



**TESTIMONY OF
SAMI NAIM, ASSISTANT COUNSELOR TO THE MAYOR,
BEFORE THE NEW YORK CITY COUNCIL
COMMITTEE ON GOVERNMENTAL OPERATIONS
REGARDING INT. NO. 91-A**

JUNE 25, 2010

Good afternoon Chairs Brewer, Reyna, and White, and members of the respective Committees. I am Sami Naim, Assistant Counselor to Mayor Michael R. Bloomberg, and am here on behalf of the Administration to testify in support of Int. No. 91-A, a measure which would require further review of proposed rules by the Law Department and the Mayor's Office of Operations. With me today is Liz Weinstein, Director of Agency Services at the Mayor's Office of Operations.

Let me first say that the Bloomberg Administration remains steadfast in its commitment to small businesses – a commitment we share with the City Council. Small businesses are critical engines of our economy, employing half of all New Yorkers who work in the private sector. They are also important contributors to our quality of life, creating a special sense of community in neighborhoods throughout the five boroughs.

Let me also begin by reaffirming the Administration's commitment to providing the best customer service to New Yorkers. Indeed, since 2002, improving customer service standards has been a cornerstone of the Administration. In fact, Mayor Bloomberg signed an executive order to create a Customer Service Group within the Mayor's Office of Operations to ensure that every member of the public who interacts with City agencies receives the best customer service possible regardless of how those services are received – whether in-person, over the phone, by letter or email, or via NYC.gov. Customer service is, of course, central to our relationship with businesses.

Building on these two commitments, the Administration has developed a number of tools to allow small businesses to develop and grow. A few examples include:

- ***NYC Business Express*** a web-based resource for business owners that serves as a one-stop shop for the permits and licenses a business owner needs to open and operate his or her enterprise;
- ***NYC Business Solutions*** a suite of free services offered by the Department of Small Business Services that help businesses of any size and at any stage of development open, operate, and expand;

- ***Workforce I*** an initiative that helps business owners navigate the labor market using a customized recruitment approach tailored to a company's specific needs;
- ***The New Business Acceleration Team*** a new, streamlined program that will make it possible for qualifying entrepreneurs in the restaurant business to open their bar, bakery or restaurant more quickly through, for example, coordinating multiple agency inspections on the same day; and
- ***Development Coordinator*** an initiative that assists qualifying developers, contractors and other licensed professionals who are "stuck" between agencies because of confusing or conflicting policies or jurisdictional issues.

But to preserve and build upon the progress that we are making, we must do more than provide the tools necessary for small businesses to succeed; we must also create an environment that facilitates their growth. With this in mind, the Administration worked with the City Council on developing a Panel on Regulatory Review, which was codified in legislation that was introduced by Council Member Oddo and signed into law by Mayor Bloomberg as Local Law 45 of 2009. The panel was intended to: scrutinize the City's regulatory system with an eye towards easing the burden borne by small businesses and eliminating obstacles to their development and growth. The report the Panel produced identified ways to modernize and strengthen the process established by the City Charter, known as the City Administrative Procedure Act or CAPA.

To modernize the rulemaking process, the Administration launched a new website earlier this year called "NYC Rules." This new website enables the public to: track and monitor rulemaking activity; submit comments regarding proposed rules; and learn more about the rulemaking process through plain language guides and process maps. We believe that by spurring greater public participation in the rulemaking process, we are making it easier for small businesses and the public to stay on top of the latest regulatory developments to ensure better levels of compliance, which helps businesses avoid violations and save money.

To strengthen the rulemaking process, the Administration seeks to ensure that agencies are promulgating rules in accordance with sound, well-established operational and customer service principles. Int. 91-A helps achieve this objective by creating a mechanism by which the City can tap into the experience and expertise of the Mayor's Office of Operations during the early stages of the process. Under, Int. 91-A, Operations would conduct a review of a proposed rule to make sure that it is easy-to-understand, consistent with other agency processes, and achieves policy objectives without imposing undue burdens, measured in both time and money, on the regulated community. For example, when two agencies are regulating the same activity, but use different processes and different timeframes, this imposes an unfair burden on a business owner who is required to juggle this agency information in his or her head all while running a business. In these cases, we would want Operations to step in before new rules are piled on top of existing rules, to see if there is a better way to achieve the policy objective at hand that avoids creating additional bureaucracy. Accordingly, we fully support this effort as a common-sense reform to CAPA.

However, we would like to continue to work with Council to further refine the bill in order to make it as effective and efficient as possible, and to ensure that it always furthers the public's best interests and purposes. Specifically, we have three areas of concern that we believe require further discussion with Council:

First, we believe that the bill should be amended to ensure a more efficient review process that maximizes the Mayor's Office of Operations' skill set. The bill in its current form would require Operations to analyze and publish a report outlining various aspects of every single rulemaking action, regardless of the action's potential scope or impact. This may not be necessary or practical in all cases, such as when the Department of Records and Information Services amends its rules to establish or change fees for the reproduction of a tax lot photo. Indeed, in such cases the review called for under this bill, as currently drafted, may not be the best use of the office's limited staff and resources, during a time in which we are all focused on streamlining City government and eliminating outmoded processes. Therefore, we propose that the bill be amended to exempt rules in certain situations, for instance when a rule's sole purpose is to implement a federal, state, or local law or to establish or amend administrative fees.

Second, we believe that the bill's notice requirements should be amended in light of what is already required under CAPA. Under the bill, agencies would be asked to engage one set of stakeholders before other stakeholders. Under CAPA's standard process, all stakeholders, whether they be institutional forces or individual New Yorkers, learn about a proposed rule at the same time and are provided the opportunity to provide their feedback at a public hearing that is open to all. Moreover, the bill does not provide enough guidance as to who should be considered a relevant stakeholder, which could result in certain persons or organizations being inadvertently left out of the process. Therefore, we believe that further discussion is required on this issue to reconcile what is provided for under the bill, and what currently exists under CAPA.

Third, we believe that the bill should incorporate an emergency rulemaking exemption that is consistent with CAPA. Indeed, the bill as written does not provide an exception for when the City must respond swiftly to a situation that threatens the public's health or safety. This is of great concern to the Administration. Emergency rules, of course, eventually expire, at which point they must be re-promulgated through the standard rulemaking process. We believe that the standard process is the more appropriate situation for review by the Mayor's Office of Operations. We also believe that the Council does not intend the bill to apply to emergency rules. Therefore, we propose that the bill be amended to exempt emergency rules from this process.

In conclusion, we thank Chair Brewer and the Committee on Governmental Operations for calling this public hearing to discuss Int. 91-A, and look forward to continue to working with the Council to refine the bill and establish a process that yields efficient and effective regulatory outcomes, which will ease the regulatory burden borne by small businesses, consumers and the public at large. We would be happy to answer any questions you may have.

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THE CITY OF NEW YORK**

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in favor in opposition

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(PLEASE PRINT)
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I represent: MAYOR'S OFFICE

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(PLEASE PRINT)
Name: Robert Bookman

Address: 325 Bway, N.Y.C.

I represent: NYS RESTAURANT ASSOC, NY NIGHTLIFE ASSOC.

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