack.

The DOT should make available to the public the mapping and location of all newsracks.

The proposed rule that a publication may only occupy a single newsrack compartment within a multi-newsrack doesn't contend with the varying sizes of publications, a publication's popularity / demand and their scheduled delivery date. Such a regulation would impede the proposed

requirement that all newsracks must have a supply of a publication's printed material 24 hours before and after a delivery date.

As for the requirement to lock a newsrack of a non-performing / non-filling publication, we suggest an alternate method: permit a "weekly cleaning rule." No lock is needed if a multi-newsrack program could demonstrate that their newsracks are cleaned weekly.

Concerning removal requirements when a sidewalk shed is installed, we suggest that removal be required only if there is reasonable interference in pedestrian flow and / or specific construction work.

Finally, while newsracks may not be used for advertising and marketing, there would be an improvement in the state of newsracks throughout the City if multi-newsrack programs were permitted a source of revenue, such as reasonably providing sponsorship opportunities.

Thank you for your consideration.





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212 566-6700 Fax 212 566-6707
www.DowntownNY.com

**Alliance for Downtown New York
New York City Council Testimony on
Int. Nos. 0411-2014, 0412-2014, 0427-2014, and T2016-4570
Committee on Transportation
June 23, 2016**

Good morning Chairperson Rodriguez and members of the Council. I am Jessica Lappin, President of the Downtown Alliance, the business improvement district serving an area roughly from City Hall to the Battery, from the East River to West Street.

I would like to thank the Council and the Department of Transportation for their willingness to continue addressing the vexing problem of newsracks in the public realm. This is a significant issue for those of us involved in the effort to beautify and maintain city sidewalks, but of especial import in Lower Manhattan, where the combination of narrow sidewalks and heavy pedestrian volume leave open sidewalk space at a premium.

For the past decade, Lower Manhattan has been growing very rapidly – in 2015 the district had over 14 million visitors, almost triple the number it had a decade ago. We are home to over 60,000 residents and 266,000 employees. This is a recipe for sidewalk congestion. For years, we have advocated for legislation that would provide better oversight and enforcement of newsrack regulations.

The Alliance has previously testified before the Council with specific recommendations; I believe it is worthwhile to reiterate some of the more important concerns this prior testimony has raised. Notably, that sidewalk corners and other critical pedestrian access points be kept clear of all obstructions, including newsracks, and that newsrack owners be responsible for continuous upkeep and maintenance to prevent unnecessary injuries and sanitation or security concerns. Newsracks that are poorly maintained, placed improperly, and of non-standard sizes, detract from the streetscape and the pedestrian experience and public safety. We encourage the Council and the City to address the root cause of this problem through amended regulations in tandem with increased enforcement.

The City Council bills being heard today are steps in the right direction. We welcome the opportunity to work closely with the city on issues pertaining to newsrack and newsrack placement and removal within our district, as well as on appearance, operation and maintenance issues.



229 West 28th Street, Floor 6
New York, NY 10001
June 27, 2016

Dear City Council Members & Committee on Transportation,

Hello,

My name is Tabitha Smiles and I'm the Circulation Director for the Epoch Times.

I was unable to read my testimony on June 23rd at the Transportation Hearing due to time constraints but would like to have this letter added in to the discussion on the proposed amendments to the newsrack administrative code.

To give a quick background on who we are, the Epoch Times is a weekly publication that upholds universal human values, rights, and freedoms. We are a business that puts our readers' interests first.

Our beginnings hailed from a great need to provide uncensored news to a people immersed in propaganda and censorship in China. Freedom of the press and humanity are the foundation of the Epoch Times. After having witnessed events like Tiananmen Square and the persecution of the spiritual group Falun Gong, a group of Chinese-Americans started publishing Epoch Times in Chinese in the U.S. and then the paper expanded to now being published in 21 languages in 35 countries across five continents. Our mission is to Inform and Inspire.

Since our inception, we have been providing truthful news reports about China that mainstream media, until recently, would not or could not report on. One primary example of this is the story of Falun Gong & Forced Organ Harvesting in China. We broke the story in 2006 and in 2012 received a prestigious award for continuing to report on this news. At that time few large media organizations would mention or cover this story.

We kept reporting on this tragedy happening in China through the years and within the past 5 years many great changes have come about. Laws have now changed and China is now having to answer for this horrible genocide.

<http://www.theepochtimes.com/n3/2097522-1-5-million-potentially-killed-by-chinese-regime-for-their-organs-report-reveals/>

House Resolution 343 passed this month and now the United States has joined other countries that are calling on China to stop this persecution of its people and to answer the question about where they are getting their organs.

Dear City Council Members & Committee on Transportation,

June 27, 2016

Page 2

It's stories like this and our desire to positively inform people about the news that keeps us on the streets as a free publication since 2002. We've become part of the communities we're in and receive tremendous feedback and support from our readers.

Our staff handles the maintenance of our boxes and we use a third party delivery company to fill the boxes each week. We devote a lot of time and energy to keeping our boxes clean and in working order. We continue to tirelessly maintain and repair our boxes because we know this is the cost to keep our paper available to our readers.

We appreciate the rules and guidelines from the City Council and DOT and we have no problem complying with these laws. We support the need to keep the streets of New York clean and safe for all.

Having free newspapers available in newsracks has become a way of life for many New Yorkers and we bring this added benefit.

Most of the citations we receive from DOT come from other unknown people moving our boxes.

We feel there are ways to remedy these issues without having to put more undue hardships on small business owners thus driving away independent media outlets in a world that actually needs more independent reporting.

One complaint brought up by the DOT was about the amount of time it takes for a "Notice of Violation" to be fixed by newsrack owners. We currently receive these via post which can take 3-7 days to arrive. One suggestion to improve the speed in which we fix issues is to use an electronic notification system. Whether through their website or email they could notify us faster thus allowing for a quicker response time by business owners.

By having a dialogue with the businesses who use newsracks and DOT, I think something meaningful can be done. Better communication between both parties would ensure better compliance rates.

We also would like to support The New York Press Association and New York's community and ethnic newspaper publishers who are urging the Transportation Committee and the City Council to not adopt any additional newsrack regulations, but instead, to enforce the existing regulations and to use its authority to remove abandoned newsracks from the sidewalks immediately.

Thank you for your time and consideration.

Tabitha Smiles

Director of Circulation

O 212.239.2808 **F** 646.213.1219

A 229 West 28th St., Floor 6, New York, NY 10001

E tabitha.smiles@epochtimes.com

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 0412 Res. No. _____

in favor in opposition

Date: 6/23/16

Name: Dan Biederma, presiden
(PLEASE PRINT)

Address: 5 Bryant Park 10018

I represent: 34th St Partnership

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: 6/28/16

Name: DAVID MARTIN
(PLEASE PRINT)

Address: 5 BRYANT PARK 10018

I represent: 34th STREET PARTNERSHIP

Address: 105th AVE. OF THE AMERICAS

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: 6/23/16

Name: Anthony Cresta
(PLEASE PRINT)

Address: 47-11 Astell Pl

I represent: Mitchells

Address: 47-11 Astell Pl

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

7
**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

[]

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

Date: _____

(PLEASE PRINT)
Name: BERITHEE Christine

Address: _____

I represent: CHEK PEDS -

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

[]

I intend to appear and speak on Int. No. 427, 1209 Res. No. _____
 in favor in opposition

Date: 6/23/16

(PLEASE PRINT)
Name: Shulamit Warren or behalf of Manhattan Borough President Gale Brewer

Address: 1 Centre St, 19th fl

I represent: _____

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

[]

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

Date: _____

(PLEASE PRINT)
Name: Barbara Blair

Address: Garment Dist. Alliance

I represent: " " "

Address: 209 W 38 NY 10018

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Vincent Maniscalco

Address: 55 WATER ST. 9TH FL

I represent: DOT

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Jenna Adams

Address: _____

I represent: DOT

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Leon Heyward,

Address: Deputy Commissioner of

I represent: DOT Sidewalks

Address: _____

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

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 412++ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Michelle Rea

Address: 621 Columbia St Ext Cohasset NY

I represent: New York Press Assn

Address: above

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 412++ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Jeanne Straus

Address: 415 Central Park West

I represent: Coortown, West Side Spirit

Address: Coortown Downtown
Chelsea News

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 412+++ Res. No. _____

in favor in opposition

Date: 6.23.16

(PLEASE PRINT)

Name: Jennifer Goodstein

Address: 1 Metrotech Ctr N. 10th Fl Brooklyn

I represent: Community News Group

Address: same

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

Date: _____

(PLEASE PRINT)

Name: Gina Lovasi

Address: 77 E Hall Ave, New City, NY 10956

I represent: Columbia University

Address: 722 W 168th St, New York, NY 10032

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 412++ Res. No. _____
 in favor in opposition

Date: JUN 23 2016

(PLEASE PRINT)

Name: WALTER SANCKER

Address: 54-35 63 PLACE, MASPOTH, NY

I represent: QUEENS ledger / Brooklyn Star News

Address: 45-23 47 ST Woodside, NY 11377

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

Date: _____

(PLEASE PRINT)

Name: WILLIAM F. MARQUARDT

Address: P.O. Box 286966

I represent: MYSELF

Address: _____

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

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

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

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: ANTONIO J GARRIA

Address: 3711 HUDSON AVE

I represent: FLEETCITY

Address: SAME

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

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

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Michael Nussbaum

Address: 150-50 147th

I represent: Queens Tribune

Address: NY Press Assoc.

THE COUNCIL
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 411, 412, 427 Res. No. 1205

in favor in opposition

Date: 6/23/16

(PLEASE PRINT)

Name: KATHY KANE

Address: 159 MADISON N NYC 10016

I represent: GRAND CENTRAL PARK / MADISON

Address: 122 E 42 NYC 10016 N BID

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

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. 1209

in favor in opposition

Date: 6/23/16

(PLEASE PRINT)

Name: Bob Brennan

Address: 29 DUNDEE AVE BAYLAW NY 11702

I represent: QUEENS COUNCIL

Address: 38-15 Bell Blvd BAYSIDE NY

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

w/improvement Date: _____

(PLEASE PRINT)

Name: Rita Hirsch

Address: 410 East 57 St.

I represent: myself, concerned citizens

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Vanessa GAUEN

Address: 27-28 Thomson Ave

I represent: _____

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: 6-23-16

(PLEASE PRINT)

Name: MICHAEL GREEN

Address: 249 W 34th St, NY, NY

I represent: City Club of New York - Streetscape

Address: same

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: June 23, 2016

(PLEASE PRINT)

Name: Carlin Lewis

Address: _____

I represent: Times Square Alliance

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Latisha Catoe

Address: Director, Newsrack

I represent: DOT Program

Address: _____