

Testimony of James Roberts, P.E.
Deputy Commissioner, Bureau of Water and Sewer Operations
New York City Department of Environmental Protection
before the
New York City Council Committee on Sanitation and Solid Waste Management
concerning
Intro. 888: In relation to the theft of manhole covers

Friday, June 29, 2012
250 Broadway, 1:00 p.m.

Good afternoon, Chairperson James and Members. I am James Roberts, Deputy Commissioner for the Bureau of Water and Sewer Operations in the New York City Department of Environmental Protection (DEP). On behalf of Commissioner Strickland, thank you for the opportunity to testify on Intro. 888, relating to the theft of manhole covers.

This bill proposes to set a minimum civil penalty for the theft of a manhole cover at \$2,500 by amending Title 10, Public Safety, and Title 24, Environmental Protection, of the New York City Administrative Code. Although I do have a few comments on the amendments, I would like to express my appreciation and strong support for the Council's efforts to address the theft of manhole covers—notwithstanding the purpose of the cover or who owns it—by creating a new Administrative Code Section 10-118.1 and by increasing civil penalties for such dangerous violations.

To give you an idea of the problem, the number of missing DEP manhole covers in 2009 was 1,608; in 2010, 1,378; in 2011, 1,498; and in 2012, to date, 373. Those numbers include covers on manholes that lead to sewer infrastructure, as well as covers on manholes that lead to potable water infrastructure. The cost of the covers themselves range from \$94 to \$102 based on prices in recent requirements contracts. I should explain that not all missing manhole covers are stolen. Some percentage may have been removed during snow removal, street excavation or repair, or other unintentional circumstances that can dislodge a cover, such as a truck hitting one that is unbalanced.

When a call comes in to 311 reporting a manhole of any type missing a cover, DEP is typically the responding agency due to our involvement with utility infrastructure. Due to the serious public safety issues potentially involved, these jobs are handled as “P1”, or highest priority. We work closely with all of the city agencies, including Department of Transportation (DOT), New York Police Department (NYPD), the New York Fire Department (FDNY) and the Office of Emergency Management in this regard. If the condition is related to DEP infrastructure, action is taken to make the site safe, make immediate repairs if possible, or schedule repairs if that is warranted. Castings belonging to other entities, most typically private utilities, are referred to the appropriate utility offices with the DOT and other agencies notified as warranted that the condition belongs to “XYZ” utility and that they have been notified. DEP will not leave the scene of a dangerous condition until it is secured by either DOT or some other emergency response unit, including the owner of the castings. Calls to 311 concerning damaged or noisy

manhole covers are referred to DOT, which issues a corrective action report, or CAR, to the utility or agency that is responsible for the repair.

When DEP crews identify the missing manhole cover as one of ours and believe it is due to theft the crew reports the missing cover by calling the local precinct and sending an email to the Department of Investigation. As I explained, besides theft, covers can go missing in the course of street excavation or during snow plowing, but DEP does not attempt to classify the cause and only records the number of covers missing. We are mindful of trends, however, and that is frequently an indication of potential problems; so, for example, if we see a rise in the number of issues in a specific area or neighborhood, we work closely with local precincts and the Department of Investigation.

Because the value of a manhole cover is less than \$1,000, if an individual is apprehended, the offense would be an A misdemeanor. The charge would either be petit larceny or criminal possession of stolen property in the fifth degree, depending whether it is possible to prove actual theft or only possession of stolen property.

Recently, with the assistance of our colleagues at the NYPD we have had some success in reducing the number of missing manhole covers. Between March 15th and March 18th of this year, eight DEP manhole covers were stolen in the Bronx. Following an investigation by NYPD, two arrests were made on March 19th for the theft of all eight. The number of missing manhole covers in the Bronx declined after these arrests. From April 20th - May 2nd, 26 thefts of manhole covers occurred in Brooklyn and Queens. Con Ed reported to NYPD that all of those thefts were Con Ed covers. This is being investigated by the NYPD Major Case Unit.

With respect to the bill itself, I have two comments to offer. First, although the bill increases the penalties for a provision of the Administrative Code, Section 24-524, related to sewer manholes, it does not include a similar increase in penalties for a parallel provision in the Code, Section 24-304, entitled "Injury to Water Supply Property." That provision serves a similar purpose for the water supply system that Section 24-524 serves for sewer system.

Second, my colleagues at NYPD have noted that the proposed Section 10-118.1 regarding utility manhole covers does not include a criminal penalty like that imposed for the theft of sewer covers in Section 24-524. The lack of a commensurate criminal penalty for Section 10-118.1 might inadvertently create confusion because of this inconsistency, especially because the new provision amends Title 10 of the Administrative Code, where offenses generally carry criminal penalties. It could also diminish the ability of law enforcement officers to detain offenders in order to properly identify them for the purpose of issuing a summons or notice of violation. We therefore suggest that the bill be amended to include the same criminal penalty provided for in Section 24-524 (applicable to sewer covers): a misdemeanor punishable by a fine between \$500 and \$10,000 and/or imprisonment for up to 30 days. In this way, the two Administrative Code provisions addressing theft of manhole covers would provide consistent, and stringent, penalties for creating a perilous public hazard.

Thank you for the opportunity to testify. I would be glad to answer any questions.



The City of New York

Department of Sanitation



By Ron Gonen, Deputy Commissioner for Sustainability and Recycling

**Public Hearing on Intro Nos. 889(Unlawful Poaching of Recyclables);
894 (Refrigerant Recovery); and 893 (On-Street Collection of Redeemable Beverage Containers)
Before the New York City Council Committee on Sanitation & Solid Waste Management**

**Friday, June 29, 2012
1:00 P.M.
City Hall – 250 Broadway – 14th Floor**

Good afternoon Chairperson James and members of the Committee on Sanitation and Solid Waste Management. I am Ron Gonen, Deputy Commissioner for Sustainability and Recycling for the Department of Sanitation. I am also here today with Todd Kuznitz, Director of Enforcement for the Department. We are here on behalf of Sanitation Commissioner John Doherty to testify on three bills that are the subject of today's hearing by this Committee.

First, Chairperson James, I would like to thank you and the City Council for your leadership on this issue. The poaching of recyclables designated for collection by DSNY is a growing problem that seriously harms the City's recycling program. The Department appreciates the opportunity today to discuss this important issue of significant interest to both the City Council and the Administration. Our offices, to date, have worked together on draft legislation, and we look forward to continuing to work with the Council to enact final legislation to best accomplish our shared goals.

Before I specifically address each of the bills, I would like to share with you an overview of our mission and current observations and the impacts that unlawful and organized poaching has had on both the Department's recycling operations and its refrigerant removal program conducted pursuant to a federal consent order.

First, as you know, in the City's Comprehensive Solid Waste Management Plan approved in 2006, the Administration re-affirmed residential recycling as a key component of its long term vision for managing solid waste. In the Plan, the Department committed to developing new contracts with private vendors under which the Department would deliver residential recyclables it collects to private vendors that would process the recyclables and sell the recovered materials. The Plan -- and Local Law 40 which the full Council passed in the Summer of 2010 -- established ambitious goals for the percentage of Department-collected solid waste that would be diverted for recycling processing. These goals, however, are threatened by the actions of organized groups that unlawfully remove recyclables placed out by residential property owners and building managers for Department pick-up.

Second, the unlawful removal of recyclables also adversely impacts the productivity of sanitation workers since the material that is set out by the city's residents is often poached at various intervals and amounts. The Department should be collecting this material. Third, unlawful poaching activity complicates our ability to calculate the City's actual diversion rate for recyclable materials, thus rendering the City's recycling reports potentially inaccurate, which impacts the Department's finances and productivity. Fourth, the unlawful poaching of materials costs the City money under its recycling contracts. Fifth, the improper handling of certain bulk metal appliances containing refrigerants by poachers threatens public health and the environment.

The poaching of recyclables seriously impacts the City's recycling program. With each unlawful poaching activity, the City loses income from the sale of its own recyclables. Scrap iron and steel can be sold for up to \$250 per ton, over four times the price from a decade ago, and bundled paper or cardboard can net \$230 per ton, more than 32 times the amount the City receives under contracts with its own processing vendors. To give you an idea of the detrimental impact that unlawful poaching has had on our recycling program, we estimate that on average each year, the Department has been losing thousands of tons of metal, high-value (PET) plastics, and paper that have a value in the millions of dollars.

Poaching is a New York City problem and a national problem. And the problem is not limited to poaching of materials left out for Department collection, but extends to outright theft of valuable City and private property, including the theft of steel manhole covers from the streets. Earlier, DEP testified that it supports Pre-considered Intro 4918, which is under consideration by the Committee today. The Department also supports this bill, except that we would like to see the bill expanded to cover any property marked as belonging to the City, and include public utility property as well.

Since Local Law 50 of 2007 was enacted, those who poach have grown more sophisticated and a lucrative, organized underground market has emerged. Poachers organize their activity around Department route schedules and often employ multiple individuals using a single van or truck. Since December 2007, when we first began enforcement under Local Law 50, the Department has issued 1,829 Notices of Violation to persons unlawfully removing recyclables from the residential curbside, and impounded 1,184 vehicles used in the unlawful removal of residential recyclables. The Department has also issued 269 violations to persons unlawfully removing recyclables from the curbsides of

commercial establishments, and impounded 162 vehicles used to unlawfully remove commercial recyclables. Recently, the Department has witnessed a sharp rise in the number of poaching violations - with the largest number of violations issued during 2010 and 2011, respectively. To date, in 2012, the Department has issued 357 Notices of Violation for poaching recyclable materials, the most it has issued in a 6 month period.

Additionally, the Department has witnessed a steep rise in the theft of recyclable bulk metal items that contain refrigerants such as chlorofluorocarbons ("CFCs"). The unlawful removal of these items from the curb poses an increased threat to public safety due to the potential release of refrigerant chemicals into the air. In Fiscal Year 2010 and 2011, the Department removed CFCs from 74,086 appliances and 56,192 appliances respectively. In the past couple of years, we are finding that more of the requests we receive to remove CFCs from appliances resulted in the appliance not being found on location.

Now I will turn to addressing each of the three bills under consideration today, beginning with the first bill, Intro No. 889.

Intro No. 889 (Recycling Poaching):

The Department supports Intro No. 889, which will significantly improve the Department's ability to enforce the current theft of recyclables law. This bill also enhances the Department's ability to enforce the law against persons unlawfully removing department-marked items and items that contain refrigerants. It also enhances the Department's ability to enforce the law against persons who accept material that is illegally removed from the curb without authorization.

In particular, we support the provisions of the bill that would:

- Create a special class of materials known as "Department-marked" items to cover items containing refrigerants such as CFCs, and which have fixed upon them an official Department marking indicating that it has been placed out on the curb specifically for Department refrigerant removal and collection;
- Create enhanced enforcement authority against individuals who unlawfully remove Department-marked items from the curb, and a rebuttable presumption that the owner or operator of any vehicle that is carrying a department-marked item has unlawfully removed such item from the curb;
- Require that a person removing recyclables from the curb from a small residential building must be in possession of an authorized consent agreement by the property owner at the time such materials are removed from the curb;
- Authorize the Sanitation Commissioner, in consultation with the Commissioner of the Department of Consumer Affairs, to adopt rules providing for the licensing or registration of the operation and activities relating to the acceptance, processing, tipping, sorting and storage of recyclables;
- Create a citizens' reward program for the public to notify the Department of specific incidents of unlawful poaching; and

- Create a criminal penalty for the removal of recyclable material from commercial premises.

We believe that these provisions will greatly enhance the Department's ability to ensure that recyclable materials are not taken from the curb and thereby removed from the Department's recycling program.

However, the Department respectfully requests that this Committee increase the penalties against individuals unlawfully removing department-marked bulk metal appliances containing refrigerants from the curb. While this bill increases the Department's ability to enforce the law against such individuals, the bill only imposes fines similar in amount to those who unlawfully remove non-refrigerant bulk appliances and other bulk material. Due to the serious environmental issues associated with the release of CFCs into the atmosphere, the Department believes the unlawful removal of items that contain CFCs must carry a higher penalty in the law.

Intro No. 894 (Refrigerant Recovery):

The Department also supports Intro No. 894, which establishes manufacturer responsibility for the recovery of refrigerants. This bill would allow for the shift of part of the financial burden for that recovery to manufacturers of refrigerant-containing products.

Although, under this Intro, manufacturers will be responsible for the proper handling of CFCs, the Department will continue operating its own program that manufacturers may utilize for the recovery of refrigerants. Manufacturers may opt into the Department's program or establish their own recovery program. Should a manufacturer opt into the Department's program, the manufacturer will pay a fee for the Department's recovery of CFCs from its appliances, which would be enacted by rule. This program will allow the Department to recover a portion of its program costs for continuing to operate its CFC removal program, and we look forward to working with this Committee and the industry to enact this program citywide.

Intro No. 893 (On-Street Collection of Redeemable Beverage Containers)

Over the past several years, the Department has witnessed a significant increase in the number of motor vehicles that act as collection sites for beverage containers. This bill would require such motor vehicles to register with the Department, operate in a safe and sanitary manner, comply with applicable New York City laws and only conduct business on private property. Additionally, this bill will give the Department enforcement authority to impound the vehicles acting in violation of this law.

The Department believes it is important to ensure that these motor vehicles acting as container collection sites not operate on the City's streets and sidewalks, and that such container collection sites comply with the City's Sanitation Code so that they do not impair the quality of life in communities. Accordingly, the Department supports this Intro and is prepared to work with this Committee to finalize this bill.

Lastly, while poaching is a major problem, there will always be New Yorkers who are looking for reusable items on the curb to use for themselves personally in their apartment or home, such as decorations or furnishings. These bills largely do not limit this type of activity, and the Department does not enforce against such individuals on foot who might take a lamp or small table, provided it is not part of an organized large-scale vehicular poaching operation.

The Department believes the best way to capture materials for reuse is to encourage residents either to donate their unwanted household items and furniture, or to seek out exchange, sale or swapping opportunities. To encourage this, the Department operates various reuse programs in the City, including re-fashionNYC to help divert clothing, the NYC Stuff Exchange website and app to help residents find locations where they can buy, sell, or donate used goods, and the NYC Materials Exchange Development Program to provide support to the many reuse organizations in the City. As you know, information on these programs can be found on the Department's website, and we are pleased to make these programs available to all New Yorkers looking to extend the useful life of reusable items.

I wish to thank you again for holding this hearing and bringing this important issue to the forefront today. We look forward to continuing to work cooperatively with this Committee and the Council to finalize these bills and ensure their passage into law, and we're happy to answer your questions.

TESTIMONY OF HARRY NESPOLI
PRESIDENT UNIFORMED SANITATIONMEN'S ASSOCIATION,
LOCAL 831, IBT

CITY COUNCIL COMMITTEE ON SANITATION AND SOLID WASTE
MANAGEMENT

HON. LETITIA JAMES
CHAIRPERSON

JUNE 29, 2012

GOOD MORNING. I WOULD LIKE TO THANK CHAIRWOMAN JAMES AND THE OTHER MEMBERS OF THE COMMITTEE FOR THIS OPPORTUNITY TO SPEAK IN SUPPORT OF THESE IMPORTANT PIECES OF LEGISLATION.

FOR MORE THAN TWENTY YEARS AND WITH A PLENTY OF BUMPS AND BRUISES ALONG THE WAY, A LOT OF PEOPLE, INCLUDING THE MEN AND WOMEN OF MY UNION HAVE WORKED TOWARD BUILDING A SUCCESSFUL RECYCLING PROGRAM IN NEW YORK CITY.

IT HASN'T BEEN EASY. SOME PARTS OF THE PROGRAM HAVE WORKED BETTER THAN OTHERS. BUT ANY FAILURES OR ERRORS WERE MADE WITH THE BEST OF INTENTIONS; AND PROBLEMS ARE BEING ADDRESSED AND CORRECTED.

BECAUSE OF THAT HARD WORK AS WE SIT HERE TODAY WE ARE ON THE VERGE OF BUILDING A VIABLE, SUCCESSFUL AND SUSTAINABLE RECYCLING PROGRAM THAT WILL BENEFIT ALL NEW YORKERS.

PART OF THE CORRECTION PROCESS REQUIRES A LOOK AT THE RECYCLING LAWS AS CURRENTLY WRITTEN. AND RIGHT NOW THERE ARE LOOPHOLES AND GAPS THAT CAN AND ARE BEING EXPLOITED AND HINDER THE OVERALL EFFORT.

LET'S FACE THE FACTS. IT IS IMPOSSIBLE TO BUILD A SUCCESSFUL AND SUSTAINABLE RECYCLING PROGRAM UNLESS EVERYONE WORKS TOGETHER TO MAKE IT WORK. BY STRENGTHENING THE LOCAL LAWS WE WILL CLOSE LOOPHOLES, PRESERVE THE ENVIRONMENT AND BUILD A PROGRAM THAT WORKS FOR EVERYONE.

LET'S BEGIN WITH THE BASICS OF RECYCLING. IT HAS TAKEN NEARLY 20 YEARS BUT NEW YORKERS HAVE FINALLY GRASPED THE CONCEPT AND NOW NEARLY EVERYONE SORTS, SEPARATES AND PROPERLY BAGS THEIR PAPER, PLASTIC, CANS AND BOTTLES FOR RECYCLING.

AND, WHETHER YOU LIVE IN A COTTAGE IN WEST BRIGHTON, LUXURY CONDO ON THE UPPER WEST SIDE OR A FOUR-STORY WALK-UP IN WEST FARMS, YOUR TRASH AND RECYCLABLES ARE TAKEN TO THE CURB, AND MY MEMBERS TAKE IT AWAY.

THE TRASH IS PROPERLY DISPOSED OF, AND THE RECYCLABLES ARE SOLD OFF GENERATING REVENUE TO HELP FUND AND SUSTAIN THE PROGRAM.

AND AS THE MARKET FOR RECYCLABLES HAS GROWN, A SMALL ARMY OF SCAVENGERS ARE SHORT CIRCUITING THE SYSTEM. DEALS ARE BEING STRUCK WITH BUILDING MANAGERS AND SUPERS OR OTHERS TO BUY THE RECYCLABLES TAKE THEM OUT OF OUR PICK-UP CYCLE AND THEN SELL THEM ON THE OPEN MARKET.

WE ARE NOT TALKING ABOUT A SMALL HANDFUL OF WHEELER-DEALERS. IN THE TWO YEARS BETWEEN 2008 AND 2010 THE DEPARTMENT IMPOUNDED 455 VEHICLES INVOLVED IN THE ILLEGAL TRANSPORTATION OF RECYCLABLES, AN AVERAGE OF 20 OR SO A MONTH.

IN THE PAST TWO MONTHS ALONE 156 VEHICLES HAVE BEEN IMPOUNDED... AN INCREASE OF 300 PERCENT!

AFTER MORE THAN 20 YEARS OF HARD WORK, AND JUST AS WE ARE ABOUT TO REAP THE BENEFITS OF THAT EFFORT AND WE CAN FINALLY START GENERATING REVENUE, WE CANNOT PERMIT LANDLORDS, TENANTS, SUPERS AND OTHERS TO CORRUPT THE SYSTEM FOR THEIR PROFIT AT THE TAXPAYER'S EXPENSE.

IT IS ALREADY ILLEGAL FOR ANYONE TO RIFLE THROUGH THE RECYCLE BAGS IN FRONT OF OUR HOMES AND APARTMENT BUILDINGS AND COLLECT THE DEPOSITS ON CANS AND BOTTLES. SO WE MUST NOT ALLOW LANDLORDS, TENANTS, SUPERS OR OTHERS TO DO THE SAME THING -- AND ON A MUCH LARGER SCALE.

THIS LEGISLATION PROHIBITS OWNERS AND AGENTS OF LARGE RESIDENTIAL BUILDINGS FROM ENTERING INTO AGREEMENTS WITH OUTSIDE AGENCIES FOR THE SALE AND REMOVAL OF RECYCLABLES; HOWEVER, IF THEY BELIEVE THE DEPARTMENT PICK-UP IS INSUFFICIENT FOR THEIR NEEDS THEY CAN APPEAL TO THE DEPARTMENT FOR SUPPLEMENTAL SERVICE AND PICK-UP.

I ASSURE YOU, OUR UNION IS PREPARED TO WORK WITH THE CITY AND ANY OWNERS OR MANAGERS OF THESE BUILDINGS IN ADDRESSING AND RESOLVING THESE PROBLEMS WITHIN OUR CURRENT STAFFING LEVELS.

THE FACT IS, IF WE WANT A CITYWIDE RECYCLING SYSTEM TO WORK, WE MUST DO IT RIGHT. EVERYONE MUST BE ALL-IN, AND ALL THE TIME. AND MY UNION AND MY MEMBERS ARE PREPARED TO DO WHATEVER WE CAN TO MAKE IT WORK.

IF DONE RIGHT WE CAN TURN WHAT WE ONCE CALLED TRASH INTO A STEADY STREAM OF REVENUE THAT WILL ENSURE THE CONTINUED SUCCESS OF THE PROGRAM AND LEAVE A CLEAN, HEALTHY ENVIRONMENT FOR OUR CHILDREN AND GRANDCHILDREN TO ENJOY.

I THINK WE CAN ALL AGREE THAT ALL NEW YORKERS BENEFIT FROM A VIBRANT, ECOLOGICALLY SOUND RECYCLING PROGRAM. THIS LEGISLATION ENSURES THAT OUR EXISTING PROGRAM WILL CONTINUE TO EXPAND AND BENEFIT ALL OF US.

I WOULD ALSO LIKE TO TAKE A FEW MOMENTS TO ADDRESS THE LEGISLATION REGARDING THE RECOVERY AND DISPOSAL OF REFRIGERANTS.

WE FULLY SUPPORT THE COUNCIL'S EFFORTS TO ENCOURAGE MANUFACTURER RESPONSIBILITY FOR THE RECOVERY OF REFRIGERANTS. THE IMPROPER DISPERSAL OF THESE MATERIALS IS DANGEROUS AND HARMFUL TO THE ENVIRONMENT.

WHILE WE CURRENTLY HAVE A SYSTEM IN PLACE, EXPANDING THE OPTIONS TO INCLUDE THE MANUFACTURER WILL ONLY MAKE THE PROCESS EASIER ON CONSUMERS AND ENSURE GREATER COMPLIANCE.

THANK YOU.



**Testimony before the Committee on Sanitation and Solid Waste Management of the New York City
Council on Int. No. __
By Angela Sung Pinsky
Senior Vice President, Management Services and Government Affairs
Real Estate Board of New York
June 28, 2012**

Good afternoon Chairperson James and members of the Committee on Sanitation and Solid Waste Management. The Real Estate Board of New York, representing over 12,000 owners, developers, managers and brokers of real property in New York City, thanks you for the opportunity to testify about this bill regarding unlawful removal and acceptance of certain recyclable material. We also appreciate that the New York City Council has been proactive in seeking our comments and in collaborating with building owners.

REBNY supports the Department of Sanitation's effort to enact and enforce legislation that allows them to maintain jurisdiction and order over recyclable material, an area of collection that is seeing increasing levels of misconduct. It is important that the laws against the unlawful removal of recyclable materials be strengthened to discourage individuals from rummaging and stealing. Although we applaud the goal of the bill, we have concerns about the practical application and feasibility of this legislation.

The Real Estate Board has been actively engaged in discussions with our membership regarding the provision of supplemental recycling services from private carters. Some buildings do not have sufficient space to store materials or pick-ups are not frequent enough to dispose of their accumulation. In most instances, buildings turn to private sector collection out of necessity, not for pursuit of monetary gain. In fact, in surveying our members, we found that many of them were paying for the service, not profiting from the contract. Therefore, we appreciate the included exemptions to ensure that cutbacks in municipal services do not unduly affect buildings who are trying to have their waste removed in a timely manner.

We are also concerned that the Department requires submission of private-to-private-entity contracts. As written, the building owners would have to disclose all of the terms of their contracts, not just the relevant information of who will be performing the pick-ups and when. Besides the strain on resources and difficulty in requiring the Department to file each agreement and return it, building owners should not be forced to provide information that is irrelevant to the jurisdiction of the City and that may be contained in these documents. We believe it is unreasonable to require the owners to submit information that the Department could receive as disclosure requirements from the private carters through standard reporting mechanisms.

For the reasons listed above, we support this bill with the above modifications. Thank you again for the opportunity to comment. We look forward to continuing our conversation with the Administration and the City Council to create legislation that benefits both the City and its inhabitants through recycling.



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**City Council of the City of New York
Sanitation Committee
Hearing on Proposed Anti-Scavenging Legislation
Testimony by
Thomas Outerbridge, General Manager
Sims Municipal Recycling of New York LLC
June 29, 2012**

Honorable Chair and Members of the Committee:

Thank you for the opportunity to testify today. My name is Thomas Outerbridge and I am General Manager of Sims Municipal Recycling. As you may know, our company has a contract with the NYC Department of Sanitation (DSNY) to receive, process and market all metal, glass and plastic (MGP) collected citywide through the curbside recycling program. We have provided this service since 2002, and in 2009 we executed a long term contract to continue in this role for the next 20 years. We also signed a lease with the NYC Economic Development Corporation for the 30th Street Pier in Sunset Park, Brooklyn, where we are building a major new recycling facility. As the City's partner in recycling, and with ongoing and very substantial financial investments in the infrastructure to support the recycling program, we have a strong and vested interest in the success of recycling in New York City.

Before discussing the specific bills under consideration, I would like to acknowledge the Council's consistent and long standing support for the recycling program. While there is still plenty of room for improvement, there is no question that recycling is here to stay and the City Council deserves a lot of the credit for that.

The bills under consideration today address a significant problem that has steadily grown in recent years. This is the now widespread and organized practice of scavenging of materials placed at the curb for recycling collections. The total tons of MGP we receive have dropped by about 5% in the past 2 years. At the same time, the amount of metal we receive has dropped by 50%, with bulky metal items virtually disappearing. There may be other factors aside from scavenging at work, including the overall economy and individual participation rates, nevertheless, DSNY's data on theft of bulky metal objects prior to arrival of their CFC evacuation van demonstrate the extensive scavenging of white goods that is occurring. And all of us who live in the City can witness daily the systematic culling of blue bags and bins of PET and Aluminum containers for deposit recovery.

Why is scavenging problematic?

- First, it is worth noting that by and large scavenging is not increasing recycling rates since, with a few exceptions, this is material that is already slated for recycling collection. Scavenging is simply diverting material from the City's program.
- Second, the City has gone to great lengths and expense to develop a CFC recovery system for white goods. While there are no exact figures, a significant number of scavenged white goods have their CFCs vented to the atmosphere with all the attendant ozone and climate change impacts.
- Third, the revenue sharing portion of our contract with DSNY is tied to the quantity and composition of the material we receive. We are currently updating MGP composition data, and I will predict now that the data will show a significant reduction in revenue sharing when we compare the 2004/05 composition with the MGP collected today.
- Fourth, the revenue that Sims derives from the sale of recycled materials is critical to our business and allows us invest in and maintain the facilities that serve the City. In a perverse coincidence, beverage container deposit legislation, which originated as an anti-litter law, places a deposit value on the same items that we want in the curbside program, in particular, Aluminum which is the most valuable material we receive, and PET which is a staple of our monthly plastic sales. There is no deposit on plastic bags, Styrofoam cups, CD cases, and all those other objects in the blue bags that we would rather not receive.
- I have noted in other forums and in testimony before the Council on other bills, that at the same time as we are seeing increased scavenging of materials on which we depend, we are being asked to add other materials, notably mixed rigid plastics, for which markets are not well established. Given our dependence on the sale of sorted commodities, it is not viable to simultaneously lose recyclables with real value and markets, while adding materials with questionable or no value.

I would like to thank you again for the Council's ongoing attention to recycling and to this issue in particular, and we look forward to continued collaboration in the months, years and decades to come.

**TESTIMONY OF THE
INSTITUTE OF SCRAP RECYCLING INDUSTRIES
NEW YORK CHAPTER
TO THE COMMITTEE ON
SANITATION AND SOLID WASTE MANAGEMENT
OF THE COUNCIL OF THE CITY OF NEW YORK
JUNE 29 2012**

Chair James and Committee members Arroyo, Genaro, Jackson and Nelson: my name is Lawrence R. Schillinger. I serve as environmental affairs and government relations counsel to the New York Chapter of the Institute of Scrap Recycling Industries. ISRI represents more than 1,600 companies worldwide providing education, advocacy, and compliance training, and promoting public awareness of the vital role recycling plays in the U.S. economy, global trade, the environment and sustainable development. The New York Chapter is comprised of more than 70 companies which process, broker and market scrap commodities.

On behalf of New York's scrap recycling processors, I would like to thank you for the opportunity to present testimony here this morning.

The scrap recycling industry imprints a significant economic footprint within the City of New York and throughout the Metropolitan Region. A study prepared for ISRI in 2011 by John Dunham and Associates reveals that within the City of New York the scrap recycling industry is responsible for the direct and indirect creation of more than eight-thousand, five hundred full-time jobs [8,500 jobs] and a total economic contribution of nearly \$2 Billion. Please note as well that these are good-paying jobs, often averaging well over \$50,000 per year in salary and benefits. The economic study is available from the website www.isri.org

ISRI NY strongly supports New York City's municipal recycling efforts. In fact Sims Metal Management, the City's private sector partner in the long-term recycling program, is a prominent member of the New York Chapter of ISRI.

We understand and appreciate the underlying intent of the proposed legislation, and recognize the City's interest to protect from scavenging curb-side recyclable materials left for collection by the Department of Sanitation. Our concern however is that as presently drafted the legislation fails to properly distinguish between recyclable materials which comprise a segment of the solid waste stream versus scrap recycling commodities which constitute materials in commerce.

The key distinction here – and one which up until now has been plainly established throughout the statutory and regulatory framework for solid waste management at the federal, state and City level – is that municipal recyclables are a sub-set of solid waste.

As an analytical starting point, solid waste is defined as material which has been discarded or rejected as being spent useless, or worthless [NYC Administrative Code 16-209].

The NYC Administrative Code defines "recyclable materials" as:

"solid waste that may be separated, collected, processed, marketed and returned to the economy in the form of raw materials or products, including but not limited to types of metal, glass, paper, plastic, food waste, tires and yard waste." [New York City Administrative Code [16-130(i)]

To look at this from a different perspective, to determine whether or not a substance falls under the City's solid waste management regulatory system turns not so much on the type of substance but rather the manner in which such substance is controlled by its owner.

Here is an example: A commercial or industrial business produces scrap metal. If that commercial or industrial account discards the scrap metal by placing the scrap metal at the curb for private carter collection, that scrap metal is now solid waste. However, if that commercial or industrial business owner maintains ownership over the scrap metal and then contracts with a scrap processor for its removal, the scrap metal has not been "discarded or rejected as being spent useless, or worthless" and consequently the scrap metal is not a solid waste. If it is not a "solid waste" then neither can it be considered a "recyclable material" subject to the City's solid waste management regulations.

However, as presently drafted the proposed legislation purports to assert municipal control and ownership over not just recyclable materials from the solid waste stream, but also to "material that is capable of being recycled." The New York Chapter of ISRI strongly and passionately objects to this unprecedented governmental attempt to divert – perhaps confiscate is a more accurate term - recyclable commodities which have not been abandoned or disposed of as solid waste but rather remain in commerce.

The solution here is simple. We respectfully but emphatically urge the Council to respect and not tinker with the well-established definition of "recyclable material" which is presently provided for in the Administrative Code. To do otherwise will result in a harmful expansion of the universe of regulated recyclable materials in a manner which is vague, overbroad, impractical and unpredictable.

The position of ISRI-NY is that for purposes of the City's regulatory scheme the definition of a "recyclable material" must continue to be directly linked to the definition of solid waste such that the term "recyclable material" continues to be a sub-set of the term "solid waste".

Leaving the defined universe of "recyclable material" as is under current statute and regulation solves many of our subsequent concerns. The cumbersome provisions set forth in proposed section 16-461 would then be confined so as to only apply to recyclable material which has been abandoned or rejected, or in plain terms thrown out. So to provide a real-life illustration, a residential building would still remain free to sell for instance a scrap radiator to a scrap recycler rather than be compelled to turn it over without compensation to the Department of Sanitation. We respectfully propose that this paragraph be further clarified by striking the reach of its provisions to recyclable items "within the premises". Material held within the premises connote that it has not been abandoned or discarded, so striking that term precludes blurring the distinction between solid waste and scrap commodities.

ISRI-NY objects to the provisions of proposed section 16-463 which would result in duplicative and unnecessary regulation. Scrap processing facilities are already regulated by the Department of Consumer Affairs, the Department of Environmental Protection and at the State level by the Department of Environmental Conservation and by the Department of Motor Vehicles. Adding scrap processors to the regulatory jurisdiction of the Department of Sanitation serves no useful purpose.

The second paragraph of 16-463 makes reference to "non-bulk" recyclables. This term is undefined leaving the law proposed law vague and overbroad. Moreover, the language would prohibit a scrap processor from accepting scrap metal delivered by a utility company, which makes no sense at all. Bear in mind that under the NYS General Business Law all scrap processors must record the identity of all persons from whom scrap material is purchased and identify the scrap material which is the subject of

the transaction. Vigorous enforcement of that provision across-the-board on all scrap processors will go a long way towards addressing concerns over scrap theft.

In that regard I would like to solicit the support of the Council for NY Senate Bill 6971, which passed the Senate unanimously during the recently concluded Legislative Session. This bill which ISRI-NY strongly supports would, among other provisions, substantially increase penalties on scrap processors who fail to record and maintain records of transactions and require the installation of video recording cameras at scales and points of sale.

Further down in the same paragraph there is a proposal to establish a rebuttable presumption that a scrap processor in possession of a recyclable material which is labeled as property of the Department or a Utility company had knowledge of such marking. This proposal represents a radical departure from well-accepted common law principles by assuming the mental state – in legal terms the “mens rea” – of an individual. In plain terms, how can someone ever rebut that he or she knew something? It is impossible. The burden of proving mens rea must be borne by the prosecution, otherwise we ask people to prove their innocence, contrary to hundreds of years of jurisprudence which remain at the core of our legal system.

ISRI-NY has additional concerns with regard to the proposed regulatory scheme for the processing of refrigerators and air conditioners which in the interests of brevity we will address separately,

In closing, on behalf of the New York City scrap recycling companies which comprise the membership of the New York Chapter of the Institute of Scrap Recycling Industries, we reiterate our support for the effort undertaken by the Council and the Department of Sanitation's to safeguard the integrity of the City's municipal recycling program. We look forward to working with the Council and the Administration to ensure that in doing so, no unintended collateral damage results to the scrap recycling industry.

Thank you for your attention and consideration, and for the opportunity to share our concerns.

T & T Scrap, LLC
340 Maspeth Avenue
Brooklyn, NY 11211

Testimony
Michael Powers
(718) 366-0717

Good morning – Thank you Madam Chairwoman.

I would like to thank the city council for holding this important public hearing.

My name is Michael Powers and I am speaking on behalf of T&T Scrap, where I serve as head of Operations. T&T is a large scrap metal recycling facility with two yards – one located at 340 Maspeth Ave., Brooklyn, NY. – the other located at [].

We employ [XX] employees – some of whom are with us today. They all work very hard – make a good wage to feed their families – contribute to the vibrancy of the community – and are part of the critical recycling infrastructure of New York City.

We are very proud of our strong environmental record – especially of the fact that we recently started shipping recyclable materials out of our Manhattan Ave. scrap yard by barge along the Newtown Creek -- thereby significantly reducing the trucks that travel along the streets of Brooklyn.

Madam Chairwoman – because we recently made the business decision -- and the environmentally conscious decision to barge along the Newtown Creek -- we were able to reduce the number of trucks going through your district (*Mike will hold up a map of Tish James district at this point*) by 50 trucks per week. We hope to have 100 % of our recyclables shipped by barge on the Newtown Creek in the near future.

Madam Chairwoman – when that happens we will remove approximately [XXX] trucks per week from your district – and the districts of other members from Brooklyn and Staten Island.

We are all here because of our concerns with the Proposed Bill which will add new regulations to the Recycling Industry. While I agree that the general intent of this bill is admirable, I am strongly opposed to the bill – in its current draft. I believe

that some of the language is ambiguous – and that some of the proposed regulation of “peddlers” is unnecessary and will create unintended consequences that will harm the overall goal of encouraging recycling.

The two main goals this bill has are:

1. To reduce theft of recycling material, and prevent the release of Chlorofluorocarbon (or CFC's). We strongly agree with this effort.
2. Reduce the level of theft.

Theft on any level is wrong and should be enforced. Theft of recyclables should be no different and it is already illegal. It just requires greater legal enforcement.

With respect to CFCs - CFC's should not be improperly released and should be recycled, due to why they are already regulated.

Our industry can and should do more to ensure that these harmful CFC's are properly recycled.

This bill as drafted does not honor the stated intent of your bill.

We believe that declaring ownership over any and all recyclable or potentially recyclable materials does not help to fight theft.

The bill, if enacted, would criminalize the agreements and contracts that we currently have with residential buildings. We would be breaking the law by honoring our current lawful agreements. I would like to ask, why is the city forcing lawful businesses to give up their businesses and to provide all recyclable material

to the city as a response to theft? ss16-461(a)(2) Why not just focus on the theft of the recyclable material.

In addition, the issue also raises question as to what point is the average citizen breaking the law by having recyclable material in their possession? At what point in the supply chain is the City declaring ownership over someone's goods and making the possessor a criminal?

The law as written seeks to criminalize private scrap collectors that are contracted to remove recyclable material by residential or commercial entities by saddling our industries with draconian "permission slips." If these collectors, through hard and honest work are authorized to remove recyclables lawfully, then how can the city justify outlawing them based purely on a financial desire of one international corporation and their partnership with the city?

If private citizens choose to give recyclables away or sell recyclables to another private citizen or company who then properly recycles this material, how does the city justify ownership of these items? It should not be under the appearance that the city is fighting theft.

The administration has made great strides in working towards a sustainable recycling program and PlaNYC has made great efforts and results in working towards a "greener" future. All the while recycling businesses, like T&T, have consistently moved in the same direction with the city toward "greener" equipment and vehicles. We have limited truck traffic in the city by moving more and more recyclables moving by way of barge and rail, without the insistence or assistance of the city or state.

This bill is overly broad. Moreover, it permits a commissioner to adopt rules as they see fit and to enter and inspect recycling facilities all without cause, concern, or a

warrant. Ss16-463(a) It also puts the responsibility and burden of guaranteeing that all recyclables are “legal” onto any recycling facility. Ss16-463(c).

SOLUTIONS

The City and the Department of Sanitation have alternative options and can utilize to reduce and enforce the theft of recyclables and both business owners and collectors who do things the right way and the moral way can assist and would be happy to do so. However, this bill will essentially cripple one of the only thriving and economically strong industries during these difficult times.

RHETORIC and PLEAS

Everyone here has their livelihood and the futures of their families in the hands of this committee.

To demand that these collectors give up their livelihoods through strict, if not impossible procedures, expensive and unnecessary licensing, costly and ineffective paperwork that will only bury the Department of Sanitation in hundreds of thousands of requests, is the wrong way to stop the theft of recyclables. This will only cause good hard working people to lose their only way to survive and ultimately slaughter an industry while putting families on to the streets or force people without any other options to inundate an already overburdened city assistance system.

Thank you for the opportunity to speak today. We look forward to working closely with your office – and with the Council staff – to come up with a Bill that we could all support and that protects the critical NYC recycling infrastructure.

Thank you Madam Chairwoman

**TESTIMONY OF THE
NATIONAL SOLID WASTES MANAGEMENT ASSOCIATION
CITY COUNCIL COMMITTEE ON SANITATION AND SOLID WASTE MANAGEMENT**

June 29, 2012

Chairwoman James, members of the Committee and distinguished guests, my name is Ron Bergamini.

I am the CEO of The Action Environmental Group, the parent company of Action Carting, the largest licensed hauler in New York City. I am here today to testify on behalf of the National Solid Waste Management Association (NSWMA). NSWMA is a non-profit trade organization that represents many licensed haulers who have suffered greatly from cardboard theft over the past few years, and we appreciate the opportunity to testify today.

Many NSWMA members collect both garbage and recyclables from commercial customers. Although the companies pay to dispose of the garbage, they are paid for the recyclables, and the commodity that is the focus of today's hearing, cardboard. Today recycling facilities in the New York City metropolitan area pay haulers more than \$100 per ton for cardboard. Every day, tens of thousands of customers put out waste and cardboard for collection. Every night, a substantial amount of it is illegally removed by unlicensed trucks or vans. NSWMA estimates that the industry is losing between \$8-10 million in revenue annually because of cardboard theft. At the current rate, this translates to 80,000-100,000 tons of cardboard. One medium-sized, family-owned hauler estimates it lost nearly 20 tons of cardboard from a single cardboard route in just one week earlier this month. In this highly regulated industry, New York city is the only jurisdiction in the country with a rate cap on what we can charge, thus, the revenue associated with cardboard is often the difference between losing money and breaking even in a particular month.

NSWMA and its members have been reporting examples of cardboard theft to the Business Integrity Commission (BIC) for many years. We have provided numerous pictures, video, license plate numbers and other information to the BIC. We have discussed this problem at numerous BIC Trade Waste Advisory Board meetings and with numerous BIC Commissioners. Due to limited resources, however, this has not translated into tough enforcement action on the streets that the industry and BIC would like to see. Even when the BIC catches a cardboard thief, it is evidently difficult to get the district attorney's office to press charges. The Police Department with many pressing responsibilities, does not

consider cardboard theft to be an enforcement priority. Finally, when a cardboard thief is arrested and the vehicle he is using to illegally pick up cardboard is impounded, we are told that City agencies do not want to deal with a vehicle filled with cardboard.

It is not just the industry that suffers when cardboard is illegally removed from commercial establishments. The hauler's monthly waste removal cost is based in part on the revenue we expect to collect from the cardboard, and when someone steals the cardboard, the Hauler is often forced to increase the monthly fee to the customer to make up that loss.

Although NSWMA generally supports the proposed legislation, we do have some concerns about specific provisions, which we look forward to discussing with the Committee, the Mayor's Office and other stakeholders. For example, the requirement that haulers with contracts to remove recyclables from some, but not all, residential properties, provide reports twice each year to the Department of Sanitation with information about the weight of each type of recyclable material is unduly burdensome. Further, we urge the Council to send a strong signal to those illegally removing recyclables and taking revenue from both the Department of Sanitation and licensed haulers by having this legislation take effect immediately, not four months after it is enacted.

Finally, although the proposed legislation increases the penalties imposed against facilities located in New York City that receive recyclables from unlicensed individuals, the Administration is well aware that much of the cardboard being stolen is brought to recycling facilities outside of New York City. NSWMA urges the Administration to work with law enforcement officials and regulators in neighboring states to stop those facilities from accepting recyclables originating in New York City. NSWMA would be glad to work with City officials and others to develop a regional approach to this problem.

The daily theft of cardboard by unlicensed individuals is an epidemic, hurts small, family-owned licensed hauling companies as well as larger companies like mine, hurts our customers, and needs to be addressed by the City Council and the various enforcement agencies. Thank you. I would be glad to answer any questions.



NATURAL RESOURCES DEFENSE COUNCIL

**STATEMENT OF THE NATURAL RESOURCES DEFENSE COUNCIL
BEFORE THE
NEW YORK CITY COUNCIL COMMITTEE ON SANITATION AND SOLID WASTE
IN SUPPORT OF LEGISLATION INCREASING FINES AND PENALTIES
ON RUSTLERS OF RECYCLABLES
AND REFRIGERANT-CONTAINING MATERIALS**

JUNE 29, 2012

Good afternoon, Chairperson James and members of the Committee. My name is Daniel Mulé, with the Natural Resources Defense Council, and I am speaking today on behalf of Eric Goldstein, NRDC's New York City Environment Director. As you know, NRDC is a national, non-profit legal and scientific organization active on a wide range of environmental issues. Since its founding in 1970, NRDC has focused significant attention on the urban environmental issues in general and New York City's environment in particular. One of our top regional priorities has been to transform New York's waste policy from primary reliance on landfilling and incineration to making waste prevention and recycling the cornerstones of the city waste policy.

I am pleased to be here today to testify in favor of three pieces of legislation under consideration today: Intro. No. ⁰⁸⁸⁹4917, Intro. No. ⁰⁸⁹³4934, and Intro. No. ⁰⁸¹⁴4919. These bills would strengthen the City's recycling program by increasing fines and penalties for those who interfere with the Sanitation Department in its collection of materials set out for recycling and its removal of CFCs from refrigerants. Specifically, Intro. No. ⁰⁸⁸⁹4917 would make it more difficult for residential buildings to opt out of the municipal recycling stream and increase penalties for rustlers of commercial recyclables and refrigerant-containing materials. Intro. No. ⁰⁸⁹³4934 would build on existing penalties for those who attempt to unlawfully divert recyclables away from the municipal recycling stream by creating penalties for unlicensed bulk collection of beverage containers – which among the city's most valuable recyclables – from streets and private property. And Intro. No. ⁰⁸¹⁴4919 would require manufacturers of refrigerators, air conditioners, and other equipment to be responsible for the proper removal of CFCs from the equipment they sell once that equipment is discarded by New York City residents.

NRDC strongly supports all three of these legislative proposals.

Although recycling was considered by some to be an unreliable trash disposal strategy twenty-three years ago when the city's mandatory recycling statute was enacted, the economic and environmental benefits of this strategy have grown over the past two decades. And the market for recyclables has matured. For example, commodity prices in the New York Region this month for recycled materials are at \$150 a ton for mixed paper, \$340 to 480 dollars a ton for PET plastic bottles and \$1,420 a ton for aluminum.¹ Indeed, these and other recyclables have become sufficiently valuable that they have triggered a black market collection system.

In recent years, private entrepreneurs in motor vehicles have prowled city streets and have stolen recyclables that New Yorkers had placed out for collection by the Sanitation Department. These thieves sell the recyclables – often for tidy profits – depriving New York City of much-needed revenue, which would otherwise be obtained by the Sanitation Department after it drops off collected recyclables at private materials recovery facilities. Additionally, some residential building owners and managers are separately collecting and selling for profit recyclables from their buildings, thereby removing those recyclables from the municipal waste stream and depriving the Sanitation Department of the proceeds generated from recycling these commodities.

In 2007, the Council wisely took the first step to combat the problems posed by recycling rustlers when it passed Local Law 50. That statute improved compliance with the City's landmark recycling law, Local Law 19 of 1989 established new fines and penalties for those who interfered with the Sanitation Department's collection of recycling. Yet, it is now clear that the provisions of Local Law 50 have not been able to fully address the situation and that further legislative action is necessary.

Intro. No. ⁰⁸⁸⁹4917 seeks to remedy several critical gaps in the system of enforcement mechanisms created by Local Law 50. First, the proposed bill tightens the loopholes that currently allow some residential building owners to privately collect and deposit their residents' recyclables while the costs of collection and disposal of their solid waste are still shouldered by the City. Second, Intro. No. ⁰⁸⁸⁹4917 protects New York City businesses and licensed solid waste haulers by ensuring that criminal (and civil) penalties for unlicensed recyclable rustlers are the same whether they steal recyclables from residential buildings or commercial businesses: a criminal fine of \$1,000-\$2,000 and/or imprisonment of 90 days or less, and a civil penalty of \$2,000 for the first offense and \$5,000 for each subsequent offense. Third, the bill makes it illegal for unlicensed persons or businesses to collect or receive refrigerant-containing items, it and imposes penalties for such activities, thus reducing the likelihood that chlorofluorocarbons (CFCs) are being improperly disposed of, in contravention of the federal Clean Air Act. Altogether, the law will strengthen deterrents to unlawful recycling in order to secure compliance

¹ See Waste News, "Announced Recoverable Materials Prices – New York Region," June 27, 2012.

with existing law, and will reduce risks to air quality by ensuring that refrigerant-containing materials are handled only by the Sanitation Department and other authorized parties that properly dispose of CFCs. NRDC strongly supports these improvements to the city's recycling laws.

Intro. No. ⁰⁸⁹³~~4934~~ would also enhance existing recycling laws. As metal and plastic beverage containers are among the highest value recyclables, unlicensed bulk collection and transport of these items severely impair the fiscal health of the City's recycling program. Intro. No. ⁰⁸⁹³~~4934~~ creates penalties for unlicensed bulk collection of fifty or more beverage containers while using a motor vehicle: a \$1,000 fine for bulk collection from the streets, a \$2,000 fine for bulk collection from private property, and impoundment of the vehicle. By creating penalties for bulk collection of beverage containers, this law will serve to improve the value proposition of recycling, ensuring that the City can fully reap the financial and environmental benefits of a cost-effective and sound recycling program that is at the heart of the City's most recent Solid Waste Management Plan. NRDC encourages the council to enact Intro. No. ⁰⁸⁹³~~4934~~ into law.

NRDC also supports Intro. No. ⁰⁸⁹⁴~~4919~~. This legislation would require manufacturers of refrigerators, air conditioners and similar equipment to be responsible for the recovering refrigerants from those appliances that they have manufactured and that are being disposed of by residents in New York City. The legislation would allow the manufacturers to set up individual programs to collect refrigerants, establish joint programs with other manufacturers for such collections, or utilize the Sanitation Department's services for refrigerant recovery. This bill would help accomplish two important purposes. First, it would reduce the likelihood that stolen bulk metal items like refrigerators and air conditioners will be improperly disassembled, with one inevitable result being the release of chlorofluorocarbons (CFCs) – potent ozone-depleting gases – into the atmosphere. Second, the bill would place responsibility for properly gathering CFCs from these products directly on the companies that manufacture them, rather than on city taxpayers. For these and other reasons, Intro. No. ⁰⁸⁹⁴~~4919~~ advances a concept that NRDC applauds.

Of course, NRDC's concerns with the current state of recycling efforts in New York City extend far beyond the problem stolen recyclables. We believe that major elements of the City's entire recycling program must be revamped and re-energized. And we will be publishing detailed recommendations on this topic later this summer.

But the proposed bills discussed above are nevertheless important. NRDC believes that these bills are consistent with sound environmental and fiscal planning, with the intent and goals of Local Law 19 of 1989 and Local Law 50 of 2007, and with the Bloomberg Administration's program to make New York a more sustainable city as articulated in PlaNYC. We enthusiastically support these bills and we thank you, Chairperson, James for guiding and advancing this legislative package.



Council of New York Cooperatives & Condominiums

INFORMATION, EDUCATION AND ADVOCACY

250 West 57 Street • Suite 730 • New York, NY 10107-0700

COMMENTS ON PROPOSED RECYCLING REQUIREMENTS

June 29, 2012

My name is Mary Ann Rothman. I am the Executive Director of the Council of New York Cooperatives & Condominiums (CNYC Inc.), a membership organization for housing cooperatives and condominiums. I speak today on behalf of the Federation of New York Housing Cooperatives and Condominiums (FNYHC) and the Coordinating Council of Cooperatives (CCC), which are similar organizations. We would like specifically to address the portion of the proposed regulations that address the use of supplementary services to remove recycling.

Our comments are based on conversations with boards and management of a number of buildings and complexes that use or have considered using private carters to remove some of their recyclables. The majority of these are low and moderate income condominiums and cooperatives. The prohibitions and administrative requirements in the proposed legislation would be particularly onerous to these communities.

CNYC and its sister organizations keep our members updated on laws and regulations that affect them and we try to help them comply with all requirements. As home owners, our members seek to run their buildings efficiently, affordably and well, providing a clean and safe environment for their share holders or unit owners. However, in trying to be effective recyclers, we often run into problems.

With just one recycling pick-up scheduled each week, many buildings face problems in finding space to store recyclables in the interim. Particularly in the warmer months, unpleasant odors emanate from the areas where recycling and garbage are stored. Then, pick-up schedules are frequently not met; and, sometimes, as the recyclables continue sit at the curb just exactly where they were supposed to be for pick-up several hours earlier, the sanitation police come by and issue a citation to the building.

Please turn the page

To maintain an attractive appearance of their buildings and mitigate unpleasant odors, some buildings have contracted with private companies to pick up some or all of their recyclables. In many cases, this is done after following proper procedure and obtaining authorization from the City to do so. There is a cost involved for the building, but the decision is made to accept this additional cost in the interest of keeping the building and grounds clean. There are also opportunities to recycle more items than the Department of Sanitation currently collects.

Our organizations respectfully request that the City Council review the issues that provoked this proposed legislation seek compromises that will enable the City to maximize what is removed from our waste stream and recycled, and that will also enable the company responsible for the separation and recycling of these materials to operate profitably, without imposing cumbersome and costly requirements on buildings that feel that they need additional pick-ups. Finding ways to improve the Department of Sanitation's performance in **meeting recycling pick-up schedules** would be a start, but perhaps there could also be **additional pick-ups scheduled** at larger buildings or complexes (or those that are most conscientious about recycling). And a **simple, straightforward system should be developed for documenting the need either for additional recycling pick-ups or for permission to have private carters collect some items.**

Every effort should be made to maximize the efficiency of recycling in our city and to minimize its cost. We would be pleased to take part in efforts to improve the present system with these goals in mind.

Thank you.



Shari C. Hyman
Commissioner and Chair

100 Church Street
20th Floor
New York, NY 10007

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+1 212 676 6204 fax
www.nyc.gov/bic

June 29th, 2012

Honorable Letitia James
Chair, Sanitation & Solid Waste Management Committee
New York City Council – District 35
250 Broadway, Suite 1792
New York, NY 10007

RE: Letter of Support on Pre-Considered Intro No 889 (Unlawful Removal or Acceptance of Certain Recyclable Material)

Dear Council Member James:

I write in support of Intro No 889 - *Unlawful Removal or Acceptance of Certain Recyclable Material*, which is the subject of a public hearing before the New York City Council Committee on Sanitation & Solid Waste Management.

The New York City Business Integrity Commission (BIC) has as one of its core missions to preserve an honest and competitive environment in the trade waste industry and illegal and unlicensed activity undermines our efforts. This illegal activity poses a threat to the economic health of licensed private waste removal haulers and their ability to deliver quality and affordable services to their customers. Intro No 889 represents a strong step by the Council to address this pressing issue and enhances our ability to take action against the growth of this illegal and unlicensed activity.

There are 234 licensed private waste removal haulers that remove solid waste, grease, medical waste, and recyclables from over 150,000 commercial establishments in the City. These establishments, which range from grocery stores to restaurants to office buildings, generate approximately 1,500 tons and 365,000 cubic yards of recyclable waste every year. Due to growing global demand, the value of recyclables like cardboard and yellow grease has increased, sparking a lucrative market for theft that extends beyond the City's borders.

As a regulatory and enforcement body, BIC authorizes who can operate in the trade waste industry. In response to the issue of theft, BIC's charge allows the agency to identify, investigate and build cases on pockets of organized criminal activity as well as respond to reported incidences of theft and/or illegal activity. BIC investigates every complaint of theft it receives and in calendar year 2011, BIC received 49 reports of cardboard theft. Of these, 18 were resolved either by BIC brokering improvements in collection protocols between carters and customers or BIC-issued trade waste violations for unlicensed activity. An additional 26 were incorporated into longer-term BIC investigations and the remaining 5 were investigated and found to be unsubstantiated. These complaints also facilitated 15 arrests and summonses for unlicensed activity as well as 15 impounds of vehicles engaged in this illegal activity by the joint efforts of BIC and DSNY.



The draft bill will enhance BIC's ability to enforce against the unlawful removal of recyclables placed for collection by licensed private waste removal haulers. We particularly favor provisions that create criminal penalties for the unlawful removal of recyclables from commercial establishments and the civil penalties for any subsequent offenses committed by the entity.

I want to thank the City Council and Chairperson James for their leadership on the issue of recyclables theft, and for offering BIC the opportunity to voice its support for the legislation being considered. We look forward to working with the Council and DSNY to finalize this bill and ensure its enactment.

Sincerely,

A handwritten signature in black ink that reads "Shari C. Hyman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Shari C. Hyman
Commissioner/Chair

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

DEP COMM Date: 6/3/17

Name: (PLEASE PRINT) JAMES ROBERTS

Address: DEP COMM

I represent: DEP COMM Local 831

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: _____

Name: (PLEASE PRINT) DEPUTY COMMISSIONER RON

Address: GONEN

I represent: ASNY SUSTAINABILITY +

Address: RECYCLING

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: _____

Name: (PLEASE PRINT) CHIEF TODD KUZNITZ

Address: ASNY ENFORCEMENT

I represent: _____

Address: _____

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

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: _____

(PLEASE PRINT)
Name: CHIEF PETER MCKEON

Address: DSNY - COLLECTION

I represent: _____

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: 6/30/12

(PLEASE PRINT)
Name: Harry Despoli

Address: 250 Cliff St

I represent: WOA Local 831

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: 6/29/12

(PLEASE PRINT)
Name: Ronald Bergamini, CEO Action

Address: Environmental

I represent: _____

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: 6/29/12

(PLEASE PRINT)

Name: Lawrence Schilling - ISRI-NY

Address: 3 Palisades Dr. Albany NY 12205

I represent: ISRI-NY

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: SCOTT HORNE

Address: 1615 L ST NW WASHINGTON DC

I represent: INSTITUTE OF SOLID RECYCLING INDUS

Address: SAME

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: 6/29/12

(PLEASE PRINT)

Name: MIKE POWERS

Address: 340 Maspeth Av. Brooklyn 11211

I represent: T & T SCRAP in Brooklyn

Address: 340 Maspeth Ave Brooklyn NY 11211

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

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. 4917, 4934, 4919 Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Daniel Mule

Address: 40 W. 20th St. 11th Fl.

I represent: Eric Goldstein, N.RDC

Address: _____

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

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card



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

in favor in opposition

Date: 6/27/12

(PLEASE PRINT)

Name: MaryAnn Rothman

Address: 10 Riverside Dr NYC

I represent: Council of NY Cooperatives & Condominiums

Address: 250 W 57 St. NY, NY

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

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 888/9 Res. No. _____

in favor in opposition

Date: 6-29-12

(PLEASE PRINT)

Name: TOM OUTERBRIDGE

Address: 110 5th Ave NYC

I represent: SIMS MUNICIPAL RECYCLING

Address: _____

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

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

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

in favor in opposition

Date: 6/29/12

(PLEASE PRINT)

Name: Angela Pinsky

Address: 570 Lexington Ave

I represent: Real Estate Board of NY

Address: _____

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