



**TESTIMONY BEFORE THE NEW YORK CITY COUNCIL
COMMITTEE ON HOUSING AND BUILDINGS
NEW YORK CITY DEPARTMENT OF BUILDINGS
MELANIE E. LA ROCCA, COMMISSIONER
NOVEMBER 10, 2020**

Good afternoon Chair Cornegy and members of the Committee on Housing and Buildings. I am Melanie E. La Rocca, Commissioner of the New York City Department of Buildings (“the Department”). I am pleased to be here to discuss the reopening of commercial spaces and legislation that would create an Interim Certificate of Occupancy.

I thank this Committee for holding a hearing on this important issue. It is critical that commercial buildings take measures to protect against the spread of COVID-19. This pandemic has had an unimaginable impact on many aspects of our lives and has certainly impacted our work at the Department. The Department’s priority during this pandemic is to keep the public safe. While we are now working to ensure that construction sites are abiding by guidelines to protect against the spread of COVID-19, we are also continuing our work to keep active construction sites, and the City’s over one million buildings, safe. This includes holding our construction sites to the highest safety standards to continue to drive down construction-related incidents, injuries and fatalities, and performing proactive inspections to ensure that required safety measures are in place to protect tenants residing in buildings undergoing construction. I am proud of the work our staff has been doing throughout this pandemic and commend them for their hard work.

The Department’s primary focus during this pandemic has been to enforce guidelines at construction sites intended to protect against the spread of COVID-19. While most construction work was deemed non-essential by the State government in the early days of this pandemic, some construction work was deemed essential and allowed to continue. For example, emergency construction necessary to protect the health and safety of building occupants, and the essential construction of certain buildings, like hospitals and schools, was allowed to continue. The

Department issued guidance to the construction industry to clarify the types of essential construction work that could continue and our inspectors visited all construction sites to ensure that they were only working if they were performing essential construction work. We also published a detailed FAQ, which answered the most common questions we were receiving from the construction industry, and released maps on our website to provide the public with tools they could use to determine if permitted construction work was essential or non-essential.

In June, our construction sites began reopening, subject to guidelines issued by the Department and the State government. While construction work is now allowed to continue, it looks a little different today. Workers on construction sites must be physically distanced where possible, must wear appropriate face coverings, occupancy limits must be observed for tightly confined spaces, and hand hygiene stations must be readily accessible to workers at all times. Signage must also be posted throughout a site reminding workers to adhere to proper hand hygiene, physical distancing rules, and appropriate use of personal protective equipment. Since these guidelines were issued, our inspectors have been visiting construction sites proactively to ensure that they are being followed.

Similar to the guidelines issued by the State government for various industries, dedicated guidelines have been issued for the management of commercial buildings as they continue to operate or reopen. These guidelines are available on the State's website. Building owners and managers must adhere to these guidelines and submit an affirmation to the State government indicating that they will operate in accordance with the guidelines. Additionally, a safety plan that addresses all aspects of these guidelines must be developed and posted in the building. While the detailed guidelines are available online, I would like to highlight a few key requirements that commercial buildings must follow:

- Occupants must be physically distanced or must wear appropriate face coverings if physical distancing is not possible;
- Practices to maintain physical distancing in small areas, like restrooms, must be implemented;
- Occupants must be provided with appropriate personal protective equipment;

- Before reopening a building, building systems, including mechanical systems, elevators, and HVAC systems, must be checked to ensure they are operating properly;
- The building must be regularly cleaned and disinfected, with a focus on frequently touched surfaces; and
- Signage must be posted throughout the building to remind occupants to adhere to proper hygiene, physical distancing rules, and appropriate use of personal protective equipment.

Turning now to Intro. 2033, which creates a new type of Temporary Certificate of Occupancy (“TCO”), an Interim Certificate of Occupancy (“Interim CO”). A Certificate of Occupancy (“CO”) states a building’s legal use and/or type of permitted occupancy. A building may not be legally occupied until the Department has issued a CO or TCO. A TCO is issued with respect to a building that is safe for occupancy, but where there are outstanding issues requiring final approval. TCOs typically expire 90 days after they are issued, which means buildings relying on a TCO must renew them periodically, even though they may already be partially occupied.

This legislation would create an Interim CO, which would not expire and which would be issued with respect to certain portions of a building when the Department determines that such portions are safe for occupancy. An Interim CO will only be issued after the Department performs an inspection to verify compliance with the New York City Construction Codes and confirm that there are no outstanding issues requiring further approval, or violations to be removed with respect to that portion of the building. Further, an Interim CO will only be issued to a building of noncombustible construction that is protected with an automatic sprinkler system and where adequate means of egress are provided.

I urge this Committee to pass this legislation as it will result in time savings for the industry, streamline the issuance of a CO for new buildings, and add certainty to a project for building owners securing needed financing for their developments. This legislation will also add certainty to commercial and residential tenants moving into a space relying on an Interim CO because there are no outstanding issues requiring Department approval for that space and the type of TCO issued by the Department for that space will not expire.

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

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**Testimony before the New York City Council
Committee on Housing and Buildings
Re: Int 2033-2020**

November 10, 2020

Good afternoon,

My name is Maria Free, and I am an Urban Planning and Policy Analyst for the New York Building Congress. The New York Building Congress is proud to support Int 2033-2020.

The New York Building Congress has, for almost a hundred years, advocated for investment in infrastructure, pursued job creation and promoted preservation and growth in the New York City area. Our association is made up of over 550 organizations comprised of more than 250,000 professionals. Through our members, events and various committees, we seek to address the critical issues of the building industry and consistently promote the economic and social advancement of our city and its constituents.

This bill, which would allow the Department of Buildings to issue interim certificates of occupancy to authorize occupancy of specific floors of a building prior to completion of permitted construction work on the building, will help reduce costs, save time, and add certainty for owners and tenants alike.

Unlike a temporary certificate of occupancy, an interim certificate of occupancy would not expire and would remain in effect until the issuance of a certificate of occupancy for the building. By not having to be renewed every 90 days, the new interim certificate of occupancy would reduce owners' paperwork and avoid violations for failing to renew the temporary certificate.

In these unprecedented times, common-sense innovations and the reduction of burdensome regulations like this legislation proposes are exactly what our industry needs to help get New York City back to building. A new interim certificate of occupancy will reduce paperwork and streamline the development process, without diminishing safety. We urge the Council to support this measure.

Thank you for the time to be heard on this important matter.

Testimony of New York Coalition of Code Consultants (NYCCC) regarding Introduction 2033-2020

November 10, 2020

Good afternoon Council Member Cornegy and Members of the New York City Council Committee on Housing and Buildings. My name is Laura Rothrock and I am providing testimony on behalf of the New York Coalition of Code Consultants, also known as NYCCC. NYCCC is a non-profit trade organization whose members specialize in securing construction and development approvals from municipal agencies, as well as building code and zoning consulting. I am testifying today in support of Intro 2033, which allow the Department of Buildings to create an Interim Certificate of Occupancy.

The combined companies of NYCCC make up the largest users of the Department of Buildings services. We work closely with DOB on behalf of our clients to ensure compliance and safety. As an organization, we have regular discussions with DOB and City Council to share feedback and discuss ways in which DOB and the industry can work together more efficiently without compromising safety.

We thank Council Member Cornegy for his leadership on Intro 2033. This bill, if passed, will allow the Department of Buildings more flexibility to authorize occupancy of specific floors of a building prior to completion of permitted construction work on the building. This new policy is logical in practice when one or more floors might be completely finished and there is no reason for an inspector to re-inspect portions of a building that were already signed off.

We applaud DOB for their continuous efforts to improve the filing and inspection processes and streamline compliance with limited resources. DOB's work on the Interim Certificate of Occupancy is just one example of the agency's commitment to improving their services for all users. We look forward to continuing our discussion with DOB and City Council, and hope you will continue using NYCCC as a resource for industry feedback.

We hope you will vote in favor of this bill and thank you for your consideration.

The Real Estate Board of New York to The Committee on Housing and Buildings of the New York City Council Concerning Oversight on COVID-19 and Re-opening Commercial Spaces and Int. 2033

The Real Estate Board of New York (REBNY) is the City's leading real estate trade association representing commercial, residential, and institutional property owners, builders, managers, investors, brokers, salespeople, and other organizations and individuals active in New York City real estate. REBNY thanks the Committee for the opportunity to testify on both the safe reopening of commercial spaces amidst the COVID-19 pandemic as well as proposed legislation to create an interim certificate of occupancy that would allow for safe occupancy on certain floors while work continues in other parts of the building.

REBNY shares in the Council's concern for public health. Since the magnitude of the crisis became apparent, our members have acted thoughtfully and aggressively to protect the health and safety of staff, residents and employees. As New York City entered phase two of New York Forward, which allowed for the reopening of real estate services and commercial space, we continued to prioritize public health as the City restarted its economy. REBNY's efforts include launching an online [Coronavirus Resource Hub](#) that centralizes public health and government regulations relevant to the industry. Moreover, in collaboration with SEIU 32BJ, Realty Advisory Board, Local 94 and BOMA, we developed guidelines and best practices on key issues for the industry as it works to maintain safe conditions for tenants. We continue to monitor and update this guidance as the circumstances in the City and State change (see Appendix).

Throughout the pandemic, REBNY has found good communication to be essential in safeguarding public health. To that end, we have been in constant communication with both City and State government to identify health concerns, and we have hosted regular calls with both our management and brokerage members to keep them apprised of regulations and take feedback to public officials. We hope to maintain that level of communication with the City and State as cases yet again crest upward.

We are also proud to have partnered with the City and State in identifying spaces, such as hotels, and other resources needed to support healthcare providers, first responders and the homeless population. With colder weather entering NYC, now more than ever, the City needs to protect its most vulnerable populations. REBNY encourages the Council and the City to better serve the homeless population, not just in finding additional space to safely socially distance, but to also provide the needed supportive professional and social services that foster success and have been promised for locations outside of the traditional shelter system.

Finally, as more activities are forced indoors with the winter weather approaching, we ask the City to ensure that its health and safety guidance is consistent with that of the State and CDC. Currently, we are receiving questions about conflicting regulations. For example, [DOHMH guidance](#) suggests non-

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hospitalized individuals who are exposed to COVID-19 should quarantine for 10 days, while State and CDC guidance suggests 14-days and in some instances allows for testing to end the quarantine early. In addition, we encourage the City to align its testing protocols for safe re-entry with the State guidance as that continues to be updated. Consistency of required and suggested practices between the different levels of government is essential to avoiding confusion and protecting public health.

REBNY remains vigilant, ready to serve in developing and implementing additional guidance and health precautions as a civic partner in the health and recovery of our great city. What follows is more specific comments to Introduction 2033 regarding Interim Certificates of Occupancy:

BILL: Int. 2033-2020

SUBJECT: A Local Law to amend the administrative code of the city of New York, in relation to statements of compliance, issuance and posting requirements of certificates of occupancy and interim certificates of occupancy.

SPONSORS: Council Member Cornegy (at request of the Mayor)

Int. 2033 would create a new interim certificate of occupancy (C of O) that would authorize the occupancy of certain completed floors prior to the completion of permitted construction in the building. The interim certificate of occupancy will function similarly to the existing temporary C of O but with a couple of important distinctions – the interim C of O will not need to be renewed every 90 days and will remain in effect until all the building construction is completed and the building receives its permanent C of O.

REBNY fully supports this legislation and thanks the Department of Buildings (DOB) for our many conversations and continued partnership on this issue. The bill would not only help reduce delays in which buildings receive their permanent C of O and get tenants into their spaces faster, it will also alleviate some administrative burden on DOB, allowing the Department to refocus the saved time and resources on the countless other matters for which it is responsible.

We believe Council could further strengthen the legislation by clarifying what will qualify for a temporary versus an interim C of O. Similarly, the bill could more clearly define the requirements for the permanent C of O compared to those of the interim.

Thank you for the consideration of these points.

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REBNY Resources | September 11, 2020

APPENDIX:

Best Practices for Reentering Commercial Buildings During New York Forward

During the Coronavirus (COVID-19) Crisis

This document is being issued by the Real Estate Board of New York (REBNY), 32BJ SEIU, Realty Advisory Board on Labor Relations, Inc. (RAB), Local 94 International Union of Operating Engineers, AFL-CIO and the Building Owners & Managers Association of Greater New York (BOMA-NY) to facilitate the safe and healthy reentry into commercial office buildings.

On May 28, 2020, the State of New York issued [Interim Guidance for Commercial Building Management during the COVID-19 Public Health Emergency](#) (interim guidance), which establishes minimum requirements for commercial buildings to follow during the COVID-19 public health emergency until rescinded or amended by the State. Commercial building owners are required to [affirm](#) on the New York State website that they have read and will comply with the interim guidance. In addition, commercial building owners and managers are required to develop a [site safety plan](#) that must be posted conspicuously in the building.

This document can assist commercial property owners and managers in adhering to the requirements of the interim guidance. Consistent with the interim guidance, the practices contained in this document are designed to provide multiple layers of protection to building owners and managers, building workers, tenants, and the public and are informed by the guidance issued to date by governmental and public health authorities, including the [Centers for Disease Control and Prevention \(CDC\)](#), the [New York State Department of Health](#) and the [New York City Department of Health](#).

This document will be updated as warranted, including if and when any changes are made to New York State's interim guidance. Building operating procedures and protocols should continue to take into account any new requirements and guidance issued by governmental and public health authorities.

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This document is structured as follows:

I. Building Preparations

- Systems & Maintenance
- Preparing Building Public Areas for Social Distancing
- Promote Hand Hygiene
- Communication & Signage
- Ensure Adequate Supplies

II. Labor and Employment Considerations

- Revise Policies and Procedures
- Adopt Certain Practices
- Considerations for a Unionized Work Environment
- Leave and Anti-Discrimination Laws

III. Coordination with Tenants

- Matters Related to Common Areas of the Building
- Matters Within Tenant Spaces

IV. Changes to Operating Procedures and Protocols

- Cleaning
- Procedural Changes

V. Additional Considerations

- Temperature Taking of Tenant's Employees and Building Visitors
- COVID-19 Testing of Employees
- Construction Work
- Liability

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BUILDING PREPARATIONS

Proactive steps should be taken to stage the building for increased occupancy while occupancy is low. Suggested practices include confirming normal building system functionality, staging common and tenant spaces to encourage safe health practices and communication.

Systems and Maintenance

The interim guidance requires commercial buildings that have been entirely closed to take a series of steps to ensure the operations of mechanical systems, water systems, elevators and HVAC systems.

In adhering to the interim guidance, prior to reentry, buildings should generally test and make safe systems that have been used infrequently during the emergency. These include:

Heating and Cooling

- Inspect chill water coils, pre-heat coils intake plenums & intake dampers, reheat coils and clean induction units.
- Replace air filters and check all HVAC systems are operating properly.
- As described by the American Society for Heating, Refrigerating, and Air-conditioning Engineers (ASHRAE) and the Centers for Disease Control and Prevention (CDC), the operation of heating, ventilating and air-conditioning systems can play a role in reducing exposure to COVID-19. Property owners should review evolving guidance from ASHRAE, CDC, and other public health and professional organizations to follow recommended practices. Guidance includes:
 - [American Society for Heating, Refrigerating, and Air-conditioning Engineers Position Statements](#)
 - [American Society for Heating, Refrigerating, and Air-conditioning Engineers Frequently Asked Questions](#)
 - [National Air Filtration Association](#)
 - [The Center for Disease Control and Prevention \(CDC\)](#)
 - [Federation of European Heating, Ventilation and Air Conditioning Associations](#)

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Elevators

- Check elevators' alarms & communications are working properly.
- Run each elevator up & down at least once per week.

Fire Protection Systems

- Test the fire protection system and make sure all devices are working.
- Confirm all fire logs/records as well as tenant fire warden, deputy fire warden & searchers are up to date.

Plumbing

- Property owners should review and follow steps recommended in the [CDC's "Guidance for Building Water Systems"](#) and the guidance of the New York City Health Department. This includes the following steps:
 - Inspect flushing of hot water at plumbing fixtures.
 - Raise hot water temperature to at least 120 degrees if possible.
 - Flush hot water at all sinks and showers. Run for 5-15 minutes.
 - Check water for pH and disinfectant levels.

Preparing Building Public Areas for Social Distancing

Based on the recommendations of public health authorities including the [CDC](#) and [New York City Department of Health and Mental Hygiene](#) (DOHMH), the interim guidance requires the maintenance of at least 6 feet (~2 meters) social distancing in the building common areas. While adapting to the unique conditions of each space, the following measures are referenced in the interim guidance and should generally be taken to effectuate social distancing in the common/public areas of buildings. A discussion of operational changes to these spaces can be found later in the document.

Building Entrances and Exits

- Designate specific doors as entrances or exits.

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Security / Check-in

- Install markers to designate places where visitors should wait to be checked in.
- Install appropriate shields or other barriers at check-in to physically separate building service staff from visitors.

Lobbies

- Develop plans to control the flow of foot traffic and circulation of people through the lobby, which may include floor markers or other signage.

Elevators

- Based on the individual characteristics of the building, install markers to designate places to queue for elevators.
- While not required by the interim guidance, owners and managers could consider installing markers to designate places to stand inside of elevators.

Loading Docks

- Develop protocols to ensure social distancing is maintained in loading docks where utilized, including the use of markers.

Public Spaces + POPS

- The interim guidance states that owners and managers should consider closing any common indoor or outdoor seating area. Where these spaces stay open, they must be reconfigured to promote social distancing.
- Mayoral [Executive Order 128](#) provides temporary relief from certain provisions of the zoning resolution relating to POPS and waterfront public access areas. Owners and managers should consult [City Planning guidance](#) about this order.
- Property owners should be aware that the New York City Department of Buildings has not suspended POPS enforcement at this time.

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Restrooms

- Ensure social distancing can be maintained in restrooms available to the public by creating protocols to limit the number of persons who can use a public restroom at any one time. This could include the use of signs on the restroom door for persons to indicate when the restroom is “in use.”
- Where restrooms are located on floors with multiple tenants, work with tenants to develop protocols to maintain social distancing in those restrooms.

Promote Hand Hygiene

The [CDC](#) has identified that the frequent cleaning of hands can help reduce the spread of COVID-19. Based on this recommendation, the interim guidance requires hand cleaning stations be available in the building. Therefore, prior to tenant reentry, buildings should ensure there is readily available access to hand cleaning stations throughout the public areas of the building.

- Where hand cleaning stations with water are used, soap and paper towels should be provided as well as touch-free trash cans for paper towels.
- Where hand sanitizer is made available, it should be at least 60 percent alcohol, consistent with [CDC guidance](#).
- The interim guidance requires that hand sanitizer be placed in convenient locations, such as at entrances, exits, elevators and security/reception desks. Touch-free hand sanitizer dispensers should be installed where possible, and signage should be placed near hand sanitizer stations indicating that visibly soiled hands should be washed with soap and water as hand sanitizer is not effective on visibly soiled hands.

Communication & Signage

The interim guidance requires that buildings post appropriate signage throughout the building and requires those signs to be consistent with Department of Health signage. The interim guidance requires that signage address the following topics:

- Cover nose and mouth with a mask or face covering when six feet of social distance cannot be maintained.
- Properly store and, when necessary, discard PPE.
- Adhere to physical distancing instructions.
- Report symptoms of or exposure to COVID-19, and how to do so.
- Follow hand hygiene and cleaning/disinfection guidelines.
- Follow appropriate respiratory hygiene and cough etiquette.

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Should a building want to use CDC signage, available signs from the [CDC](#) to consider using include:

- [How to Protect Yourself and Others](#)
- [Stay Home When You Are Sick](#)
- [Stop the Spread of Germs](#)
- [Wash Your Hands](#)
- [What You Should Know About COVID-19 to Protect Yourself and Others](#)
- [Important Information About Your Cloth Face Covering](#)

Ensure Adequate Supplies and Equipment

Buildings will need to secure a range of supplies and/or equipment in order to support the safe reentry of tenants. Given the recent disruption and uncertainty in product supply chains, doing so may be difficult, which means buildings should plan ahead to ensure they possess the appropriate supplies and can install new devices where necessary. The supplies/equipment that buildings should consider obtaining include:

- Cleaning and disinfecting supplies.
- Touch-free faucets.
- Touch-free paper towel dispensers.
- Touch-free trash cans.
- Hand sanitizer and dispensers (touch-free where possible).
- Paper towels and tissues.
- Appropriate signage.
- Protective screens and partitions (for example glass or plexiglass) for building service workers.
- Personal Protective Equipment for building employees, which may include, but is not limited to, appropriate face coverings, gloves, gowns, and any additional protective equipment required based on the product used to clean and disinfect or may be required by the [CDC](#) to safely clean and disinfect following a suspected or confirmed case, as well as that which is necessary for workers interacting with the public.

LABOR AND EMPLOYMENT CONSIDERATIONS

Building owners and managers will need to consider a variety of issues when adapting policies and procedures to keep building workers healthy and safe, whether the workers are their direct employees or those of a vendor.

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Revise Policies and Procedures

- Follow the requirements of New York State Health Department's Interim Guidance for Public and Private Employees Returning to Work Following COVID-19 Infection or Exposure when dealing with employees who have COVID-19 symptoms and positive tests. This generally requires employees to remain home for 10 to 14 days when they are experiencing symptoms or test positive or have been in close contact with a person with COVID-19.
- Establish a zero-tolerance policy for their employees coming to work while sick or symptomatic.
- Develop clear and consistent procedures for dealing with an employee who develops symptoms of COVID-19 at work. The interim guidance requires that where an employee is symptomatic upon arrival or develops symptoms at work, that the employee be separated and immediately sent home.
- The [CDC recommends](#) the employer inform other employees of a positive case without identifying the infected person for privacy concerns.
- Reduce the use of in-person gatherings to the greatest extent possible and conduct meetings remotely whenever possible. When required, participants should be limited, and appropriate social distancing should be maintained. Building managers should consider requiring that all persons in their meetings wear face coverings during any in-person meetings.
- Designate a "site safety monitor" at each work site responsible for implementing revised plans and overseeing the reentry process, as required by the interim guidance.
- Restrict non-essential travel for employees.
- Depending on the needs of each individual building, issues specific to personnel management in commercial buildings that should be considered include:
 - Revising timekeeping procedures to eliminate the use of handprint and other touch devices. Where such devices must be used, disinfection supplies should be provided in the proximity of the device.
 - Staggering shift start, end and break times, and possibly using overnight shifts to support social distancing and reduce density consistent with the needs of the building. This measure is included in the interim guidance.
 - Making sure security guards have their licenses up to date.
 - Assigning tasks that were not previously required to be carried out and properly training workers for those duties (for example thermal screening if utilized).
 - Ensuring that building employees are trained on the use of PPE, proper cleaning and disinfection (including the appropriate chemicals for cleaning and disinfecting and the potential hazards associated with such chemicals), and the building's individual safety plan. This measure is included in the interim guidance.

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- Cleaning and disinfecting locker rooms used by employees for changing into uniforms and developing protocols for use with employees to ensure social distancing is maintained in locker rooms.
- Developing protocols to ensure social distancing is maintained in break and lunchrooms used by employees and that these spaces are routinely cleaned and disinfected, as required in the interim guidance.
- Providing building employees with appropriate, clean uniforms each day.
- Ensuring that workstations are placed at least six feet apart and are cleaned properly prior to being used by a different employee.
- Limit the sharing of objects and the touching of shared surfaces.

Adopt Certain Practices

- As recommended by [OSHA](#), consider asking employees to self-monitor for symptoms of COVID-19 by taking their temperature at home before leaving for work and remaining home if their temperature exceeds 100.4 degrees generally for at least 14 days, as required by the interim guidance.
- [New York State](#) and the [CDC](#) have required and recommended respectively that employers conduct daily health screenings of their employees. The interim guidance requires that building owners and managers, at minimum, have employees (including contractors) and visitors complete a daily questionnaire remotely or upon arrival to the building asking to determine if the person has:
 - Knowingly been in close or proximate contact in the past 14 days with anyone who has tested positive for COVID-19 or who has or had symptoms of COVID-19;
 - Tested positive for COVID-19 in the past 14 days; and/or
 - Experienced any symptoms of COVID-19 in the past 14 days.

The New York City Health Department has provided a [model screening form](#) and [model log](#) along with practices to follow when conducting daily health screenings.

- Recognizing that many building service workers carry out their jobs in public spaces and may be required to travel between public space and tenant space, employers of building service workers should strongly consider taking the temperature of those workers employed by the building. This activity is authorized in the interim guidance and by the [EEOC](#) so long as the COVID-19 pandemic continues. Where temperature screenings are conducted, such screenings should follow the interim guidance and adhere to [CDC guidance](#) to protect the person being screened and the person conducting the screening.

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- Every employer has an obligation under the Occupational Safety and Health Act General Duty Clause to provide a reasonably safe workplace. Under the threat of COVID-19, this duty requires employers to provide personal protective equipment (PPE) sufficient to prevent occupational exposure to the disease. PPE should be provided at no cost to the employee. PPE that may be required include gloves, eye and face protection, and masks and/or respirator masks, depending on the potential hazards to which employees may be exposed, which could include cleaning chemicals or to persons suspected or confirmed to have COVID-19. Employers should also provide employees with regular opportunities to clean their hands.
- The interim guidance specifically requires that building owners and managers provide face coverings to their employees at no cost to the employee and require building owners and managers to work with any entity with which they have a contract to agree as to the party that will provide persons in the building with appropriate PPE. The interim guidance further requires that face coverings be cleaned or replaced after their use and prohibits building owners and managers from denying an employee from wearing their own additional protective coverings. Face coverings have been recommended by the [CDC](#), [New York State Health Department](#) and [New York City Health Department](#).
- Building owners and managers should consider requiring employees and contractors to wear acceptable face coverings at all times, unless not medically able to do so.
- The New York City Health Department does not generally recommend employees routinely use gloves. Though the City Health Department does not recommend gloves for all staff, they may be necessary depending on the potential hazards to which employees may be exposed, which could result from cleaning chemicals used or persons suspected or confirmed to have COVID-19.
- While employers generally are not allowed to inquire about employee health information, the EEOC has stated that employers may ask employees who report feeling ill at work, or who call in sick, questions about their symptoms to determine (via a test) if they have or may have COVID-19. The interim guidance requires building owners and managers to take numerous measures to adhere to contact tracing protocols, including notifying the New York City Health Department of a positive COVID-19 test result by an employee and cooperating with the local health department. To report a positive case, contact the NYC Test and Trace Corps at CovidEmployerReport@nychhc.org. Building owners and managers should make best efforts to maintain records of all persons in the building in order to comply with contact tracing requirements, not only their own employees and visitors.

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- Per the [Interim Guidance for Office-Based Work During the COVID-19 Public Health Emergency](#) also issued by New York State on May 28, 2020, when notified of a positive case of COVID-19, the identified point of contact for occupying office spaces must notify the contacts for the building owner/operator of the positive cases. Additionally, the guidance states the identified point of contact for the building should be prepared to receive notifications from tenants of positive cases and must notify the contacts of all impacted entities occupying shared spaces of the positive cases and the respective cleaning and disinfection procedures taken. Any collective bargaining representatives of the building workers must be notified as impacted entities.

Considerations for a Unionized Work Environment

- Employers should be aware of the special considerations governing the employment of a unionized workforce as building owners and managers plan for reentry of buildings. Careful attention should be paid to the collective bargaining agreements covering the terms and conditions of employment for building employees, as well as to any memoranda of agreement or other interim agreements. These agreements may impact how owners and managers return building employees to work, test their employees for infection or immunity, schedule shifts of work, and otherwise interact with their unionized building service employees and should be reviewed in order to comply with the interim guidance (including but not limited to the requirement to reduce interpersonal contact and congregation). Rules governing building service employment can be complex and failure to abide by the terms of agreements can result in unnecessary grievances, charges of unfair labor practices, or even litigation. Questions regarding unionized workforces and agreements governing their employment should be addressed to legal counsel or to the [Realty Advisory Board](#).

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Leave and Anti-Discrimination Laws

- Employers should be aware of the various federal, state, and local laws governing protected leave of absence from employment and employment of members of protected categories. The Family and Medical Leave Act, New York Paid Family Leave, New York City Earned Safe and Sick Time Act, and newly enacted expansions and additions to these laws, greatly expand the rights of employees to request and receive protected time away from work. Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Americans with Disabilities Act, as well as the New York State and City Human Rights Laws protect employees against adverse employment actions based upon an employee's membership in a protected category (e.g., being disabled, being older, or being a certain race, religion, and gender). Any adverse employment actions taken, even with an intention to protect at risk populations, should be neutral in its intent and in its impact upon the workforce.
- Employers should ensure employees are educated about paid leave opportunities. The [U.S. Department of Labor's poster](#) about paid sick leave under the FFCRA should be posted at the workplace along with all other required postings.

COORDINATION WITH TENANTS

Complying with the interim guidance will require property managers and tenants to carefully coordinate to ensure a successful reentry process and require a communications plan be established for owners/managers and tenants. Among the items that must be coordinated are:

Matters Related to Common Areas of the Building

- Property owners and managers should establish a designated liaison to act as the "point person" for each tenant. This person should be the designated contact for the tenant to contact when notified of a positive COVID-19 case among their employees, as required of tenants the [Interim Guidance for Office-Based Work](#).
- To support social distancing and reduce density, property managers should consider surveying tenants about their return to work plans. Doing so could help inform efforts to plan for staggered arrivals to and departures from the office and reducing density in the building, considering both the business needs of the tenant as well as the conditions of the building.

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- The interim guidance, as well as the [Interim Guidance for Office-Based Work](#), require coordination between owners/managers and tenants to conduct daily health screenings and requires owners/managers to remind tenants that they are responsible for screening their employees within a space under their control if daily health screenings are not done at or near the building entrance.
- The interim guidance encourages building owners and managers to coordinate with tenants to determine which visitors are essential. Tenants should be asked to provide building managers/owners with a list of essential visitors expected to enter the building.
- The [Interim Guidance for Office-Based Work](#) states that tenants should designate arrival and departure “shifts” for persons coming to the building to reduce density in the office. Owners and managers should work closely with tenants to understand those plans.
- Property managers should request that tenants and vendors provide the property management office with copies of their state safety plans and remind tenants to post such plans conspicuously.
- Property managers should request that tenants and vendors notify the property management office when an employee who was in the building in the last 48 hours develops symptoms of COVID-19.
- Property owners and managers should thoroughly explain the steps being taken to prepare for reentry to their tenants. This includes ensuring tenants have copies of requirements and recommended practices issued by public health authorities including:
 - The State of New York’s [Interim Guidance for Office-Based Work and Regional Guidelines for Re-Opening New York](#)
 - The Occupational Safety and Health Administration’s [Guidance on Preparing Workplaces for COVID-19](#)
 - The Center for Disease Control and Prevention’s [Interim Guidance for Businesses and Employers to Plan and Respond to Coronavirus Disease 2019 \(COVID-19\)](#)
 - The New York City Department of Health and Mental Hygiene’s: [COVID-19 General Guidance for Businesses and Other Non-Health Care Settings](#)

Matters Within Tenant Spaces

- The interim guidance, as well as the [Interim Guidance for Office-Based Work](#) state that owners/managers and tenants should work together to establish and enforce capacity limits in the building, which for any work occurring indoors, the total occupancy is limited to no more than 50% of the maximum occupancy for a particular area as set by the certificate of occupancy so long as the region in which the building is located is in Phase 2 of the State’s reopening.
- Consistent with the interim guidance, property managers should ask tenants to generally refrain from holding in-person meetings with outside parties.

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- Property managers should recommend to tenants that visitor hours be limited such that visitors are not entering or exiting the building during times when tenant's employees are likely to be coming to or leaving work in large numbers (i.e. visitors can only arrive after 10 a.m. and must leave before 3 p.m.).
- Property managers should clearly inform tenants of the building's visitor screening and entrance policy and inform tenants that visitors who violate the building's health protocols will be denied entry or asked to leave the premises during the state of emergency. Tenants should be informed by the property manager that it will be their responsibility to ensure that all persons invited into their space be informed of the building's health protocols prior to arrival.
- Per the Interim Guidance for Office-Based Work During the COVID-19 Public Health Emergency also issued by the state of New York on May 28, 2020, when notified of a positive case of COVID-19, the identified point of contact for occupying office spaces must notify the contacts for the building owner/operator of the positive cases. Additionally, the interim guidance states the identified point of contact for the building should be prepared to receive notifications from tenants of positive cases and must notify the contacts of all impacted entities occupying shared spaces of the positive cases and the respective cleaning and disinfection procedures taken. Any collective bargaining representatives of building workers must be notified as impacted entities. Owners and managers will need to work closely with tenants to adhere to these protocols.

CHANGES TO OPERATING PROCEDURES AND PROTOCOLS

As part of the reentry process, building owners and managers will need to update the building's operational procedures to ensure that office buildings will be a safe and healthy work environment.

Cleaning

- Buildings should increase cleaning and disinfection procedures in public areas of buildings following the interim guidance and using protocols established by the [CDC](#) and [New York City Health Department](#). These protocols generally recommend routine cleaning and disinfection of frequently touched surfaces and increased cleaning and disinfection of high touch surfaces. High touch surfaces in public areas that should be targeted include door handles, elevators, elevator buttons, stairwells, toilets, faucets, sinks, and employee break rooms and locker rooms.
- Buildings should maintain logs of the date, time and scope of cleaning and disinfection as required by the interim guidance. The New York City Health Department has created a model log.
- Amenity space, including the building's meeting space and any conference space, should be frequently cleaned and disinfected once they are reopened.

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- Based on the [CDC recommendations](#), the interim guidance establishes policies to follow when cleaning and disinfecting spaces should a person become sick in the workplace. Buildings should ensure tenants are informed of the appropriate protocols to use in their space should an employee become sick at work.
- Buildings should ensure that appropriate cleaning products authorized for use by the [Environmental Protection Agency's Suggested Disinfectants](#) (List N) are utilized.
- The interim guidance requires avoiding the use of furniture that cannot be easily cleaned and disinfected.

Procedural Changes

Use of Face Coverings

- The interim guidance requires that face coverings be used anytime six feet social distance cannot be maintained, requires persons to be able to promptly don face coverings if a person unexpectedly comes within six feet, and requires owners/managers to advise persons in the building common areas to wear face coverings (and remind them to do so when six feet distancing cannot be maintained).
- As the interim guidance provides a minimum standard, consistent with the [Governor's Executive Order 202.17](#) that requires the use of face coverings in public, buildings should strongly consider establishing policies that require an appropriate face coverings to be worn when entering the building and in all public/common areas of the building, including lobbies, elevators, and stairs. [Executive Order 202.34](#) provide building owners with the ability to deny entry to persons not wearing appropriate face coverings. Face coverings have been recommended by the [CDC](#), [New York State Health Department](#), and [New York City Health Department](#).
- Public health guidance states that all PPE, including face coverings, can be disposed of in regular trash. New York City Health Department guidance provides safe steps to remove and asks to be disposed with normal rubbish.

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Daily Health Screening and Screening Areas

- The interim guidance requires building owners and managers to implement daily health screenings of their own employees (including their contractors) and visitors including at minimum a daily questionnaire and, at the owner/manager's discretion, taking the body temperature of the employee, contractor, or visitor. As the interim guidance encourages daily screenings to be done remotely, but allows screenings to be done on-site, owners and managers will need to set aside space for such activity in ways that comply with social distancing requirements at the screening location and in any queues for screening. The New York City Health Department has provided a [model screening form](#) and model log along with practices to follow when conducting daily health screenings.
- While owners and managers are prohibited from maintaining individual health information, such as temperature data, the interim guidance permits the maintaining of records that individuals were screened and the result of that screening.
- Per the interim guidance, owners and managers must require employees or visitors to immediately disclose if and when their responses to any of the questions change, such as they begin to experience symptoms both during or outside of work hours.
- The interim guidance also requires owners and managers to coordinate daily health screenings with tenants. While noting that tenants are ultimately responsible for screening their own employees and visitors, the interim guidance permits owners and managers and tenants to implement an alternative screening, where owners and managers screen on behalf of tenants and maintain the records of the screening process.
- The interim guidance also states that is a best practice to screen individuals at or near the building entrance where space and building configurations allow. Building owners and managers should carefully evaluate their entrance areas to determine whether daily screenings can occur at or near the building entrance.
- The interim guidance further states that a screening best practice is to use contactless thermal cameras in building entrances to identify potentially symptomatic individuals, who would then be directed to a secondary screening area to complete a follow-on screening. Buildings following this practice will need to install these systems, ensure they are appropriately operated, and designate space/develop protocols for secondary screenings.
- Buildings should ensure that screeners be provided and use PPE, including at a minimum, a face mask, and may include gloves, a gown, and/or a face shield as required by the interim guidance.
- The interim guidance provides that persons who screen positive for COVID-19 symptoms must not be allowed entry and be directed to go home and consult with their healthcare provider. Buildings will need to train staff on how to appropriately do so while maintaining distance and deescalating conflict.

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Building Safety / Security

- Where possible, property managers should consider ways of prescreening visitors to reduce the need for visitors to physically hand over an ID card to building service workers.
- Consistent with the interim guidance, visitors of the building management will need to receive a health screening, be informed of the building's policies, and provided with appropriate PPE where necessary.
- All check-in desks should be outfitted with protected screens or other devices to provide a barrier between the building staff and the public. While the interim guidance requires property managers to ensure that their employees wear face coverings when within six feet of other persons and without a physical barrier, building services workers at check-in desks should generally be required to wear appropriate face coverings, provided by the employer.
- Appropriately trained staff should supervise visitor check-in areas to ensure compliance with social distancing is maintained and building protocols are followed.
- Essential visitors who arrive without prior notification should be required to exit the building while they wait to be granted access to avoid congestion in lobbies.
- Buildings should work with tenants to maintain Fire Safety and Emergency Access Plans while not all employees have returned to work. The [Fire Department](#) has provided guidance about delaying scheduled Fire Drills and Non-Fire Emergency Drills.

Elevators and Stairs

- The interim guidance requires that elevator capacity be limited to one person unless appropriate face coverings are worn in which case the elevator cannot exceed 50 percent of its maximum capacity. The interim guidance further states that building owners and managers should increase outdoor air flow in enclosed spaces to the greatest extent practicable while maintaining safety protocols.
- Elevator operations should be supervised by an appropriately trained building employee to ensure compliance with social distancing and face covering requirements.
- Where determined appropriate by the property owner, property managers should allow tenants to safely use stairs and install signage to inform tenants that they may use stairs. Where stairs are utilized, the flow of persons should be controlled to ensure social distance is maintained and stair usage should be supervised. Consistent with the [Governor's Executive Order 202.17](#) that requires the use of face coverings in public, face coverings should be worn in stairwells at all times.

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Movement of Persons

- The interim guidance requires property managers to take steps to reduce bi-directional movement of persons in common areas of the building.

Loading Docks

- Property managers should establish policies to control access to the building of persons utilizing loading docks.

Amenity Space

- Gyms and fitness centers are allowed to reopen as of September 2, 2020 provided that they are able to comply with State and City requirements.
 - Group fitness classes are not currently allowed to take place in New York City.
 - In addition to the physical requirements for the space, property managers must submit a business affirmation form and include of the gym facility in the property's site safety plan.
 - Prior to reopening, the facility must submit an inspection request for to the City Health Department. Though the facility may reopen before the inspection, the continued operation of the facility is subject to the result of the inspection, which the Department will get in touch to schedule within two weeks of submitting the request.
- The interim guidance encourages the closure of the owner's non-essential amenities and communal areas that promote gathering or are high-touch, including vending machines and communal coffee machines. If they remain open, owners and managers must make hand sanitizer or disinfecting wipes next to the equipment or near the amenities.
- The interim guidance states that owners and managers should consider closing any common indoor or outdoor seating area. Where these spaces stay open, they must be reconfigured to promote social distancing.
- Meeting or conference space controlled by the property owner made available for tenant use should generally be closed.
- Cafeterias should be encouraged to remain closed. The interim guidance as well as the [Interim Guidance for Office-Based Work](#) prohibits employees from sharing food and beverages, including serving buffet-style and self-serve meals, and encourages employees to bring their own lunch.

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Bike Rooms

- Anticipating an increase in staff and tenants commuting to work via bicycles in lieu of public transit, property managers should identify additional space to accommodate the increase in bicycles and ensure these areas are routinely cleaned.

Waste and Recycling Removal

- Property managers should ensure that trash and recycling pickup is aligned with occupancy levels and that carting services are adjusted accordingly.

Deliveries

- Packages, food, and other deliveries will need to be adjusted to limit outside persons entering the building. Property managers should work with tenants to reduce deliveries, ensure that all persons delivering packages or food have appropriate protective equipment, and are informed of and comply with building entry protocols. The interim guidance requires property managers to designate areas for pickups and deliveries.

Restrooms on Multi-Tenant Floors

- Where multiple tenants have access to the same restroom, property managers should work with those tenants to develop ways to limit density in those spaces.

Leasing Tours

- Property managers should develop procedures to ensure that tours of space are conducted in compliance with building health and safety protocols.

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ADDITIONAL CONSIDERATIONS

Temperature Taking of Non-Employees or Visitors

Building owners and managers should generally consult with counsel when considering establishing a temperature-taking program for all persons entering the building. As allowed by the [EEOC](#), employers may take body temperatures of their employees during this period of community spread of COVID-19. In addition, as allowed by Executive Order, commercial building owners may, at their discretion, require individuals to undergo temperature checks prior to being allowed admittance and also have the ability to deny admittance to (i) any individual who refuses to undergo such a temperature check and (ii) any individual whose temperature is above 100.4 degrees. Property owners and managers who wish to adopt temperature-taking programs for those entering the building should consider a number of factors including those discussed below prior to implementing a temperature-taking program.

Legal Issues

- Property owners who take temperatures will need to ensure that they have processes in place so that persons with disabilities with legitimate reasons for registering an elevated temperature are not unfairly treated, as required by State and City Human Rights Law.
- Property owners will need to take steps to manage liability risks associated with temperature taking.
- Property owners will need to establish processes to safeguard the confidentiality of tenant and visitor temperature information.

Practical Considerations

- Property owners will need to identify space in the building entrance areas for primary and secondary screening locations. In many buildings this will be difficult, if not impossible to do while ensuring that social distancing is maintained for those waiting to be screened without long lines of people waiting on sidewalks to enter the building.
- Property owners will need to identify the appropriately trained individuals to conduct the temperature screening and ensure that those individuals have the appropriate protective equipment. The [CDC](#) has provided guidelines on the best ways to conduct temperature screenings, if utilized, but these guidelines are directed to employers not property owners.

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COVID-19 Testing of Employees

- The [EEOC](#) has issued guidance authorizing employers to test employees for COVID-19 before they enter the workplace without violating the Americans with Disabilities Act. This guidance requires employers to make sure that the tests are accurate and reliable and encourages employers to consult [U.S. Food and Drug Administration guidance](#) to consider whether a test is safe and accurate. The guidance further states that testing is not a substitute for the adoption of other infection control measures such as social distancing and hand washing.
- Property owners considering adopting a COVID-19 testing program for their employees or persons entering the building should consult with counsel to ensure that any program complies with federal, state, and local privacy and anti-discrimination laws.
- The [CDC](#) has stated that anti-body tests should not be used when determining employee return to the office.

Construction Work

- Building owners should be aware that New York State has released [Interim Guidance for Construction Activities during the COVID-19 Public Health Emergency](#), which requires that construction projects certify that they have read and will follow this guidance. This guidance further requires the development and maintenance of a safety plan at each project. A model safety plan can be found on the State's [website](#). Building owners and managers should ensure construction projects occurring in the space they control comply with these requirements.
- The [New York City Department of Buildings](#) has provided additional guidance to owners and contractors. This guidance applies to all permitted construction sites operating in New York City. In addition to the State requirements, the Department's guidance requires that occupancy limits be posted in each hoist cab and at each landing area, and also requires posting proof that the State-required affirmation has been completed. Furthermore, the Mayor has ordered that all individuals, including employees and visitors, who are present on a construction site in New York City and able to medically tolerate a face covering shall wear such a covering at all times.
- Property owners should ensure there is good communication between the owner, any contractors or subcontractors working in the building, and other appropriate building staff to ensure relevant activities are coordinated across the entire building.
- The interim guidance requires that building owners and managers work with any entities with which they have contracted to agree upon who will provide PPE to contractors physically present in the building and further requires that the building owner or manager train the workers on how to use PPE when they provide such equipment directly.
- The interim guidance requires that building owners and managers implement daily health screenings of their contractors entering the building.

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Liability

- Property owners and managers face significant legal liability risks related to building reentry policies. These risks include the potential for claims made by employees, vendors, tenants and their employees, or visitors who contract or may be exposed to COVID-19 or challenge the policies adopted and actions taken by the owner or manager in response to the crisis. For this reason, property owners and managers should closely consult with their legal counsel to guard against such risks.

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**TESTIMONY SUBMITTED TO
NEW YORK CITY COUNCIL
COMMITTEE ON HOUSING AND BUILDINGS**

November 10, 2020

**Submitted By:
Building Trades Employers' Association**

Good day Chairperson Cornegy and members of the Committee, I am Louis Coletti, President and CEO of the Building Trades Employers' Association, (BTEA. The BTEA is a trade association representing 27 contractor associations, and 1,200 contractor members responsible for over almost \$50 billion dollars in economic activity in New York. Thank you for allowing me the chance to support proposed Intro 2033, creating a category of "Interim Certificate of Occupancy".

This bill would allow the Department of Buildings ("DOB") to issue interim certificates of occupancy to authorize occupancy of specific floors of a building prior to completion of permitted construction work on the building. This bill would not apply to residential buildings with fewer than eight stories or four dwelling units, non-residential buildings with fewer than five stories, mixed-use buildings with fewer than four dwelling units, or parking structures. This bill would also allow for the permit holder to submit the signed statement of compliance required

by section 28-118.4.2 of the Administrative Code of the city of New York. It would also require building owners to post a copy of partial certificates of occupancy and temporary certificates of occupancy in accordance with section 28-118.19 of the Administrative Code.

The large buildings built in this City really do require a permissible use of portions of those buildings, provided that they meet the requirements outlined in 28-118.15.1, earlier and without the constraints usually associated with a TCO. Often, buildings sit unused after work is completely finished because the final paperwork required for a Certificate of Occupancy takes a significant time to process. This Interim C of O will bring buildings into the marketplace faster than ever before.

General contractors, who are the ‘permit holders’ as described in section 28-118.4.2, and as registrants with the Department of Buildings will offer the necessary assurance that the buildings applying of this Interim C of O meet the safety and habitability necessary of use.

Members of the Committee, this is an opportunity to raise the bar for the quality of construction work in New York City. Let’s take a step in that direction and pass

Intro 2033. THANK YOU



Asian American Federation

**Written Testimony for New York City Council Oversight Hearing on
COVID-19 and Re-opening Commercial Spaces
Submitted to the New York City Council Committee Housing and Buildings
November 10, 2020**

Thank you, Chair Robert E. Cornegy, Jr, and the Committee on Housing and Buildings for convening this hearing.

My name is Ahyoung Kim, and I am the Associate Director of Small Business Programs at the Asian American Federation (AAF). AAF's mission is to raise the influence and well-being of the pan-Asian American community through research, policy advocacy, public awareness, and organizational development. We represent a network of nearly 70 member and partner agencies that support our community through their work in health & human services, education, economic development, civic participation, and social justice. Through our Small Business Program, we directly serve Asian-owned small businesses across the city and work together with groups that support thousands of Asian small business owners across the city, such as the Korean American Business Council of New York.

In our rapid response efforts in the face of this pandemic, we have facilitated the distribution of over 320,000 masks and hundreds of thermometers to small business owners all over New York City. We also set up an in-language resource web page for policy changes and government assistance programs, and continue to provide direct services for business owners who need marketing and administrative assistance. From July to August this year, we conducted a survey¹ to assess the impact of the pandemic on Asian small business owners across the State, through which we collected over 400 responses.

I am here today to raise the awareness on the difficulty small business owners face throughout this city in the process of enforcing COVID-19 related inspections, largely practiced by DOB inspectors. Small business owners, especially those with limited English proficiency (LEP), are still struggling to find relevant information on COVID-related regulations. During inspection, they are unable to communicate with inspectors who often practice inconsistent inspection standards with hostility. They are even more lost in navigating the curing process, which pushes the most vulnerable businesses to simply give up on making this process an educational one.

The majority of our survey respondents answered that their businesses were operating in limited capacity at the time of the survey, and over 31% of them said their business was temporarily closed. Almost all business owners reported a decrease in revenue—55% of them suffering from over 75% loss in revenue.

Asian small business owners have been largely left out of outreach and information dissemination efforts in the time of this pandemic. In our small business survey, over 40% of business owners answered they experienced difficulty in finding information in their language.

¹ AAF conducted a survey of Asian American small business owners in New York, from July 14 to August 31, 2020. A brief report summarizing the findings from this survey will be published in the near future.

Access to information

In this time of a pandemic, the lack of timely, accurate and comprehensive information created much confusion and panic for immigrant small business owners. As the state and city agencies rushed to deal with the pandemic, regulatory information was disseminated as policies were made, often without in-language material. By the time an immigrant small business owner learns of new regulations through ethnic news, friends or social media, the information would often be outdated and not accurate.

For example, information about reduced capacity operation or the outdoor dining were not available in major Asian languages of New York City at the time of the announcement. Small business owners who were struggling with drastically reduced income had no choice but to copy what they saw on the street to recreate an outdoor restaurant set up in lieu of accurate, in-language information. As they are now getting flagged and ticketed by inspectors now, many feel that the City did not provide the information about their responsibilities, and only coming after small businesses that will not be able to fight the system.

Challenging inspection processes

Many immigrant small business owners point out that the current method of inspections by City agencies are not educational and often leads to business losses. Inspections on businesses have little to no language assistance, and inspectors rarely engage with the business owners or staff to explain the problems they spot at the location of business.

AAF has received report of multiple cases across the city where DOB inspectors who visited small businesses to monitor COVID-related compliance did not even make the effort of engaging with the business owners to explain what needs to be done if they do not speak English. Instead, they would simply give a URL to a city agency website for reference. However, City agency websites are extremely difficult to navigate for LEP small business owners—giving the address of an incomprehensible website should not replace proper efforts of outreach and information dissemination.

Also, different standards for individual inspectors cause much confusion and frustration for small business owners. Inspectors from different City agencies sometimes give inconsistent advice and guidelines to business owners, even in cases where the different agencies are supposed to work together, such as the Illegal Conversion Task Force.

Lack of assistance in Curing Process

Once inspection happens, small business owners are left with summons or tickets they cannot decipher, and to whom they can ask question to cure violations is unadvised. Due to lack of language assistance, LEP business owners need to rely on their children to communicate with city agencies.

More importantly, the summons or tickets do not offer any information about how to cure the violation—leaving small business owners to seek for help from licensed contractors. However, without a clear understanding of what needs to be done to cure the violation, immigrant small business owners are often scammed by their own vendors. Also, it is very common among Asian small businesses to rely on a contractor that is not licensed. In many occasions, a small business owner in their country of origin would not hire a licensed contractor for ‘simple tasks,’ so the very notion of permits and licensed contractor is foreign to them. As a result, many Asian small business owners would seek for assistance from a crafty

friend or family member when making modifications to their stores, or to cure violations. As someone without a license, these contractors are unable to follow up with the paperwork that will cure the violation—leading the business owner to believe their problem has been resolved, while City agencies keep adding more tickets for an outstanding violation.

RECOMMENDATIONS:

In light of this state of COVID-19 and re-opening of commercial spaces for Asian small businesses, AAF recommends the following:

- Prioritize education and curing violations over tickets and fines.
 - Mandate meaningful and timely language access in distributing regulatory information and during inspections.
 - Grant extra time for curing violations during this time of pandemic to relieve small business owners of heavy fines.
 - Streamline information regarding COVID-19 reopening and regulations for better access to information.
 - Distribute regulatory information by industry, rather than city agencies, to ensure small business owners have a comprehensive understanding of special regulations under pandemic situation
- Actively disseminate information on violation curing process
 - Immigrant small business owners are often from cultural background where the government is uncooperative and asking to bargain with the government would lead to more trouble. In this light, many small business owners who are recent immigrants do not realize they can often cure the violation or attend a hearing to refute the charges. There should be a proactive campaign from the city government informing small business owners of this right and educate them on the process of curing violations.
- Introduce a feedback system on inspections to monitor individual practices and protect small business owners from hostile inspections that hurt their businesses.
 - Hostile inspections, where inspectors raise their voice during inspections or threaten to shut down the business forever gravely hurt the reputation of the business in the community. There should be an avenue for small business owners to report unfair treatment or excessively hostile and aggressive inspections.

Thank you.



THE BUILDING OWNERS AND MANAGERS ASSOCIATION OF GREATER NEW YORK'S TESTIMONY ON INT. NO. 2033, IN RELATION TO STATEMENTS OF COMPLIANCE, ISSUANCE AND POSTING REQUIREMENTS OF CERTIFICATES OF OCCUPANCY AND INTERIM CERTIFICATES OF OCCUPANCY AND OVERSIGHT ON COVID-19 AND RE-OPENING COMMERCIAL SPACES.

Int. No. 2033

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

BOMA New York strongly supports of Int. No. 2033, which is sponsored by Chair Cornegy and is at the request of the Mayor. The bill creates a new interim Certificate of Occupancy (C of O) for parts of a building that are completed before the entire building is finished. Unlike existing temporary Cs of O, interim Cs of O would not have to be renewed every 90 days, and they would continue to be in effect until the building receives its permanent C of O. These changes make for a more efficient process that both makes it easier to get tenants into completed spaces and is less burdensome on the Department of Buildings. We look forward to working with the City to further strengthen this effort, as needed.

Oversight:

BOMA New York has been and will continue to be a leading force in protecting office workers and others from the impacts of COVID-19, and we appreciate the opportunity to submit this testimony on this oversight issue.

First, we would take issue with the term "re-opening" used in this hearing's title. For the record, BOMA New York buildings never closed, as they were managed by and for essential workers and so were always on line and ready for use. Since entering phase 2 of New York Forward, occupancy has of course been up even more, and out buildings have been well-prepared for them to come back in a safe manner.

Throughout the pandemic, BOMA New York has played a vital role in efforts to combat COVID-19. In particular, we have focused on being a conduit of information, in all directions, between government, experts, and our members. We have sent nearly 100 alerts to our members regarding policy, legal, procedural, and other matters impacted by the epidemic; helped develop and disseminate guidance and best practices for a range of issues, including re-occupying buildings in a safe and legal manner; sponsored seminars on a broad range of topics; participated in weekly calls with the Office of Emergency Management and the Health Department; and worked with City and State partners, as well as industry allies, to shape policy.

It goes without saying that protecting public health, along with helping the City get back on its feet, is the paramount concern moving forward. We look forward to continuing our partnership with the City and others to help accomplish that critical goal.