

**Testimony of
Tokumbo Shobowale
Chief Business Operations Officer
Office of the Mayor, City of New York**

Good Afternoon Chairs Brewer and Reyna and members of the City Council. My name is Tokumbo Shobowale and I am the Chief Business Operations Officer for the City. I appreciate the opportunity to testify before you today on some of the ways we are working together to make the City work better for businesses. I am going to focus my testimony on the legislation requiring agencies to assign liaisons to the communities they regulate and waiving certain fees for businesses recovering from Hurricane Sandy.

Intro. 942-A: Agency Liaisons

As already stated by my colleague, Liz Weinstein, the Administration supports Intro. 942-A. This legislation would require agencies to designate liaisons to the communities that they regulate. The assigned agency staff will be responsible for developing, strengthening and maintaining each agency's relationships with relevant individuals, groups, and industries.

The Administration places a high value on receiving input and feedback from those who will be impacted by regulations. This communication already occurs in numerous ways across City agencies and is a fundamental component of Mayor Bloomberg's Business Customer Service Initiative. We rely on large and small business owners, industry representatives and advocates to provide us with information about their experiences—good and bad—in interacting with the City. This feedback helps us understand the impact of government processes and decisions and helps guide our ongoing efforts to make it easier for businesses to open, succeed and expand in New York City. As the members of the Council know, it is just this type of input that has provided the foundation for all of the Regulatory Reform projects that we have completed or are still underway.

These efforts can help to foster a greater sense of collaboration with the business community. And a better business environment in the city not only helps businesses—it helps the people they currently employ and helps them employ more people. And finally a better environment for businesses helps the customers they serve and the neighbors who enjoy the community they create. Thus, we wholeheartedly support the legislation's goal of making our efforts to work with regulated communities more transparent and focused. I look forward to working with each of the designated liaisons in the future.

Preconsidered Intro: Hurricane Sandy Fee Waiver

We are all acutely aware of the extensive damage left after Hurricane Sandy hit New York City in late October 2012. The storm caused heavy flooding, power outages, and widespread damage to vast areas of the City. Thousands of businesses were impacted, causing significant disruption to individuals, families, neighborhoods and the City economy. Restoring these businesses and the jobs they create is a critical part of the City's overall recovery from Sandy.

With that in mind, following the Hurricane the City has developed various ways to assist impacted businesses to recover and to rebuild. The City and its partners have developed financial

programs including the Small Business Assistance Grant Program, the Emergency Loan Fund, and the NYC Matching Grant. In addition, the City created the Restoration Business Acceleration Team (RBAT). This team helps recovering businesses reopen as soon as possible by coordinating the services, permitting and inspections they need. We hope to take a further step today with this new legislation that would waive fees for the various permits, licenses and inspections businesses will need as they rebuild.

Under this Preconsidered Intro., a business that was operating on or prior to Hurricane Sandy in any of the severely impacted areas could qualify to have certain fees waived. Eligible fees are those related to repair and reconstruction and include items from several agencies. Examples include Department of Buildings' fees for plumbing, Fire Department fees for testing fire protection systems and fees for Department of Transportation street opening permits. A business must have their eligibility for a waiver certified by applying to the Restoration Business Acceleration Team. Any business that has already paid fees may be eligible for a refund.

This is yet another vital element supporting the economic recovery of individual businesses and the City as a whole.

Thank you for your time and consideration of these important initiatives. My colleagues and I would be happy to answer any questions you might have at this time.

Good Afternoon Chairs Brewer and Reyna and members of the City Council. My name is Liz Weinstein. I am the Director of the Mayor's Office of Operations. With me today is Tokumbo Shobowale, Chief Business Operations Officer. Thank you for the opportunity to testify before the Committees on Governmental Operations and Small Business on these very important initiatives relating to business customer service.

The Administration is very supportive of the legislation being presented today. Many of the ideas proposed by the Council are projects that we have been working on together for many months. In this testimony I will update you on our progress on some of these initiatives and our plans to begin additional work, should this legislation move forward.

Intro. 941: Standardized Customer Service Training for Inspectors

After the recommendations of the first Regulatory Review Panel were published, my office began working with agencies and Council staff on plans for a new standardized customer service training curriculum for inspectors.

Our process for creating this curriculum included working sessions with the relevant inspectorial agencies. We met with customer service and inspector management staff from DCA, DEP, DOB, DOHMH, DOT, DSNY, FDNY and TLC, as well as focus groups comprised of inspectors and inspector supervisors. Members of my staff also met with the Union Square Hospitality Group's consulting unit to receive feedback on our content and approach. From those meetings, we created a curriculum for agency training staff to use.

In 2008, the Office of Operations put together a standard customer service curriculum for agency front-line staff called Great Service, Great City. That training was developed in partnership with NYC-311, HRA and DCAS training specialists to address some of the unique issues that arise in providing good customer service in New York. For example, Great Service, Great City includes modules covering the City's cultural diversity and language access policy.

Building off of that experience, the new standardized training curriculum for inspectors is comprised of three components: Great Service, Great City; traditional customer service topics, and new material designed specifically for this effort.

The “traditional” customer service curriculum includes basic customer service training modules that apply to any customer-facing environment, like the importance of first impressions, using effective communications and awareness of body language.

The third and most important component of the new training curriculum is a new set of modules that addresses specific issues and concerns of business owners and takes into account the unique circumstances of the inspection environment. Topics included in this module are lessons on inspector authority, inspection consistency and the role of inspectors in providing good customer service.

After drafting the curriculum last fall, the facilitator and participant training manuals were finalized in December 2012. My office provided guidance to the agencies on incorporating the new training into their existing training regimen, and also informed the agencies of submission deadlines and reporting requirements.

As of today, seven agencies - DCA, DEP, DOB, DOHMH, DOT, FDNY and TLC - have submitted their curriculums, all of which have been approved by my office. Five of these agencies will be implementing the curriculum without any modifications, and two with some modifications. We are currently working with the Department of Sanitation to determine how the content of the new curriculum can best be introduced into their existing training practices.

Agencies began using the new curriculum two weeks ago when DOB held its first training session with 37 inspectors and supervisors. DEP held its first training session just this morning. My staff will conduct ongoing monitoring of the implementation of the new curriculum by attending selected agency training sessions over the next twelve months, and will in fact observe a portion of DOB’s third training session later this afternoon. Agencies will begin formally reporting to my office on their training progress beginning tomorrow and every three months thereafter.

Intro. 956: Business Owner’s Bill of Rights

Local Law 18 was enacted on June 1, 2010 and requires the Mayor’s Office of Operations to develop and disseminate a business owner’s bill of rights. Last

summer, Operations worked with agency partners to develop and disseminate the Bill of Rights.

In August 2012, agencies were provided with training on the Bill of Rights and a guidance document to aid in marketing and distributing the Bill of Rights to business owners. In September 2012, DOB, DCA, DEP, DOHMH, DOT, the FDNY and NBAT submitted their marketing and distribution plans to my office. Operations printed 10,000 copies of the palm card, and the agencies began distributing the Bill of Rights palm card during inspections this past fall.

In addition to creating and distributing the cards, my office created a Spanish translation of the palm card. Included on the card is a link to a Customer Service Survey on our office's web site. Customers can go to this link and evaluate the service they received from an agency inspector. The survey allows for ratings on staff professionalism and courtesy, how clearly inspectors communicated rules and other important information, and overall customer service. Customers can also give detailed comments about their experience. Submissions sent on the website are forwarded to the appropriate agency for handling as necessary.

In addition to handing out the Bill of Rights in connection with inspections, agencies are asked to post them on their web sites, distribute them at community events, place them prominently at walk-in service centers and include links to it on appropriate documents. Last summer our SCOUT inspectors spot-checked agency walk-in centers to monitor compliance with the suggestion to display prominently the Bill of Rights. Two of 21 sites were not in compliance and those sites were provided with new Bill of Rights posters.

Intro. 949-A: Review of Agency Violations and Cure Periods

The Administration is supportive of this legislation which would allow us to study the possibility that there are additional opportunities for business owners to correct violations before they are fined, otherwise known as a cure period.

Although we are supportive of the proposed bill, we do ask that the Council keep in mind the challenging nature of the task being proposed and that it will not be possible to establish cure periods where violations are issued to protect the health, safety or welfare of the public, when the action violated cannot be undone, or when a cure period would remove any element of deterrence. For

example, there are numerous violations where providing a cure period could potentially place the public at risk. A cure period would also not apply for a refused ride by a taxicab, for example, where the violation cannot be undone. Creating a cure period for some of these violations may render a rule meaningless. The determination of whether a cure period may apply, as implied by the proposed legislation, will be studied by my office on a violation category or case by case basis.

Furthermore, the proposed legislation requires that the report be submitted to the Mayor and Speaker within ninety days of enactment. Beginning next week, my office will begin engaging with agencies to analyze existing rules and regulations to look for opportunities to establish cure periods where they do not currently exist. While we are being aggressive in our examination we must also be prudent. A comprehensive analysis of thousands of violations across multiple agencies required by the bill cannot be accomplished within ninety days of enactment. The original version of the bill provided one hundred eighty days following enactment to submit the report which is a timetable we can accommodate and so we request the bill be amended to reflect the initial timetable.

Intro. 942: Agency Liaisons

The Administration also supports the legislation to create agency liaison positions that will meet regularly with agencies' regulated communities. The Administration supports the idea of formalizing this role and its functions as this will further cement the commitment that the City has to addressing the needs of regulated communities, particularly those of business owners.



Testimony in Support of Intros 949, 941, 942

Edgar Andrade, Owner, Wycoff 99c and Hardware, 258 Wyckoff Ave, Brooklyn NY

My name is Edgar Andrade and I am a small business owner in Bushwick, Brooklyn. I own Wycoff 99c and Hardware. I work everyday with my family to invest in my community and to make our neighborhood great.

Sadly, it often seems that the city agencies are more interested in fining us than in working together to build a strong neighborhood.

We opened our business in December of 2010. I had worked hard to follow code and make sure my address and phone number were on my receipts. However, the week that the inspector came my cash register had broken down and I needed to buy a new one. We were immediately fined for not having the appropriate information on our receipt, even though we had been giving that information since we had opened. I understand why it is important to protect customers, but if there were a cure period for this violation we could protect customers and help businesses follow code. We were given two more fines for not having individual prices on each item on a shelf labeled 99c. Together these cost us \$300.

Four Months later, another inspector came. He was very rude and would not speak to us. He walked in and grabbed items in the store and came to pay. We gave him the total and gave him a receipt. Everything was up to code. Then he showed us his badge and said that he would be search the store for violations. I felt confident that we were okay because after the first inspection I painstakingly went through our store to make sure we were up to code. I made sure every item had prices and the receipts were correct. After searching for almost an hour, he decided to fine us because he could read prices on individual items that were hung high on the wall. We had just received a deliver and he gave us a violation because there were not prices on the items still in the cardboard box. Then he gave me a ticket because there were air sprays that were not individually marked, even though I had put a sign on the whole shelf that said all items were 99c.

I took pictures of all the items in question and brought them as evidence to the

D.C.A. office to contest my fine. Cynthee Cortes from Make The Road NY came with me to help me through the process. We arrived there and found a long line of business owners waiting to be fined. I spoke to many on the line and learned my story was not unique. There were many small family businesses being fined for minor violations that did not endanger their customers.

We waited patiently for our number. So, we went into speak with the official from D.C. A. and he explained because it was the second violation within six months the fine is doubled.

We then presented our evidence that the fines were unnecessary and he said,

"I can't do anything about it. If you want to start a case we will set up a hearing date and we will send inspectors to re-check the store. If you are found guilty you must pay for all the court expenses and for the additional inspection." Further, he said that if I simply plead guilty I would only need to pay \$400.

I asked him how is it possible for Small Businesses to fight? He responded,

"I don't have the power to take away the violation. You can bring all the evidence in the world but at the end you have to pay it. The law is the law." I feel that this system is abridging small business owners' rights. While I could technically start the case and take it before a judge to fight the violations, the process is so expensive and onerous that the risks are simply too great. We are coerced into paying unjust fines because the alternative is more expensive.

When the third inspection happened last year, the inspector was more reasonable. I was trying very hard to follow code and he was approachable so I asked him for help.

I asked him, "So how do I know about the law so I can follow code."

He said, "There is a library in NYC and if you ask for the book of DCA codes you will find it in the book."

He said, "I can't spend my time explaining to you all the laws, there are over 1000 laws"

I said, "So, it seems like it doesn't really matter. I can try to fix things but you will always find another violation."

He said, "Yes"

He then gave me a ticket because we didn't have the phone number for the store on the receipt because the cash register had broken again. I got another ticket for not having

individual prices on each item even though the wall was labeled that everything was 99c. He also fined me for not having a poster on the wall explaining the difference between different types and cell phone chargers. He explained that legally I needed to make it so that anyone could choose the correct phone charger without speaking to anyone in the store. In a 99c store with so many items, this seems impossible.

Now, I am worried about the next inspection. We are already saving money because the fines seem inevitable.

I see so many of my neighbors closing. In just the few blocks around my store three stores have closed. A CD store on my block closed because the owner couldn't pay a \$1,500 fine. A medical clinic down the road closed because of too many expensive fines. The grocery store on my corner was being fined for improper outdoor displays of produce and the owner gave up and sold the store.

I must support regulatory reform so that small business can remain in business. I believe that the Fire Department inspectors offer a perfect example of how inspections could work to benefit everybody. The fire department will spend half a day at your store and tell you what is broken, they write down the violations so you know what to fix. For immediate issues they require that you fix it right there but for other issues they give you time to fix it. Then, in a week they return to make sure everything is better. This protects the community while letting the business owners actually follow code rather than just get fined.

Intro 949, 941 and 942 offer important first steps to creating and more fair and just regulatory system. I am excited to see our City Council interested in helping the small business people of New York City and I am optimistic that we can build an even stronger city together.



Testimony in Support of Intros 949, 941, 942

Joan de Jesus, Owner, Juan Celular Center Inc, 272 Irving Ave, Brooklyn NY

Good afternoon, thank you for the opportunity to testify in support of these pieces of legislation that are proposed today. Thank you to the City Council for hearing my testimony and to Councilwoman Diana Reyna and Speaker Christine Quinn for their leadership with small businesses.

My name is Juan de Jesus and I am the owner of Joan Cellular Center. Originally, I am from the Dominican Republic. I sold my store in the Dominican Republic and invested the money in the U.S. Now I work everyday to support my family and maintain my community. I am proud to be the owner of my small business and, with the help of God, I would like to expand it. But, too many times, it seems that the city of New York does not want to work with the small businesses. The small businessmen are dedicated to the health of our neighborhoods and we believe that is possible to project the health of our communities and of our businesses.

One of our biggest problems is that the enforcement of regulation is very arbitrary. There are very many regulations and the regulations are always changing. Without clear communication between the departments and the small business it is impossible to always follow ever regulation. In some cases, it seems that it is more important to the departments to fine rather than work together with small business to follow the regulations.

My story is indicative.

For my business I need a license from Consumer Affairs. I renewed my on the Internet. I paid the fee and received a receipt. The department of consumer affairs sent my license to the wrong address and it was returned back to the department. The D.C.A. did not call me or send me an e-mail to tell me that the license had not arrived. A while passed and I had not received my license.

An Inspector came and observed that I had an expired copy of my license.

I showed him my receipt for paying my fee. But, we could not communicate – I don't speak English ver. I could not understand anything he was telling me and I had no way of asking for translation.

Finally, he told me that I had to sign a paper and he left.

But, about a month later I received an e-mail message telling me that I had missed a

court date and that I was being fined \$1000.00

I feel that the inspector was a little abusive. My license was paid for and he realized that I didn't understand the language. I do not understand why I didn't receive translation services.

I was not notified about my date to appeal my violation in a language that I speak. Therefore, I think the decision to fine me this amount of money was unjust.

I paid for my license. I always want to follow all of the regulations. Clearly this is my responsibility. When I received the message that D.C.A. fined me, I went to the office to see what I could do. I had to close my business for a day to go there. There I found that they had my license in a file for returned documents. Just as I have my responsibility to pay for my license, I believe they have their responsibility to send me my license. If there is any problem when they are sending me my license, the minimum that they could do is send me a message or call me to say that the license could not arrive.

I am sure they have this ability because they sent me an e-mail, call my cell phone and sent letters to my business and home when they wanted to fine me. I would like that they communicate like this to explain how to follow the regulations.

I believe my story shows the necessity of supporting regulatory reform.

The proposals of Intro 949, 941 y 942 would help the small businesses. These proposals can start the process. Also, my story shows that it is necessary to have language access for businessmen. These Intros are the first steps in order to change the relationship between the city and small business. The businessmen and women would like to work with the city to grow our great city.

I had the wish to expand my Business. But now, like many businesspeople, I am very afraid that I could lose my business and my investment in an inspection. If I were to receive to more fines like I received, I would need to close my business.

The Small Businesses only want to overcome and grow together in this great nation. Thank you.



Testimonio para apoyar Intros 949, 941, 942

Joan de Jesus, Dueño, Juan Cellular Center Inc, 272 Irving Ave, Brooklyn NY

Primeramente permítanme saludarles. Gracias al Concejal Diana Reyna, Portavoz Christine Quinn y todos los concejales que están aquí el día de hoy.

Soy Joan de Jesús y soy el Dueño de Joan Cellular Center. Originalmente, soy de la Republica Dominicana. Vendí mi tienda en la republica dominicana para poder invertir en los EEUU. Soy orgulloso de ser dueño de mi negocio y, con la ayuda de dios, lo quiero expandir. Pero, muchas veces, parece que el Ciudad de Nueva York no quiere trabajar juntos con los pequeños negociantes. Los negociantes pequeños están dedicados a la salud del nuestros barrios y creemos que es posible proteger la salud del nuestros pueblos y nuestros negocios.

Pero, la aplicación de las regulaciones es muy arbitraria. Hay muchísimas regulaciones y siempre las regulaciones están cambiando. Sin comunicación claro entre los departamentos y los pequeños negocios es imposible siempre cumplir con cada regulación. En algunos casos, parece que le importan los departamentos mas dar multas que trabajar juntos con un negocio para cumplir con las regulaciones.

Mi historia es indicativa.

Para mi negocio necesito una licencia del Departamento de Consumer Affairs. Yo renové mi licencia del negocio por Internet. Pague el pago y recibí una receta. El D.C.A. envió la copia de la licencia a la dirección equivocada y la devolvió para atrás. El D.C.A. no me llamo o me mandó un mensaje por correo electrónico para decir que la licencia no había llegado. Paso un tiempo y nunca recibí la licencia.

Vino un inspector y observó que tenía una copia de mi licencia expirada.

Le mostré el recibo de pago. Pero, no pudimos comunicar. No pude entender nada de lo que el me decía y no recibí servicio de interpretes por teléfono. No hablo ingles.

Al final, el me dijo que tuve que firmar un papel y se fue.

Pero, como al mes me lleo por E-mail un mensaje diciéndome que yo falté a una cita y que por lo

tanto me multaron con US \$1000.00.

Siento que el inspector fue un poco abusivo. Mi licencia estaba paga y también el se dio cuenta que yo no entendía el idioma. No entiendo porque no pude recibir servicios de traducción.

¿Porque no hay posibilidades de llamar a un número de esos de traductores por teléfono? No me notificó sobre la cita para pelear la violación en un idioma que hablo. Por eso, pienso que fue injusta la decisión de multarme con esa cantidad de dinero.

Yo cumplo con pagar la licencia. Siempre quiero cumplir con todas las regulaciones. Claro que este es mi responsabilidad. Cuando recibí el mensaje que DCA me multara, fui a la oficina de DCA para ver que puedo hacer. Tuve cerrar mi negocio por una día par fui allá. Allá encontró que ellos tenían mi licencia en una fila para documentos devueltos. Como tengo mi responsabilidad pagar para mi licencia, creo que ellos tienen su responsabilidad mandarme mi licencia. Si hay algún problema cuando ellos están mandándome mi licencia, lo mínimo que ellos pueden hacer es mándame un mensaje o llámame que la licencia no puede llegar.

Estoy seguro que ellos tienen esa capacidad porque ellos me mandaron un mensaje a mi correo electrónico, me llamaron en mi celular y me mandaron una carta a mi negocio y a mi casa cuando quieren multarme. Quería que ellos comuniquen como así para explicar como puedo cumplir las regulaciones.

Creo que mi historia muestra que es necesario apoyar la regulación de reforma.

Las propuestas de Intro 949, 941 y 942 ayudarían los negocios pequeños. Esas propuestas van a empezar el proceso. También, mi historia muestra que es necesario tener acceso de idioma para los negociantes. Estas propuestas son las primeras acciones para cambiar la relación entre la ciudad y los pequeños negocios. Los negociantes querían trabajar juntos con la ciudad para crecer nuestra gran ciudad.

Tenia la esperanza expandir mi negocio. Pero ahora, como muchos negociantes en Nueva York, tengo mucho miedo que puedo perder mi negocio y mi inversión en una inspección. Si yo recibo dos mas multas como recibí, tendría cerrar mi negocio.

Los pequeños negocios solo desean superarse y crecer junto a esta gran nación.

Gracias por ayudarnos a crecer.

Hello my name is Maureen Tarulli, I am the owner of a small carting business in NY city named Mo's Carting. Here are some of the agency's I am regulated by. The NYPD, the NY Fire Dept., NY Dept of Transportation, NY Dept of Environmental Protection, the Business Integrity Commission, NY City Sanitation and the list goes on.

I am happy to hear that the City Council wants to create a liason between small business and the city. At this time I do not know a small business owner who is happy doing business in New York City. We are over regulated and fined excessively. Small business owners do not want to break the law, we want to know the laws.

The problem starts with not knowing who regulates us and what the regulations are. The only set of regulations I received when I started my business was from the Business Integrity Commission. Not only do I not know who regulates me or where to find the regulations, I do not even know when I'm getting fined.

I have had tickets mailed to me a year after the ticket was written. I was told there are no statute of limitations on these tickets. Also these tickets can be written by more than one agency.

Tickets are being properly served to the Dept. of State in Albany even though all my trucks and containers have my name, address, telephone number and license number on all my equipment. These tickets served to Albany almost never get mailed to me.

I find out that I was fined when I get a default letter from the ECB office.

I asked to postpone a hearing at the ECB court and the judge wanted me to plead guilty, pay the \$750 fine and then appeal it. I spent over an hour with this judge trying to convince him that the default letter I got did not give me enough information to defend myself. He couldn't understand that I didn't want to pay the \$750 fine & appeal it. I had to ask him aren't we innocent before being proven guilty. Why should I have to plead guilty pay \$750 and then appeal. I just wanted to adjourn it. That \$750 is a salary.

When I was fined by the FDNY I was able to cure all my violations. I appeared before the ECB and because I didn't serve the Fire Dept with my cures I was still fined \$1500. I had no idea I was suppose to serve the fire Dept.

The DOT is now requiring that Carters obtain permits for Containers on the street. I never recieved any regulations from the DOT when I became a permittee.

Recently I was given a violation from the Business Integrity Commission for not providing the BIC with a 1 sentence letter. When I went to court the BIC lawyer met me in the waiting area at 66 John St and then told me he was willing to settle for \$500. He then said if I didn't settle for the \$500 he was certain I would be found guilty and would demand a \$20,000 fine. \$20,000 for a 1 sentence letter. I agreed to pay the \$500 fine and left feeling like I was just extorted. I was afraid to go in front of the judge even though I knew I was right. I just couldn't afford to gamble with a \$20,000 fine.

I can go on for hours with stories of how I've been fined and to add insult to injury

these fines are not tax deductible. They show up as profits on our taxes, so we are paying taxes on these fines. When I applied for financial aid for my children's college education these fines prevented me from getting any aid. When I explained to the school that these monies were paid out to NYC for fines and that they were not in my check book they didn't believe me.

This environment of fining & regulating excessively is pushing business's out of New York City. Many business owners learn how to open & close up corporations to avoid paying fines.

Hurting small business's is hurting the backbone of this city. No one works as hard as a small business owner usually 24 hours a day 7 days a week on call.

NY City is the center of the world because of our diversity. Once we lose that NY City will be like any other big city.

You can not expect small business owners to be able to run their business and fight city hall at the same time.

If we can work together we can still be the greatest city in the world and be an example of how small and big business can work together. There's a place for all of us. We love our delis on the corner but a Subway and a Dunkin Donut can exist next door.

Small businesses need education and opportunity. We need warnings, cure periods and physical copies of our bill of rights, regulations & amendments. We will not survive with more regulations & excessive fines. When there is no more competition left the consumer and the city will suffer. When the private sector flourishes so does the public sector.

Small businesses are what makes NYC the greatest city in the world. Let's see if we can bring a partnership together so New York can be an example for the 21st century of not only a place to love to do business in, but a place we love to raise our families in, ~~setting an example~~ for future businesses to not only want to start up here but to grow in NYC also.



The Queens Chamber of Commerce joins with the Manhattan Chamber of Commerce to support all of the intros being discussed at today's hearing. We would like to thank Councilmember Diana Reyna, the great Chair of our Committee on Small Business and Speaker Christine Quinn for their leadership on these very important measures vital to the small business community..

Following up on the Regulatory Reform Panel established by the Speaker in 2010, it is nice to see many of those recommendations finally turned into meaningful legislation. It also should be noted, that the Queens Chamber of Commerce proudly stands with Make the Road and Small Businesses United, proving that while we may disagree on certain pieces of legislation, our ultimate missions are aligned in the pursuit of making life better for small businesses, the lifeblood of our community. Despite sometimes having opposing positions, our organizations we respect each other and look for synergies to work together.

Times continue to be tough for our City's small businesses and nuisance fines don't make things any easier. Small businesses are repeatedly violated with large fines for minor, curable offenses. When a violation does not impact public health or safety, first time violators should be educated, not penalized. I hear stories constantly about inconsistent enforcement, revenue-grabbing nuisance fines and the difficulty to be heard or appeal your violations, short of losing a day from your business. These practices must stop.

Intro 949 best addresses these situations, allowing for a "cure period" and time to correct the problem before giving out a fine. While this intro only requires departments to report, we think it's a good step towards our ultimate goal of seeing actual changes made to these punitive regulations.

Intro 941 addresses a problem we continue to hear about from our members, relating to inconsistent enforcement of rules by inspectors, a lack of language access and a lack of cultural understanding, a major problem in Queens County. Business owners often feel threatened, feel as if they lack recourse or have to spend days away from their business to appeal fines and violations. There is also a fear of retribution, if they "go over the head" of the inspector. This is not the climate we



want to have. Business owners need a forum to give feedback and inspectors must be held accountable.

As a Chamber of Commerce, we especially like Intro 942 that would create department liaisons with organizations like ours. We think it is important to have consistent dialog with Chambers, so our members interests can be represented a little more anonymously and with an effort towards creating more “business friendly” legislation that still protects the public’s health, safety and welfare.

Finally Intro 946 finally puts to law, the recommendation from the Regulatory Reform panel of establishing and distributing Business Owners Bill of Rights. It is essential that our entrepreneurs know their rights, understand the appeals process and feel as if their voice has meaning. We again thank the Chair, her committee, the Speaker and the Council for turning these recommendations into law.

Respectfully Submitted,

Jack Friedman
Executive Director



NEW YORK
STATE
RESTAURANT
ASSOCIATION

Comments

of

The New York State Restaurant Association

on the

**COMMITTEE ON SMALL BUSINESS HEARING ON
INT. 0941-2012, 0942-2012, 0949-2012, 0956-2012, T2013-5909**

February 27, 2013

1:00 p.m.

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Good afternoon members of the Committee. My name is Rick Sampson and I am the CEO and President of the New York State Restaurant Association ("NYSRA"), a trade group that represents approximately 5000 food service establishments in New York City and over 10,000 statewide. NYSRA is the largest hospitality trade association in the State of New York and it has advocated on behalf of its members for over 70 years. Our members, Food Service Establishment ("FSE") operators, represent one of the largest constituencies regulated by the City, particularly the New York City Department of Health and Mental Hygiene

New York City is one of the pillars of the culinary arts world. Our restaurants employ hundreds of thousands of New Yorkers and are a backbone of the tourism trade. Yet, to ensure the continued viability of the restaurant and hospitality industry, we must have sensible and reasonable regulations. We must have regulations that properly balance the need to protect the safety of the public with the need for the industry to grow and thrive.

NYSRA welcomes the proposed revisions set forth in Intros. 0941-2012, 0942-2012, 0949-2012, 0956-2012, T2013-5909. These proposed revisions to the City Charter, the Administrative Code, and the retrospective review of all fines in certain codes provide reasonable and sensible first steps to easing the heavy regulatory burden faced by the hospitality industry. While NYSRA is providing its support to each of these bills, NYSRA would like to provide the following comments specific to each bill:

- Intro 941-2012 seeks to standardize the training provided to inspectors. As the inconsistency of investigations is one the largest member complaints received by NYSRA, this is an important step in streamlining the inspection process. Too often FSEs feel as if inspections are not about educating them to have a better and safer operation, but rather, are focused on generating revenue for the City. This fear has unfortunately been verified by investigations of the City Council and was widely reported on just last week in major news sources. NYSRA hopes that the regulated communities and the regulators will be able to provide input into the standardization of the training process to ensure all stakeholders impacted by the inspection processes can assist in the efforts of the Office of Operations to standardize the inspection process.
- Intro. 0942-2012 will require the designation of an agency liaison for the regulated community. Such a liaison will be a valuable asset to the agencies and the regulated community. NYSRA regularly meets with City agencies to

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discuss the hospitality industry's concerns over particular regulations and then distributes that information to the hospitality industry. Such interaction fosters a sense of camaraderie, instead of a culture of fear of the regulating agency. One already existing example of a positive working relationship that should be a model for this bill is the Department of Health and Mental Hygiene's ("DOHMH") Food Safety Technical Advisory Committee. This committee meets quarterly and it allows leading hospitality industry groups to meet with senior DOHMH staff to discuss new developments in food safety and issues impacting the hospitality industry, including the inspection process.

- Intro. 0949-2012 will require an agency level review of existing violations to determine when a violation should allow for a cure period or ameliorative action by a FSE instead of a fine. Article 81 of the New York City Food Code is replete with non-critical food safety violations that would be ripe for such a cure period or ameliorative action by a FSE instead of a fine. NYSRA has long advocated that DOHMH inspections should not just be a game of "gotcha" which can lead to costly and time-consuming visits to the Health Tribunal to fight fines for non-critical food violations. At the Council's oversight hearings held last March, which NYSRA spear-headed, NYSRA brought numerous operators to attest to a fundamental problem in the Food Code – that fines are too numerous, too steep, and not necessarily in the best interest of improving public health.

Inspections should be viewed as a partnership between the industry and the DOHMH. Inspections should provide for an opportunity to cure non-critical food violations within a set period, without a fine to the FSE. However, NYSRA notes that the second visit to inspect for the ameliorative action should not be an opportunity for a new set of non-critical food violation fines. NYSRA strongly supports Intro. 0949-2012 and the efforts to focus on education and not fines as a means of improving public safety.

- Intro. 0956-2012 would require the development of and distribution of a business owner's bill of rights at the time of any inspection. This bill is consistent with NYSRA's goal of letting the regulated industry know their rights and ensure that inspectors know their goal is to assist the regulated community come into compliance – not to simply fine operators. This bill, when combined with the other proposed legislation, will complement the Council's efforts to bring reasonable reforms to the existing regulatory environment.



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- Intro. T2013-5909 will assist businesses impacted by Super Storm Sandy. Many NYSRA members continue to face huge obstacles in reopening their operations. Any bill such as T2013-5909 is a welcome relief to NYSRA members and NYSRA commends Council Member Reyna, Council Member Chin, and the Mayor for introducing this legislation.

In conclusion, the New York State Restaurant Association supports the proposed legislation and looks forward to continuing our ongoing work with the Mayor's Office and the Council to improve the business climate in New York City. A vital part of NYSRA's mission is to seek the development of a fair and equitable regulatory environment that encourages the success and growth of New York City's world famous restaurant industry. I thank you for the opportunity to comment here today and on behalf of NYSRA and the entire food service industry; we are encouraged by the Council's efforts to reduce regulatory burdens on Food Service Establishments and optimistic such efforts will succeed.

Respectfully Submitted,

Rick J. Sampson
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I represent: Chief Business Operations Officer

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Name: Elizabeth Weinstein

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I represent: make the Road NY + Edgecote Anside

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Name: Robert Bookman

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I represent: N.Y.C. Hospitality Alliance

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