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Good morning Chairman Dilan, Members and Staff of the City Council Committee on Housing and Buildings. My name is Dottie Harris. I am the Vice President of State & Local Government Relations and your liaison to the International Code Council. The International Code Council (ICC), a membership association dedicated to building safety and fire prevention which develops the codes used to construct residential and commercial buildings, including homes and schools. It is the mission of the ICC to provide the highest quality codes, standards, products, and services for all concerned with the safety and performance of the built environment. I would like to commend the City of New York for its outstanding work to ensure the safety, health and well being of its citizens. Intro. 343, a Local Law to amend the Administrative Code of the City of New York, in relation to amending the New York City Energy Conservation Code will have a positive effect on sustainability in the built environment and therefore I offer the following testimony in support of the legislation before you today.

In April of 2010, the State Fire Prevention and Building Code Council, (Code Council), voted to move forward with the implementation of the 2009 International Energy Conservation Code with New York State modifications so that the State would be in compliance with the requirements of the American Recovery and Reinvestment Act of 2009 (ARRA). The 2010 ECCCNY - the Energy Conservation and Construction Code of New York State will become effective on December 28, 2010 and therefore the City of New York must update its Energy Code so that it continues to stay in compliance with Article 11 of the New York State Energy Law. The International Energy Conservation Code (IECC) is currently adopted at the state and local level in 44 states and Washington, DC. In the September 3, 2010 Federal Register, the Department of Energy (DOE) has preliminarily determined that the 2009 version of the International Energy Conservation Code (IECC) would achieve greater energy efficiency in low-rise residential buildings than the 2006 IECC.

The IECC along with the other International Codes are revised and updated every three years by a national consensus process that strikes a balance between the latest technology and new building products, economics and cost while providing for an acceptable level of public and first responder safety. It is an open, inclusive process that encourages input from all individuals and groups and allows those governmental members to determine the final code provisions. The International Codes are correlated to work together without conflicts so as to eliminate confusion in building design or inconsistent code enforcement among different jurisdictions.

Included in the historic legislation passed by the Housing and Buildings Committee, under your leadership to adopt the new New York City Construction Codes is a requirement to review the next version of the codes every three years modeled after the national code development process. Accordingly, the codes should be reviewed and updated next year so that NYC Construction Codes "do not become dated again" as referenced in the Mayor's Press Release. Intro 343 begins that process and I look forward to continuing to work with you as you embark on a review of the rest of the 2009 International Codes (the International Building Code, the International Plumbing Code, the International Mechanical Code, the International Fuel Gas Code and the International Green Construction Code).

The International Code Council is honored to partner with the City of New York and we look forward to continuing to serve your needs. Thank you for the opportunity to present testimony to you today in support of Intro. 343. I am pleased to answer any questions or provide additional documentation.

**TESTIMONY BY DEPARTMENT OF BUILDINGS IN SUPPORT OF INT. 343,
THE NEW YORK CITY ENERGY CONSERVATION CODE UPDATE**

Good morning, Committee members and Chair Dilan:

I am speaking to you today in support of Int. 343, the update of the New York City Energy Conservation Code. As you recall, City Council and the Mayor enacted Local Law 85 of 2009 last December as part of the City's Greener, Greater Buildings Plan. Local Law 85 instituted the New York City Energy Conservation Code. The City energy code is based on the New York State energy code but, unlike the New York State code, applies to all alterations. In addition, it is now an integral part of the New York City Construction Codes.

In April of this year, the State updated their code, based on the 2009 edition of the International Energy Conservation Code, and this update is more stringent than the current 2007 State Energy Code. This change was adopted in response to a federal funding mandate. In accordance with the State Energy Law, §11-109, an energy code adopted by a local jurisdiction must be more stringent than the State energy code; therefore, the Department has developed Int. 343:

- to continue our New York City Energy Conservation Code,
- to adopt the updated State code as the basis of our technical provisions, and
- to maintain our New York City code more stringent than the State Code.

Int. 343 is the minimum amendment of the 2010 State energy code, which will become effective on December 28, 2010. It does the following:

- It makes NO change to ANY technical provisions in the State code.
- It amends Chapter 1, the administrative provisions, in accordance with Title 28 and the rest of our Construction Codes, while retaining provisions from the State chapter that may be more stringent than our provisions. It is in Chapter 1 that we continue the applicability of our Energy Code to all alterations.
- It modifies a few definitions in Chapter 2, mostly in accordance with our Construction Codes.
- It adds the 1968 New York City Building Code and the 2010 Residential Code of New York State as referenced standards in Chapter 6.

The primary changes in Chapter 1 from our current New York City Amendments to the 2007 Energy Conservation Construction Code of New York State are:

- The State eliminates the exemption for local historic buildings and districts, and therefore we have continued this exemption in Chapter 1 to avoid being less stringent than the State code;

- The State code adds four additional exceptions to the section on alterations, allowing eight conditions under which an alteration is not required, and we have included these exceptions;
- Minor changes have been made in our filing requirements which we believe will ease the filing process for applicants;
- Progress inspections have been added to our filing requirements – these are currently required by rule;
- The State expands the construction document requirements and requires that changes made to approved documents during construction be submitted for approval;
- Inspection requirements follow the format established in our other Construction Codes, and include State requirements only where they are more stringent.

The bill also makes three minor changes in Building Code requirements for coordination with the Energy Code.

We urge you to pass Int. 343 so that it can become effective on December 28, 2010, allowing our Department and our industry to smoothly transition to the new State code, which will preempt our code if this bill does not pass. In other words, the changes in the State code are coming to New York City regardless of any City actions, and we request enactment of this bill so that the technical requirements can be more easily enforced through our own administrative structure.

One final note, the rule that helps us implement the Energy Code will need to be amended based on the revised technical requirements and on a renumbering of chapters in the State code. We are not able to move this amended rule into the public comment process until Int. 343 is enacted – as a result, it cannot be adopted by December 28. The sooner Council can pass this law prior to December 28, the sooner we can move the rule into CAPA and to adoption, which will greatly facilitate the industry's compliance with the law.

Thank you.

TESTIMONY OF THE DEPARTMENT OF HOUSING PRESERVATION AND
DEVELOPMENT TO THE CITY COUNCIL HOUSING AND BUILDINGS
COMMITTEE – FRIDAY, NOVEMBER 12TH, 2010 – 10am

Good morning, Chairman Dilan and members of the Housing and Buildings Committee. I am Barbara Flynn, Chief of Staff of HPD's Intergovernmental Division and sitting next to me is Grace DeFina, Director of Planning and Support Operations, in HPD's Office of Enforcement and Neighborhood Services (ENS). We are here today to testify in support of the introduction before us which would extend the effective date for Local Law #29 of 2007, also known as the Alternative Enforcement Program (AEP), to January 31, 2011.

The AEP program was established as a means for HPD to promote housing safety in some of the City's most distressed residential buildings. Through a series of selection criteria, including accumulation of Housing Code violations, the AEP program aims to increase the pressure on selected property owners by requiring buildings be brought to code in a timely fashion. Should the owners not comply, the law requires HPD to intervene to make the necessary repairs and ultimately lien the cost of the repairs against the property. The AEP program has made great strides in the City's efforts to ensure safe and improved conditions for New York City tenants.

Currently, Local Law #29 of 2007 requires the department to identify 200 buildings for inclusion in the Alternative Enforcement Program by November 12th of each calendar year. Furthermore, Local Law #29 requires the agency to provide notice to these selected property owners within 30 days of selection.

After three years of experience with the AEP Program, HPD has embarked on a series of discussions with the City Council to explore modifications to the current program. As those discussions progress, HPD, in agreement with the Council, feels it important to delay moving forward with Round 4 of AEP to take advantage of these potential changes. Accordingly, the legislation before us amends the effective date for Round 4 to January 31st, 2011 to allow for completion of final negotiations while also ensuring the agency remains in full compliance with the law.

We thank you for your time and are happy to respond to any questions you might have.



**Testimony of Sylvester A. Giustino, Director of Legislative Affairs Building Owners
and Managers Association of Greater New York, Inc.**

Council of the City of New York

Committee on Housing and Buildings

Hearing in relation to Prop Int. No. 343

Good Morning, Chairman Dilan and members of the City Council, my name is Sylvester Giustino, Director of Legislative Affairs for the Building Owners and Managers Association of Greater New York, Inc. (BOMA/NY). We represent more than 700 owners, property managers and building professionals who either own or manage 400 million square feet of commercial space. We're responsible for the safety of over 3 million tenants, generate more than \$1.5 billion in tax revenue and oversee annual budgets of more than \$4 billion.

We commend the Bloomberg Administration for taking the lead in proposing a bold program to make existing buildings more energy efficient. BOMA/NY firmly stands behind the concept of greening our City—and we do that *every day* in the buildings we own and manage.

In June of 2009, BOMA/NY supported Int. No.564-A, enacted as Local Law 85 which established a New York City Energy Conservation Code.

Today, BOMA/NY is proud to support Int. No. 343, which would bring New York City in compliance with the recently amended New York State Energy Code which uses the 2009 International Energy Conservation Code standards and requirements.

BOMA/NY members know that by making buildings more resourceful is the single biggest step New York can take to achieve its sustainability goals and remain competitive as the business capital of the world. We look forward to continuing working with the Bloomberg Administration, the City Council and our industry partners in making a greener New York a reality.

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**Testimony on Int. No. 343:
A Local Law to amend the administrative code of the city of New York,
in relation to amending the
New York City energy conservation code.**

**New York City Council
Committee on Housing and Buildings
November 12, 2010**

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Fredric M. Bell FAIA
Executive Director

We are here to testify on behalf of the New York Chapter of the American Institute of Architects and its nearly 5,000 architect and affiliate members based in Manhattan. It is our pleasure to appear here today, as we have in the past, to offer our support of the amendments to the New York City energy conservation code which regulates the design and construction of buildings for the effective use of energy. These changes will ensure that the New York City Energy Conservation Code remains as stringent as the 2010 State Energy Code and complies with the requirements of the American Recovery and Reinvestment Act of 2009.

As architects, we understand that buildings contribute significantly to carbon emissions and climate change, and therefore we have a fundamental responsibility to improve building energy efficiency in order to reduce the negative impact on the environment. Our Chapter continues to support upgrading the City's almost 1 million existing buildings to fit these new standards. The legislation before you today will provide the flexibility to permit the use of innovative approaches and techniques to achieve the effective use of energy. The code also encourages the improvement of energy conservation construction practices, methods, equipment and materials.

We know we can make our City more energy efficient and less detrimental to our environment. This is especially critical for New York. Environmental degradation is a threat to the health, safety and welfare of our citizens. As *PlaNYC* points out, nearly 80% of carbon emissions come from cities, and that number will grow as the world's population increases to 9 billion. In New York City, roughly 78% of greenhouse gas emissions are attributable to heating, cooling, powering, and lighting of buildings, with transportation and industry making up the rest. The key drivers of building-related emissions include the



types of fuel used for electricity generation; the efficiency of power plants; the size of the spaces inhabited by each person; weather demands on heating and cooling; the efficiency of buildings and workplaces; and personal efficiency measures.

We believe that continuing the important push to make our buildings more energy efficient is one of the most important first steps to effect great change in our City and benefit future generations.

The Energy Conservation Code is further enhanced by requiring the use of specified energy efficient materials even where alterations to existing buildings are minor involving, for example, only the replacement of glazing, roofing, lighting or doors.

We also provide the following clarification and recommendations that we hope will strengthen the proposed legislation:

Section 101.5.3.1: Professional Statement

- *Any registered design professional or lead energy professional should be changed to any registered architect or professional engineer (LEED professionals without professional license cannot file an application or applications for a new building or alteration project in New York.)*
- We would recommend similar language be substituted in other instances where the term registered design professionals is used;

In closing, we applaud the Administration and the members of the City Council who have brought this legislation forward and we urge the Committee on Housing and Buildings to vote in favor of these amendments to the New York City energy conservation code.

Sincerely,

Anthony P. Schirripa, FAIA, IIDA, 2010 Chapter President

Margaret O'Donoghue Castillo AIA, LEED AP, 2010 Chapter Vice President, President Elect

Rick Bell, FAIA, Executive Director

Pat Sapinsley, AIA, Co-Chair, Committee on the Environment

Ilana Judah, Int'l Assoc. AIA, LEED, Co-Chair, Committee on the Environment



**Testimony before Housing & Buildings Committee of the New York City Council on Int. 343
By Angela Sung Senior Vice President, Management Services and Government Affairs
November 12, 2010**

On behalf of the Real Estate Board of New York, representing nearly 12,000 owners, managers, developers and brokers of real property in the city of New York, I would like to thank the members of the Housing and Buildings Committee and Chair Dilan for the opportunity to comment on Intro 343 regarding the Local Law to amend the administrative code of the City of New York, in relation to amending the New York city energy conservation code. REBNY has provided its input into both the State Energy Code and the City's adoption to the new state energy code. We understand that this process has been an enormous undertaking, and as always appreciate the inclusion of the professional opinions of our experienced members, as in this case.

As is often with the introduction of new codes, there are two areas of concern the industry considers: the goal that the code is trying to achieve, and the implementation of new requirements. As active participants in PlaNYC, the Green Building Code Task Force, the Sustainability Advisory Board, and various other public dialogues regarding sustainability, REBNY is supportive of the goal of the energy conservation code. However, we remain concerned that the requirements of the implementation do not allow for development and construction to remain as fluid as possible. As important as meeting the goals of this legislation, it is also important to ensure that any additional inspections, testing, and documentation requirements allow for as much flexibility on site so as not to increase construction and development costs unnecessarily when construction in New York City is already priced at a significant premium. This is of particular concern as the city takes efforts to diminish its personnel costs and reduce staff at the Department of Buildings, especially when staffing up lags behind the upswing of construction.

To that end, we would ask the City Council and the Department of Buildings to clarify the distinction between progress inspections and these tests outlined in this legislation. We would also request clarification on which specific tests DOB would witness, what the testing requirements are, and what the record keeping requirements are prior to the legislation being passed. And third, given that this is a substantial modification of a law recently passed, clarification as to why these were not considered previously and are if these represent the complete changes expected regarding the energy code in the reasonable future.

More specifically, we have comments on the following sections .

- **Regarding §104.1.2.1:** We request clarification on the specific Testing and Inspection Records requirement
- **Regarding §104.2:** We request clarification on what the testing criteria is. Additionally, the requirement seems overly broad, and may conflict with other provisions of the energy and building code.
- **Regarding §101.4.3 and §104.1.2.1:**
 - Documentation requirements can be burdensome and have the potential to delay necessary repairs. We would encourage the Department and the Council to consider requiring the minimum amount of documentation required to ensure compliance - and therefore should only be applied with specific purpose and not as "just in case" measures.
 - We are supportive of the new code applying to additional, alterations, and renovations, but do not believe that repairs to portions of a building or building system is a significant enough threshold to trigger this new requirement. Many repairs can be accomplished without replacing equipment or structure and maintaining this may require disposing of costly and functional equipment and materials prior to the end of their useful life.
- **Regarding §104.1.2:** The requirement for inspection of prepackaged HVAC units seems unnecessary. If the production of prepackaged systems is of concern to the Department, we suggest outlining specific thresholds at which the Department has concerns over systems to justify their inspection.

Again, as always, we thank you for the opportunity to represent our questions and concerns.

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 343 Res. No. _____
 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Sylvestro Giustino

Address: 11 Penn Place

I represent: BOMAWY

Address: _____

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Appearance Card

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 in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Dottie Harris

Address: 48 Dunbar Drive, N. Sayona N.Y.

I represent: International Code Council

Address: _____

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 in favor in opposition

Date: _____

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Name: SALVATORE ANELLI

Address: ~~285~~ 160-21st ST BKLN 11232

I represent: NECA

Address: _____

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THE CITY OF NEW YORK**

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in favor in opposition

Date: _____

(PLEASE PRINT)

Name: James Colgate

Address: Assistant Commissioner

I represent: Dept of Buildings

Address: 280 Broadway

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I intend to appear and speak on Int. No. T2210-1960 Res. No. _____

in favor in opposition

Date: 11-12-10

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Name: Grace Defina T 1960

Address: 100 Gold Street

I represent: HPD

Address: 100 Gold Street

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Appearance Card

I intend to appear and speak on Int. No. 1960 Res. No. _____

in favor in opposition

Date: 11-12-10

(PLEASE PRINT)

Name: Barbara Flynn, Chief of Staff

Address: 100 Gold St Intergovernmental

I represent: HPD

Address: 100 Gold St

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