



AMERICAN ENGINEERING ALLIANCE

BOWLING GREEN STATION □ P.O. BOX 1446 □ NEW YORK, NEW YORK 10274-1446 □ [212] 606-4053 □ WWW.AEAWORLD.ORG

May 7, 2008

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Testimony at City Hall

Re: Intro. 755-2008 – Repealing the Requirement for the DOB
Commissioner to be a P.E. or R.A.

AEA Testimony at City Hall Opposing Intro. No. 755-2008

The impetus behind the proposed removal of the legal requirement to have a licensed Professional Engineer or Registered Architect is based on a erroneous argument, which is that there are not enough individuals with these qualifications from which to select a Commissioner for the Department of Buildings. The City has an unusually large pool of such individuals, who also possess the requisite management and leadership skills. In fact, New York City technical professionals are actively sought out to provide services for public and private clients all over this country and all over the world.

The existing law was not a result of whim or fancy, but of the recognized necessity of protecting the public health, safety and welfare by ensuring that its public servants had the requisite qualifications to carry out its intent. The law was intended to be, and is, in full compliance with the State laws governing the practice of Engineering. Any rescission of that requirement would be contrary to State Law, and a capricious disregard for the public health and safety. This is so because:

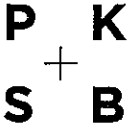
- The DOB Commissioner is the final authority on making Engineering judgments on the efficacy of building designs and the manner in which buildings are constructed and renovated.
- Any effort to place such responsibilities on a subordinate who possesses an appropriate license would just be adding a figurehead to the City's payroll, who could also place undo political influence on the legal practice of Engineering and so jeopardize the public safety.

The proposed Intro. 755 poses a potentially serious threat to public safety. The threat comes from the watering down of standards. Instead of increasing the control over our infrastructure, this legislation actually lessens it; thus inviting even greater disasters than the ones we have recently witnessed.

This situation did not happen overnight. Problems with our infrastructure have been steadily increasing for over fifty years, and simply making a few heads roll will only serve as a transitory solution to an image problem, but will not fix what is wrong. Our infrastructure has become increasingly more complex and its management requires increasing technical expertise. The major problem is rooted in the by-passing of technical professionals and removing them from their proper decision-making roles in the management of our infrastructure. Individuals trained in other disciplines do not have the background to properly weigh the governing Engineering factors in determining the best courses of action to optimally manage our infrastructure, which is primarily a technical endeavor.

In recognition of the need to properly manage our complex infrastructure and to address the need for competent management that Intro 755 is purportedly attempting to address, the American Engineering Alliance, along with the other major technical societies of the City, has introduced Resolution 195-2006 which is presently languishing in this very committee. The Resolution calls for the appointment of a Deputy Mayor for Infrastructure who is a Licensed Professional. The introduction of a Licensed Technical Professional as a Deputy Mayor in charge of our infrastructure is a necessary first step in the right direction. The American Engineering Alliance additionally proposes that the requirement for technical professional licensing be expanded to include other city agencies that have a technical mission such as DOT, DEP and DDC.

We therefore urge you to reconsider this ill-advised legislation presently before you, and instead allocate additional resources to Department of Buildings so that it can truly fulfill its mission to safely facilitate the construction and maintenance of our infrastructure.



FOR THE RECORD

7 May 2008

Honorable Simcha Felder
Chair, Government Operations Committee
New York City Council
250 Broadway, 17th Floor
New York, NY

RE: Int. 755-08
Hearing Testimony

Dear Councilmember Felder and Committee Members:

Thank you for this opportunity to speak in regard to the proposed legislation related to eliminating the requirement for the Commissioner of Buildings to be either a registered architect or licensed professional engineer.

I appreciate the efforts of the city government to address the current situation at the Department of Buildings, and the need to respond to the many changes in the design and construction environment in our City. The complexity of our industry and its regulation requires vigilant oversight.

That said, I oppose this legislation as proposed. The Commissioner of Buildings is charged with making interpretations of the Zoning Resolution and determinations related to the Administrative Code of the City of New York that require both professional experience and technical expertise. As a former commissioner, I completely understand the need to rely on advice of the staff of the agency, but this Commissioner is required to make these decisions and stand behind them. As the law is currently proposed, there is no provision for the necessary professional expertise that the public must rely upon, and a likely further loss of confidence in these decisions.

Sincerely,

A handwritten signature in black ink, appearing to read "Sherida E. Paulsen".

Sherida E. Paulsen, FAIA

HENRY K. STOLZMAN, FAIA
SHERIDA E. PAULSEN, FAIA

PKSB ARCHITECTS
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May 7, 2008

Why the NYC Buildings Commissioner needs to be a Licensed Professional Engineer or Registered Architect.

Presented to the Governmental Operations Committee

By Marc A. Chiffert, P.E.,

President-elect of the NY Chapter of NYSSPE

NYSSPE is a statewide professional organization with 23 local chapters and more than 2,300 members, representing Professional Engineers in all engineering disciplines in five practice divisions: construction, education, government, industry and private practice.

Dear Council Members:

There is no question in everyone's mind including some of NYC's most prominent professional trade and professional organizations, that the NYC DoB needs to be reformed and possibly restructured. We applaud Mayor Bloomberg and his administration for recognizing this and wanting to take immediate action. The NYSSPE is prepared to volunteer and assist in this effort.

However, proposed Local Law 755 introduced by Council Member and Chairperson Simcha Felder (district 44) is not a move in the right direction. To lower the qualifications standard for the appointment of the Buildings Commissioner does not advance any purpose other than permitting the acting Commissioner who is not licensed to remain and to allow future mayors to make of the chief building inspector a strictly political appointment.

Here are ten reasons why it is essential to keep in the NYC Charter the requirement that the DoB commissioner be a licensed professional engineer or registered architect.

1. Final decisions regarding Building Code interpretation, public health and safety and construction site safety procedures rest with the DoB Commissioner. This authority to provide a final interpretation of the building and construction codes does constitute the practice of Engineering and by NYS statute must be performed by a NYS licensed professional engineer.
2. The ultimate responsibility for the safety of the public, construction site safety and code enforcement vests with the DoB Commissioner. To lower the qualification standard for the appointment of the DoB Commissioner would effectively diminish the importance of code enforcement and site safety in New York City.
3. The DoB Commissioner must be a highly knowledgeable individual, and be able to discuss technical, engineering and construction related matters with its staff, trade agencies and other City officials including the Mayor. A PE or a RA license does confer such competence and experience.
4. The DoB's ability to monitor construction sites and to maintain a fair and reasonable approval process has gone astray. The NYC DoB needs new leadership who has an in-depth understanding of the nuances of the practice of engineering and understands the subtleties of the business of Professional Engineering and Registered Architecture. The DoB Commissioner must understand first-hand the contractual relationships among expeditors, shop drawing designers, crane and scaffolding support designers, and other professionals in the construction inspection process. In order to be able to reform the department, including managing these contractual relationships to avoid conflicts of interest, the DoB Commissioner will need to be, and have been, practicing as a licensed professional engineer or architect.
5. The DoB relies heavily on the integrity and ethical values of licensed professionals during the reviews of the hundreds of applications submitted daily. The DoB Commissioner must be a role model in terms of both competency and ethics to



these licensed professionals and must be held to the same ethical and professional standards.

6. The DoB has the primary technical oversight responsibility for building codes, construction safety codes and energy codes as well as the application of new engineering principles. As part of this process the DoB Commissioner has the ultimate decision power to appoint and promote qualified technical managers, many of whom are PEs and RAs. It is important from a management standpoint and to foster employee morale and respect for the head of the Agency that its Commissioner be a licensed professional.
7. There are many qualified PEs and RAs in NYC who have demonstrated both technical and managerial expertise, and the ability to be effective communicators. PEs and RAs regularly make presentations to community boards as well as technical advisory boards. There are licensed professionals who can be great public spokespersons for this administration.
8. We understand that the size of the position of DoB Commissioner requires strong management skills. We also know that some of the largest companies in the world are engineering companies that are led by PEs. We have submitted potential qualified candidates who are PEs to the Mayors Office for his consideration, and I know that the architectural societies have done the same.
9. As business owners, we understand and sympathize with the Bloomberg administration's difficulty to recruit a qualified Professional Engineer to fill this post. Last year, the main theme of the annual convention of the National Society of Professional Engineers was the difficulty in recruiting young engineers. Presently, our country is in great need of engineers and Professional Engineers. The stature of the licensed professional engineer is important to our society. It is important as a matter of public policy to value the PE license, today and for future

generations. To remove the licensure requirement for the NYC DoB Commissioner is not good public policy.

10. The NYC Charter requiring that the DoB Commissioner be a licensed PE or RA is similar to other New York City laws, such as those governing the Board of Standards and Appeals. These laws recognize the importance not only of technical competence, but also of the ethical and moral aspects in the application process relating to building design, construction and development. This ethical aspect is governed by the professional oath and obligations undertaken by the licensed professional engineer or registered architect.

In conclusion, reforms are needed at the DoB, maybe even structural reforms, such as possibly splitting the DoB into various agencies as suggested by some trade and labor organizations. But the need for reform does not preclude the need for the head of the Buildings Department to be an individual whose professional ethics and competence are governed by statute and by a professional oath.

On behalf of my fellow professionals, I urge the City Council not to modify the present charter, not to eliminate the professional licensure required of the individuals in charge of the construction of our city and ask the administration to find the most qualified individual who also is a licensed professional.

Marc A. Chiffert, P.E.
NYSSPE, NY Chapter President
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**Testimony of Kenneth Eipel, P.E., President
ACEC New York/Metropolitan Region
Before the New York City Council
Governmental Operations Committee
May 7, 2008**

Good afternoon Mr. Chairman and Members of the Committee, my name is Ken Eipel.

I am president of the American Council of Engineering Companies of New York, Metropolitan Region and a licensed Professional Engineer. The Council represents over 240 consulting engineering firms throughout New York State with the largest concentration of firms being located in the five boroughs of New York City.

ACEC New York is strongly opposed to Intro. 755, the local law to amend the New York City Charter by eliminating the requirement that the Commissioner of Buildings be a licensed professional engineer or registered architect.

The Commissioner of the Buildings Department is charged with interpreting as well as enforcing the City's building codes and zoning regulations, and numerous state laws concerning the construction and alteration of buildings in New York City. As such, the Commissioner is required to exercise judgment on highly technical matters that require specific training and experience. In recent years, nearly 60 ACEC New York members donated thousands of hours to New York City when they volunteered to sit on the technical code committees that would revise and update the building code. It was a massive undertaking, involving hundreds of professionals and many different groups, but the design professionals respected the decisions that the Commissioner made to reconcile

conflicting technical opinions because we knew that she had the professional qualifications to make informed judgments.

The Administration makes two arguments in favor of the bill. Both are flawed. First, they argue that the technical training can reside in staff on whom the Commissioner can rely. Having worked with hundreds of owners, managers and developers throughout my 47 year career, I can assure you that even the most talented of them can rarely reconcile conflicting technical approaches presented by licensed professionals.

Second, they argue that the talent pool is too small to provide the leadership the agency needs, particularly given that the Administration has only a year and a half left. That argument would have carried more weight had it been made at the end of a thoughtful search, rather than simultaneously with the announcement of the vacancy. There are many qualified professionals, including in senior positions at City agencies, who will step forth to be considered, but only if they believe they would have a fair shot at being considered, that the Council and the Mayor appreciate their professional training, and most importantly, that they will be given the resources necessary to bring the DOB to the level that New Yorkers deserve. Don't blame the professionals because the City has chosen not to give the agency the resources it needed to keep pace with the incredible pace of construction experienced in the last few years.

And please don't make policy for the future based on short term needs. The license rule was put into effect specifically because of the risk that a Mayor –perhaps not this one- would make an unqualified political appointment. Once you take this requirement out of the Charter – a diminution of the Mayor's power- a Council effort to reinstate it would require a referendum.

I can tell you that it is incredibly difficult to secure and maintain a professional license in engineering and architecture. Licensure means that you are held to the highest professional ethical standards, must adhere to ethical standards appropriate to the profession and complete on-going professional education. It is only appropriate for an agency that is responsible for overseeing the work of thousands of professional engineers and architects in New York to have at its helm a leader who is also a licensed professional. To do anything less, will simply lower the standards for appointment of the New York City Commissioner of Buildings and put the health, safety and welfare of more than 8 million New Yorkers at risk.

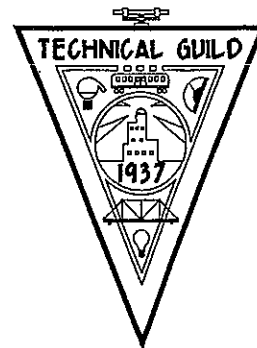
We ask that you say no to Intro. 755.

Thank you.

Civil Service Technical Guild

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125 Barclay Street, 6th Fl., New York, NY 10007-2179

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May 7, 2008

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Mayor of the City of New York
City Hall
New York, NY 10007

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RE: NYC Department of Buildings Commissioner
Intro 755 -2008 repealing this requirements for the
D.O.B. Commissioner to be P.E. or R.A.

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The Civil Service Technical Guild, Local 375, District Council 37, AFSCME represents some 6,700 Engineer, Architects, Chemists, Planners and professional technical titles. We build, rebuild and maintain the City of New York.

Please allow this letter to express our deep concern about two matters of critical importance relative to the health, safety and welfare of the more than 8 million residents of New York City, the most complex and densely populated city in the United States.

1. The immediate need to fill the position of Department of Buildings Commissioner with a licensed design professional.
2. Reports of considerations to downgrade the existing City Charter requirement that the position be held by a licensed design professional.

Execution of the duties of Buildings Commissioner absolutely constitutes the practice of professional engineering or architecture as defined by the New York State Education Law. The functions and duties of the Commissioner of Buildings fall within the definition of the practice of professional engineering and architecture requiring a license irrespective of the language of the Charter. The resultant compromise to safeguarding of life, health and property is our real concern. Leadership of New York City's Division of Buildings must be provided by a qualified licensed design professional.

The existing licensure requirements for this position are founded on the important basic protections afforded to the residents of New York City. Licensed design professionals are uniquely qualified to provide leadership to the Department of Buildings due to rigorous education, examination and experience requirements prescribed by law. Additionally regulations governing New York design professionals include specific provisions relative to their obligation to safeguard public safety as well as maintaining strict standards of professional conduct and moral character.

We urge you to fill the vacant position with a licensed design professional and cease all consideration of downgrading of the position requirements.

Thank you for your attention to this matter and feel free to contact me if we can be of any assistance to you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ahmed Shakir', written in a cursive style.

Ahmed Shakir, P.E.
Secretary



ARCHITECTS COUNCIL OF NEW YORK CITY INC.

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MICHAEL ZENREICH

May 7, 2008

Testimony of Michael J. Macaluso, President
Architects Council of New York City
Before the New York City Council Committee
on Government Affairs on **Intro. No. 755.2008**

Honored Ladies and Gentlemen,

The members of the Architects Council of New York City wishes to express their gratitude to the City Council and the Mayor's office for this occasion to present our views and opinions regarding **Intro number 755.2008** presented to the Council on April 30, 2008.

The Architects Council which represents the city-wide architectural community strongly urges that the requirements set forth in Section 641 of the New York City Charter remain **unchanged.**

The current language requires that the Commissioner of the Department of Buildings is appointed to an individual who holds a license to practice Architecture or Engineering granted by the State of New York. The City Council should be aware that this license is only granted to those candidates who provide detailed evidence of intensive professional education, certified internship and the successful completion of some of the most vigorous testing that members of our society may be asked to undertake. Furthermore, in order for one to maintain their license, it is mandated that they undergo many hours of certified continuing education primarily focused on Health, Safety and Welfare.

It is clear that the basic standards for licensure are comprehensive and that maintenance of a license is a career long, if not, life long demand.

It is specifically for these reasons that the Commissioner of Buildings possess the highest qualifications necessary to maintain professional standing as the leader of this important agency. The overwhelming and comprehensive nature of education, experience and testing together with annual, mandated updating of qualifications provides an over arching understating of the very complex design and construction industry.

The architectural and engineering community fully understands the need for the highest levels of business management to assist in operating an efficient and crucial service to the citizens of New York and we all support the want for the most professional management team available under the direction of a licensed Commissioner.

Accordingly, the Architects Council of New York in concert with many of the other professional organizations within the City strongly encourage the Council to never lower their standards for leadership and offer the following list of licensed ladies and gentlemen for consideration as the Commissioner of Buildings in the great City of New York.

Thank you for this opportunity to share the views of thousands of architects across all of the boroughs of the City.

Respectfully submitted,



Michael J. Macaluso, RA, FARA, AIA, NCARB

Recommended Candidates for Commissioner of Department of Buildings.

Raymond Irrera, RA, AIA
Raymond Irrera & Associates
14 East 38th Street, 11th Floor
New York, NY 10016
(212) 755-0650

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Assistant Commissioner
Department of Buildings
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Derek Lee, RA
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Charles Rizzo & Associates
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Robert Strong, RA
120 East 34th Street, 15J
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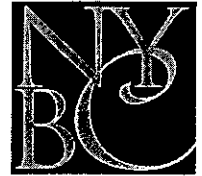
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Paul Bonfilio, RA
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Great Neck, NY 11021

I Donald Weston, RA, AIA
Martyn & Don Weston Architects
100 Remsen Street - 6K
Brooklyn, NY 11201
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**Testimony of
Richard T. Anderson, President
New York Building Congress
Before the
New York City Council
Committee on Government Affairs
on
Int. No. 755
City Hall**



**NEW YORK
BUILDING
CONGRESS**

May 7, 2008

The New York Building Congress appreciates this opportunity to urge the City Council to retain the requirement in Section 641 of the New York City Charter that the commissioner of the Department of Buildings be a registered architect or licensed professional engineer in good standing under the state education law. This requirement would be eliminated by Int. No. 755, which is being introduced to the Council at the request of the Mayor's Office.

The Building Congress understands that the recent resignation of Patricia Lancaster with only 18 months remaining in the Bloomberg administration, together with the criticism surrounding the Department in the wake of several tragic construction-related accidents and deaths, leaves the Mayor's Office with an important vacancy to fill under difficult circumstances. However, every effort to fill that vacancy by a licensed professional, as the existing law requires, should be exhausted and so demonstrated to the City Council before any long-term

measures – like amending the City Charter - are taken to widen the pool of potential candidates.

Surely the Department needs a good manager to administer its operations, but the responsibilities of and authority granted to the commissioner demand that the position be held first and foremost by a licensed professional. As the final authority on the evaluation and approval of construction plans and interpretation of the Building Codes, the commissioner must exercise judgment on highly technical matters. The expertise needed to make the “close calls” and set important Department policy affecting public health and safety requires the kind of specific training and experience that only the rigors of professional licensure – through its standards and testing - can provide.

The entire building industry values and relies upon that expertise. The Building Congress urges the City Council to ensure that this critical qualification remain in place by rejecting Int. No. 755. A long-term measure – amendment of the City Charter - should not be used in this case to solve what may be a short-term problem.

May 7, 2008

Esteemed members of the Council:

Good afternoon. My name is Sheldon Lobel. I am a zoning and land use attorney, and am testifying today on behalf of the Zoning Advisory Council. The council, also called the ZAC, has been in existence since 1960 and represents over 125 attorneys, architects, engineers and land use professionals. ZAC members are collectively on the front lines with regard to the New York City Department of Buildings. We are primarily responsible for filing applications, meeting with examiners and commissioners, challenging interpretations of the DOB and generally helping to crystallize the complex world of building code and zoning regulations.

Some of us have been around long enough to remember that years ago the City Charter was amended to eliminate the architect/engineer qualification for the Building Commissioner and a Commissioner was appointed who was not an architect or engineer. Then, in the 70's the architect/engineer qualification was placed back in the Charter because it was determined that the appointment was based more for political reasons than on engineering or architectural expertise. I believe a lawsuit was filed against the city and a settlement was reached stipulating that the Commissioner would thereafter be an architect or engineer. Now, the amendment would take us back to the situation which was tried, and failed and also would violate the agreement terms of the settlement.

It is the opinion of the members of ZAC that it is of tantamount importance that the requirements in the City Charter relating to the professional expertise of the Buildings Commissioner not be changed. The reasons are clear and are as follows:

1. **SAFETY** – No matter how many professionals at DOB review applications and interpretations brought before that agency, the Buildings Commissioner is responsible for making the final determination. Our members regularly meet with the Buildings Commissioner when proposed plans are challenged on their compliance with the Building Code and the Zoning Resolution. Allowing the role of Buildings Commissioner to be filled by someone without the requisite expertise to fully comprehend such plans would have potentially devastating results. In this difficult time when safety at building sites has become a glaring issue, the requirement that an architect or engineer be installed as the Buildings Commissioner should be strengthened, not weakened.
2. **EXPERIENCE** – DOB is presented with thousands of applications each year. Our members make great demands on the Buildings Commissioner, as often the commissioner will be the last resort for moving a project along. While other professionals may offer experience with regard to organizational skills, no professionals other than an architect or an engineer will have the requisite experience to finally settle a matter of building code or zoning compliance. The set of issues facing the Buildings Commissioner is too specific to allow an individual without the requisite experience in plan review to be installed in this position.

3. DRASTIC CHANGES FOR THE BUILDING CODE TO BE IMPLEMENTED WITHIN 2 MONTHS.

It will be especially important to have an architect or engineer in charge of the Department when our new Building Code becomes effective. The drastic change in the Code will require that the head of the Department is ready to respond to the challenge and issues raised by this new Code.

- 4. INSTITUTIONAL KNOWLEDGE** – Architects and engineers are the professionals with the highest degree of knowledge of how DOB is run. There are already tremendous problems with inefficiencies at DOB. Plan reviews can run from weeks into months, permits are often revoked in error, and stop work orders remain in place when alleged non-compliances have been lifted. It is only some one who has had the day-to-day knowledge of operating within the DOB system who can not only sit in its highest post, but who can make things better for all of us. That person is necessarily an architect or an engineer who has been in the trenches and who would know on Day One the improvements that are necessary.

We understand that different perspectives are often valuable in different arenas. Our wonderful City has thrived with leadership provided by professionals as diverse as prosecuting attorneys and Chief Executive Officers. The position of Buildings Commissioner, however, is different. Without a licensed architect or engineer in that role, the SAFETY, OVERSIGHT and OPERATIONS of an agency which relies heavily on technical expertise will be greatly compromised. Thank you.

SHELDON LOBEL

PRESIDENT

ZONING ADVISORY COUNCIL



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The Honorable Michael R. Bloomberg
Mayor of the City of New York
City Hall
New York, NY 10007

April 28, 2008

RE: NYC Department of Buildings Commissioner

Dear Mayor Bloomberg:

Please allow this letter to express our deep concern about two matters of critical importance relative to the health, safety and welfare of the more than 8 million residents of New York City, the most complex and densely populated city in the United States.

1. The immediate need to fill the position of Department of Buildings Commissioner with a licensed design professional.
2. Reports of considerations to downgrade the existing City Charter requirement that the position be held by a licensed design professional.

Execution of the duties of Buildings Commissioner absolutely constitutes the practice of professional engineering or architecture as defined by the New York State Education Law. The functions and duties of the Commissioner of Buildings fall within the definition of the practice of professional engineering and architecture requiring a license irrespective of the language of the Charter. While we consider the temporary or permanent dismissal of this fact to be a violation of law, the resultant compromise to safeguarding of life, health and property is our real concern. Leadership of New York City's Division of Buildings must be provided by a qualified licensed design professional.

The existing licensure requirements for this position are founded on the important basic protections afforded to the residents of New York City. Licensed design professionals are uniquely qualified to provide leadership to the Department of Buildings due to rigorous education, examination and experience requirements prescribed by law. Additionally, regulations governing New York design professionals include specific provisions relative to their obligation to safeguard public safety as well as maintaining strict standards of professional conduct and moral character.

Having the Department of Buildings led by anyone other than a licensed design professional jeopardizes public safety in a manner equivalent to having the Department of Health led by anyone other than a medical doctor. Similarly, the appointment of a non-lawyer as the chief legal official in the Corporation's Counsel's Office simply would not be countenanced.

In the past, the New York State Society of Professional Engineers has been vigilant about this position, having litigated the issue at least twice. The Society will give strong consideration to the use of all avenues at its disposal to insure that existing laws are enforced.

- OVER -

We urge you to fill the vacant position with a licensed design professional and cease all consideration of downgrading of the position requirements.

Thank you for your attention to this matter and feel free to contact me if we can be of any assistance to you.

Sincerely,



Robert P. Stelianou, PE
President

Copy – New York City Council Members

QUEENS COUNTY CHAPTER FOR THE RECORD
OF
THE NEW YORK STATE SOCIETY OF PROFESSIONAL ENGINEERS

78-66 79th Place, Glendale NY 11385

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FILOLAOS KEFALAS, PE
Treasurer

May 7th, 2008

Governmental Operations Simcha Felder, Chair
New York City Council

Re: Int 755 - By Council Member Felder (by request of the Mayor) - A Local Law to amend the New York City charter in relation to the qualifications of the commissioner of Buildings

Dear Mr Felder,

The Queens Chapter of the New York State Society of Professional Engineers unilaterally opposes the elimination of the licensure requirement for the Building Commissioner. Currently, the Building Commissioner must be licensed by the New York State Education Department as either a Professional Engineer or a Registered Architect.

The city charter charges the position of the Building Commissioner with technical responsibilities that are defined by the NYS Title VIII Education Law as the practice of Architecture and Engineering. Such duties are defined by the Building Code as follows:

“With respect to buildings and structures, the commissioner shall have the following powers and duties exclusively”...”to examine and approve or disapprove plans for the construction or alteration of any building or structure, including the installation or alteration of any service equipment therein, and to direct the inspection of such building or structure, and the service equipment therein, in the course of construction, installation or alteration;”...and “The commissioner shall review and certify any proposed subdivision of a zoning lot with any building thereon, in order to ensure that the subdivision will not result in any violation of the applicable zoning laws”

The administration and enforcement of the Building Code in NYC is both a highly technical as well as managerial position. It is the role of the commissioner to lead by example and by professionalism. As licensed individuals, Engineers and Architects are held accountable to a higher standard that is defined by Part 29, Unprofessional Conduct (of the professions). We are charged with the safeguarding of life, health and property and held accountable to that standard. Why would you want the Commissioner to be held to anything less?



Brian E. Flynn, PE

President, Queens Chapter NYSSPE

Title VIII Education Law

Article 145, Professional Engineering and Land Surveying

§7201. Definition of practice of engineering. The practice of the profession of engineering is defined as performing professional service such as consultation, investigation, evaluation, planning, design or supervision of construction or operation in connection with any utilities, structures, buildings, machines, equipment, processes, works, or projects wherein the safeguarding of life, health and property is concerned, when such service or work requires the application of engineering principles and data.

Article 147, Architecture

§ 7301. The practice of the profession of architecture is defined as rendering or offering to render services which require the application of the art, science, and aesthetics of design and construction of buildings, groups of buildings, including their components and appurtenances and the spaces around them wherein the safeguarding of life, health, property, and public welfare is concerned. Such services include, but are not limited to consultation, evaluation, planning, the provision of preliminary studies, designs, construction documents, construction management, and the administration of construction contracts.



**TESTIMONY OF ANTHONY W. CROWELL, COUNSELOR TO THE MAYOR,
ON INTRO. 755 BEFORE THE NEW YORK CITY COUNCIL
COMMITTEE ON GOVERNMENTAL OPERATIONS**

MAY 7, 2008

Good afternoon Chair Felder and members of the Committee on Governmental Operations. My name is Anthony Crowell and I am Counselor to Mayor Michael R. Bloomberg. In that capacity, I work closely with the Mayor's Appointments Office which identifies, among other things, candidates to fill agency head positions. I am here today on behalf of the Administration to testify in strong support of Intro. 755 to amend the City Charter to remove the requirement that the Commissioner of the Department of Buildings either be a registered architect or a licensed professional engineer.

It goes without saying that managing the Department of Buildings is one of the toughest jobs in City service. Having assisted in the screening process to fill the position of Buildings Commissioner in 2002, I can tell you it took a very long time to find the right candidate who not only met the credential and City residency requirements, but who also had the managerial track record to take on the job. In fact, because of the challenge in recruiting, this agency head position was one of the last to be filled by the Mayor after he took office. I recall being asked during this difficult search process whether the credential requirement for the Commissioner could be waived. It could not be absent a change in local law.

As the Administration now turns to recruiting a new Commissioner, it finds itself in a position similar to the one it faced in 2002. However, this time, there are only 603 days left in the Administration and we need to identify someone with the right experience and skills to manage the agency's core functions, continue to reform the agency's operations, begin to implement the newly adopted Building Code, and enhance the agency's enforcement apparatus to maximize public safety.

Indeed, New York City's construction industry is among the most diverse and talented in the world, from the architects who design buildings to the engineers, laborers and specialized contractors who build them, to the private and City safety experts who ensure, to the extent possible, that all of this activity happens safely. The regulation of all of this activity must be undertaken by an agency overseen by a seasoned, professional manager with experience in the field—but the Charter should not be dispositive that that experience be necessarily as a registered architect or a licensed professional engineer. That is, of course, not to say that potential candidates with these credentials are not being sought and seriously considered. They certainly are.

Each year, the Department is responsible for enforcing the safe and lawful use, construction and demolition of the City's more than 950,000 buildings. The Department's 1,200 employees achieve this by enforcing the Building Code, the Zoning Resolution, the Multiple Dwellings Law, portions of the Fire Code, and numerous other State and federal laws relating to construction; and this enforcement requires varying degrees of technical

and professional skill that is dependent on the activity being performed. The Buildings

Department:

- Processes applications for development;
- Reviews architectural drawings and designs for building construction;
- Issues and renews work permits for construction, demolitions and alterations throughout the five boroughs;
- Monitors insurance requirements;
- Performs more than 400,000 site inspections each year to enforce the safety requirements of the Building and Fire Codes, including high-rise construction and demolition projects, crane inspections, residential construction, and other activities. In connection with these inspections, DOB inspectors require owners/developers/contractors to correct hazardous or violating conditions and monitors compliance with violations that have been issued;
- These inspections include Department oversight of regular maintenance requirements for elevators, boilers, facades, sidewalk sheds and amusement rides;
- Issues or renews more than 12,000 licenses every year for 18 trades that fall into 27 different categories;
- Responds to emergencies and conducts forensic investigations of accidents and other incidents at buildings and construction sites under its jurisdiction.

The breadth and depth of activity undertaken by the Department is truly staggering. For example, in 2007, DOB issued approximately 160,000 permits; conducted 400,000 site inspections; licensed or renewed 12,935 tradespeople; and approved 70,597 building applications. The Buildings Commissioner must understand all of these processes and exercise effective oversight of the various technical and professional experts who review plans, issue permits, and conduct inspections. But exercising effective oversight does not require that the Commissioner him- or herself

approve a particular plan, or personally inspect properties to identify a specific structural defect. Above all, the Buildings Commissioner must be a manager who can effectively cause the many specialized disciplines necessary to regulate construction in this City to work in concert to keep the City's construction workers, first responders and all New Yorkers safe. Broadly defined, the job of the Commissioner of Buildings is to develop and enforce an efficient regulatory framework for this highly complex industry—a task that requires skills not necessarily associated with a particular trade license or technical pedigree. While a registered architect or licensed professional engineer may possess these qualities, people with experience in business, law and/or public administration could be equally qualified to manage this agency and incentivize the various professions and industries it regulates to comply with the law and act safely.

I would like to make clear that it will always be the case that the Department of Buildings will be an agency that employs numerous credentialed professionals on whose expertise the Commissioner will rely, including each borough commissioner, all of whom either are currently a registered architect or a licensed professional engineer, as is the Deputy Commissioner for Technical Affairs and Chief Code Engineer. These are the professionals whose expertise and judgment *any* Commissioner, regardless of his or her credentials, would continue to rely on in ensuring the agency carries out its mandates. And, it is the Commissioner's job to ensure that each of these staffers can undertake their function in a supportive environment where highest degrees of professionalism and accountability are fostered.

On a final note, we believe it is also important to point out that several other major cities, including Los Angeles and Chicago, do not require the heads of their buildings/construction agencies to be registered architects or licensed professional engineers.

In conclusion, we believe that the Commissioner of Buildings must have a strong and diverse skill-set and the professional experience necessary to understand the work of the agency and how it is performed, as well as be a manager and administrator of the highest order. But, the Commissioner need not be a registered architect or licensed professional engineer. This proposed legislation will allow us to cast as wide a net as possible in our search for a new Commissioner, and thus allow us to attract the best candidate possible. Accordingly, we request that the Committee and Council approve Intro. 755 expeditiously. Thank you for the opportunity to testify and I would be happy to address any questions you may have.

**Testimony submitted to the Government Operation Committee
of The New York City Council
regarding Intro. 0755-2008**

Ladies and Gentleman of the City Council Government Operations Committee:

You have been presented with Intro number 755-2008 to eliminate the requirement for the NYC Commissioner of Buildings to be a New York State (NYS) licensed engineer or registered architect. As a registered Architect and a person working in the construction industry for over 25 years from both the private and public sectors, as well as from the contractor and professional perspective, I wish to add my voice to those who have advised that the proposed reduction of the qualification requirements, would be detrimental to the health and safety of the citizens and visitors of our City

The NYC Charter, rightly recognizes that New York City is a densely built environment with many properties that contain unique conditions, which can not be specifically identified and codified. The NYC Charter therefore, thoughtfully entrusts to the NYC Department of Buildings' Commissioner, exclusive powers and duties that no other non-elected governmental individual has. These include the authority and responsibility to analyze proposed alternatives to specific requirements of the New York City Building Code, for individual projects where, due to specific circumstances of that project, it is not possible to adhere to the strict letter of the Building Code. Further, the Commissioner may permit the implementation of a proposed alternative, provided they find that the spirit of the Building Code "shall be observed, safety secured and substantial justice done."

Due to this enormous responsibility, the complex nature of building design, and the ever evolving new construction materials, techniques and environmental issues, it is imperative that the Commissioner personally possess the specialized knowledge to review and decide these issues of public health and safety. Only an individual who has been granted a license or registration as an engineer or architect respectively, has demonstrated such specialized knowledge and in New York State, is charged by that license or registration to protect the public health, safety and welfare. NYS rules of both professions require the individual making those decisions to have complete final authority in such matters and NOT act through an individual that NYS has not determined to be qualified in these areas by way of registration and/or license.

The City of NY and the Dept. of Buildings recently confirmed their understanding of how important this professional expertise and perspective is, in making public safety decisions, by retaining outside engineering consultants to undertake an "intensive in-depth review of high-risk construction activities." While this action is laudable, it is critical that the Dept. of Buildings maintain the in-house knowledge necessary to fully understand these issues and make educated decisions on these matters.

In addition to technical knowledge, an intimate familiarity with the Dept. of Buildings, where it has been and where it is going, is an important asset for the next Commissioner of that Department. It is particularly so, due to the relatively short duration of this appointment and the great quantity of new initiatives currently underway, such as the implementation of the new construction codes, new filing /review procedures and new inspection/enforcement procedures. The learning curve for an individual from outside the Department of Building would be enormous and could severely hamper any new Commissioner from being effective.

I therefore strongly encourage all members of the City government to maintain the safeguard of requiring the Commissioner of the Dept of Buildings to be a New York State licensed engineer or registered architect and to seek such qualified individual from within the current ranks of the Dept. of Buildings.

Sincerely,



Mark Kaplan, R.A.

PUBLIC HEARING ON INTRO. 755
BEFORE THE GOVERNMENTAL OPERATIONS COMMITTEE
MAY 7, 2008

Good afternoon.

My name is John Hennessy. I am the national Chairman of the American Council of Engineering Companies (ACEC). In the past I have been the President of American Council of Engineering Companies of New York, the Chairman of the New York Building Congress, and the Chairman and CEO of Syska Hennessy Group an engineering firm my grandfather founded here in New York City in 1928.

I am here to speak against Intro. 755 ll.

The job of Buildings Commissioner requires a particular expertise the goes beyond just management skills. It requires the technical expertise of an architect or engineer who understands the technical issues of buildings and how they operate.

Would you allow the position of Corporation Council to be filled by a non lawyer, or a Health Commissioner who is a non-medical professional?

Buildings are complicated. Without expertise and hands on experience the commissioner is at a severe disadvantage.

I understand that the recent spate of deadly accidents have brought special attention to the building department. And one is tempted to see the solution to these tragedies to be a management solution, however the job of buildings commissioner is to assure that we have safe building throughout the life of that building, not just during its construction.

Architects and engineers are licensed to protect the public safety. They go through years of education and training in order to assure that they know what they are doing when they design buildings. While the analogy is not perfect, by contrast a lawyer can pass the bar exam immediately upon graduation from law school and practice law, a designer needs 4 years of experience under the direct supervision of a licensed professional after receiving his or her degree before they can obtain their license.

Designers clearly better understand the interaction of various parts and systems of the building and how they can pose a public safety risk.

While it is always painful to remember the events of September 11th it is also a good case in point to look at to see the value of a professional as the buildings commissioner.

The twin towers structural system was ground breaking at the time. It was a system that was not strictly in accordance with the building code at the time. The structural engineer proposed a new and elegant way to erect the buildings. And it worked well for many, many years, in fact it withstood an attack in February of 1993. And when it was attacked on September 11th it stood up long enough for the vast majority of the buildings occupants to safely escape.

My question to you is would you want the ultimate authority on whether to accept the new structural system to lie in the hands of a good manager who has no experience in the business of buildings?

We have licensure laws and continuing education requirements to assure that those that design buildings are competent. Why would we remove a requirement that the person charged with the responsibility of regulating those who design and construct buildings is technically competent in the art?

Wed May 7, 2008

Re:

City Council Meeting on Legislation proposed
by Mayor Bloomberg, Qualifications for DOB Comm.

Simka Felder 44th Councilmatic ^{Commissioner} ~~Commissioner~~ ^{Commissioner} ~~Dist~~

To: Hearing Committee

From: IRWIN FRUCHTMAN P.E.

NYC BUILDING COMM. 1978-1983

Consulting ENG. 1952-1962

- Chief Engineer NYC Planning Department
Planner 1962-1978

- Vice President VDC's + 2nd Post. Dev. Corp
For Design + Development 1983-1988

- NYC Convention Center (Javits)
Coordinating Engineer for utilities
+ other engineering problems

- Times Sq. Subway Complex
Utility Coordination + Design

- Consulting Engineer, Forensic Study

- Author - New York City - A Vision of The
Future

Council Persons -

- If you want to turn this Dept
into a political dumping place, pass this
legislation.

- In my 5 yrs as BC we built more,
inspected more, treated people as
professionals, started a training program
and the BEST Squad with a great
staff who had pride in this city +
themselves.

so VOTE NO on 155-NO

The Engineer's Creed

As a professional Engineer, I dedicate my professional knowledge and skill to the advancement and betterment of human welfare,

I pledge:

To give the utmost of performance:

To participate in none but honest enterprise:

To live and work according to the laws of men and the highest standards of professional conduct:

To place service before profit, the honor and standing of the profession before personal advantage, and the public welfare above all other considerations.

In humility and with need for Divine Guidance, I make this pledge.

Adopted by: the National Society of Professional Engineers, June

<http://dcspe.home.mindspring...> 4/23/2008



AIA New York State, Inc.

An Organization of The American Institute of Architects

Executive Committee

May 6, 2008

Orlando T. Maione, AIA
President
Long Island

To: Members of the City Council

Burton L. Roslyn, AIA
President Elect
New York

Re: Commissioner, Department of Buildings

Russell A. Davidson, AIA
Immediate Past President
Westchester/Mid-Hudson

AIA New York State, representing 6,200 architects, half of whom are in the City of New York, strongly objects to the proposed local law which would repeal the requirement that the Commissioner of the Department of Buildings be either a registered architect or a professional engineer. If enacted, such local law would threaten the health, welfare, and safety of residents of the City of New York.

Michael Shilale, AIA
VP Government Advocacy
Westchester/Mid-Hudson

The duties of the Commissioner, as outlined in the City Charter, require that he or she make the final decisions regarding the construction or alteration of any building or structure. To carry out that duty, the Commissioner must have the required education, training and background that, by definition, can ONLY be provided by a registered architect or professional engineer. The licensing requirements for such professionals ensure that the ability to fulfill the duties of Commissioner is entrusted to someone with the proper training, rather than merely an administrator. The residents of the City of New York should have the security that a licensed design professional is making the final decisions regarding the built environment.

David L. Businelli, AIA
VP Public Advocacy
Staten Island

Finally, we acknowledge that all is not perfect within the Department of Buildings, nor in other departments as well. However, we remind you that in recent years, unprecedented building activity has been on-going in the City with an overwhelming rate of success in ensuring a safe built environment for the residents of New York. That success will continue only with a licensed design professional as Commissioner.

John Notaro, AIA
Treasurer
Long Island

We urge you to defeat the proposed local law.

Lawrence Liberatore, AIA
Secretary
Central New York

Orlando T. Maione

Terrence E. O'Neal, AIA
Regional Director
New York

Orlando T. Maione, AIA
2008 President

Burton L. Roslyn
2009 President

Leevi Kiil, FAIA
Regional Director
New York

Dennis A. Andrejko, AIA
Regional Director
Buffalo/Western New York

Edward C. Farrell
Executive Director

AIA New York Chapter

The Founding Chapter of The American Institute of Architects



Hon. Simcha Felder, Chair, Governmental Operations Committee
City Council, City Hall
New York City

Dear Chair Felder and Members of the Governmental Operations Committee:

On behalf of the American Institute of Architects New York Chapter and its 4,200 members in New York, we are here in opposition to Intro 755. The Commissioner of the Department of Buildings must be a registered architect or professional engineer. The current law is logical and necessary.

By letters, e-mails and petitions, you have heard from many of your constituents about the reasons why the head of the agency that guarantees safety on construction sites must be trained and tested in how buildings come together, how they rise, and how they stand. The process by which an architect or engineer becomes licensed by the State of New York is arduous, arguably even harder than passing the bar exam in our State. It tests comprehensive knowledge of codes, zoning, building practices and environmental standards, to name but four of the many constituent issues that are important in neighborhoods from Co-op City to Gravesend, from Midwood to Central Harlem, from Ozone Park to East New York.

In addition to our technical training, architects, by law, are personally responsible for our work and have a fiduciary responsibility to maintain the health, safety, and welfare of the public. As licensed professionals, we bring to the task a special degree of commitment that we believe is crucial to the position of Buildings Commissioner.

The City Council has taken the lead in bringing a modern building code to the City of New York. We need an architect or engineer at the head of the department that interprets the code, guaranteeing building safety in all of our neighborhoods.

The City Council has taken the lead in stopping over-development in our communities, asking whether developer rapacity has led to deliberate misinterpretation of the Zoning Resolution. We need an architect or engineer at the head of the department that enforces the City's zoning, guaranteeing that political pressures and expediency do not engender neighborhood-busting mistakes.

The City Council, receiving testimony yesterday at the Housing & Buildings Committee, has taken the lead in pushing for progressive reform of Building Department operations, enforcement and communications, insisting that building practices be forcefully regulated. We need an architect or engineer at the head of the department that by its actions gives our communities appropriate scale and comfort, someone who knows about the economic and material determinants of buildings, not just how to manage a large and complicated bureaucracy.

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New York, New York 10012
212.683.0023
212.696.5022 fax
e-mail: info@aiany.org
web site: www.aiany.org

The City Council, by Local Law and leadership in setting environmental priorities, has insisted that New York City attain a greener future and carbon footprint reduction by regulating building materials and construction processes. We need an architect or engineer at the head of the department that enforces these laws, and assures our children and our children's children that their future will not be green-wash rhetoric, but actually achieve through aggressive action significant change in how our buildings help, not hurt, the environment.

There are some in this building who insist that the business of New York is business; that any agency, any department, can be run like a Fortune 500 company; that good management skills are more important than mere credentials, stale tradition, or a philosophy that knowledge matters. They are half right. This is not about tradition, or a return to the bow-tied past. This is not about credentials or elitism or silly glasses. This is all about professionalism, and the knowledge needed for the person heading the Buildings Department to make the tough decisions when there is nobody else to call, nobody else to consult.

You would not want your kids treated by doctors who learned their medical skills by watching Grey's Anatomy on television; you want the real thing for your children and for our Health Commissioner. You would not want the public defenders and advocates working over at Foley Square to have learned their legal skills watching re-runs of Law & Order; you want the real thing for your constituents and for our Corporation Counsel.

You cannot want the person who oversees all aspects of zoning, site safety and the quality of construction in our City to have borrowed their word choice from management case studies at Harvard Business School or Brooklyn College; you need the real thing for your neighbors and for our Building Commissioner.

I urge you to send this Intro back where it came, and, in so doing, to positively assert to the Mayor and the Deputy Mayor for Operations that the City Council and its Committee on Governmental Operations demands a Buildings Commissioner who not only knows how the government operates, but how buildings stand up.

Yours;


Fredric Bell, RA
Executive Director, AIA New York

cc: Council Member Joseph P. Addabbo, Jr. (District 32, Queens)
Council Member Inez E. Dickens (District 9, Manhattan)
Council Member Erik Martin Dilan (District 37, Brooklyn)
Council Member Dominic M. Recchia, Jr. (District 47, Brooklyn)
Council Member Larry B. Seabrook (District 12, Bronx)
Council Member Peter F. Vallone, Jr. (District 22, Queens)

AIA Queens

The Queens County Chapter of the American Institute of Architects
April 26, 2008



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Angelo R. Costa, AIA, 01 & 02
Paul DiNatalie, AIA, 03 & 04
William E. Gat i, AIA, 05 & 06

FOR THE RECORD

Hon. Michael R. Bloomberg
Mayor Of The City Of New York
City Hall
2 Lafayette Street
New York, NY 10007

Re: City Charter- NYCDOB Commissioner Requirements

Mr. Mayor:

Four million dollars have recently been dedicated to analyze the safety of the construction industry in the City of New York. Its purpose is to closely examine the safety of construction sites and the administration of law known as the NYC Building Code. The recent resignation of Patricia Lancaster, RA, has placed the Department of Buildings under the appointed leadership of one, whom although we respect and has served well as Deputy Commissioner, does not possess the minimum qualifications as required by law to be Commissioner. The Department of Buildings is not a business but a regulatory agency that is required to protect, preserve and safeguard the public from danger.

Our individual safety and the safety of the public shall not and cannot be jeopardized by any person, agency, government or government official.

It is for this reason that we have charged our elected officials to ensure that our safety and the safety of the public at large is maintained through the passage of laws. Laws that we must abide by to ensure this safety.

Our elected officials through time have put in place strict requirements that guarantee our personal safety and freedoms by mandating a specific standard for governing agencies. A standard that guarantees that these departments and their appointed leaders maintain a level of professional credentials and certifications that is repeated throughout our local, city, state and even federal laws.

Among these positions is the Commissioner of the Department of Buildings. It is clearly written in the current city charter that "With respect to buildings and structures, the commissioner shall have the following powers and duties exclusively"...to examine and approve or disapprove plans for the construction or alteration of any building or structure, including the installation or alteration of any service equipment therein, and to direct the inspection of such building or structure, and the service equipment therein, in the course of construction, installation or alteration;"...and "The commissioner shall review and certify any proposed subdivision of a zoning lot with any building thereon, in order to ensure that the subdivision will not result in any violation of the applicable zoning laws"

New York State Education Law requires that for anyone to engage in the activity that requires the application of the art and science of design to the construction of buildings, groups of buildings, including their components and appurtenances and the spaces around them wherein the safeguarding of life, health, property, and public welfare is concerned they must hold a license in good standing issued by the State Of New York in Architecture or Engineering. Such services include the evaluation of construction documents which is the primary purpose of the NYC Department of Buildings.

For this reason and for the sake of public safety, the elected officials of New York City and the New York City Council cannot allow an individual to serve as the head of the Department of Buildings without possessing a valid NYS issued license to practice Architecture or Engineering. This must hold true for an acting commissioner as well. It is incumbent upon you, our elected officials to preserve this minimum standard and guarantee the current requirement as outlined in the City Charter and State Law. If any change is to be made then it should be to include a license requirement for an acting or interim commissioner.

Respectfully submitted,

Alan Weinstein, RA, AIA
President AIA Queens Chapter
Cc: All City Council Members