



**TESTIMONY OF  
SAMI NAIM, ASSISTANT COUNSELOR TO THE MAYOR,  
BEFORE THE NEW YORK CITY COUNCIL  
COMMITTEE ON GOVERNMENTAL OPERATIONS  
REGARDING INT. NO. 951-A and INT NO. 927**

**APRIL 3, 2013**

**Introduction**

Good afternoon Chair Brewer and members of the Committee on Governmental Operations. I am Sami Naim, Assistant Counselor to Mayor Michael R. Bloomberg, and am here on behalf of the Administration to testify on: Int. No. 951-A, a measure which would impose additional procedural requirements on the rulemaking process, known as the City Administrative Procedure Act or CAPA; and Int. No. 927, a measure which would require notifications regarding pilot programs.

**Int. No. 951-A**

Regarding Int. No. 951-A, let me first state that the Bloomberg Administration remains steadfast in its commitment to bringing greater transparency, accountability, and accessibility to government operations, including the rulemaking process. As you know, the rulemaking process, known as the City Administrative Procedure Act ("CAPA"), was first conceived almost 20 years ago by the 1988 Charter Commission. Until recently, the process has changed little to reflect modern conditions and circumstances or comport with contemporary customer service and operational principles. However, both the Administration and the Council have taken significant steps in recent years to strengthen and modernize CAPA.

For example, in 2008, the City Council amended CAPA by requiring agencies to email information regarding a proposed rule or rule change to community boards, the news media, civic organizations and other stakeholders. This email requirement was intended to supplement publication of the same in The City Record, which, as you know, serves as the official newspaper for the City of New York for purposes of publishing official notices such as public hearings, meetings, property dispositions, and procurements, and which, incidentally, does not have a significant subscription base.

In 2010, the Administration, in partnership with the Council, launched NYC Rules, a website that allows the public to: search for all recently proposed and adopted rule by date, agency, or keyword; submit their comments on proposed rules directly to the rulemaking agency via from

any home or office computer, Blackberry or other mobile device; learn more about the rulemaking process through plain-language guides, process maps, and links to regulatory resources, such as the complete compendium of the Rules of the City of New York; and sign up to receive an NYC Rules e-newsletter, which provides weekly updates regarding rulemaking activity citywide.

Also in 2012, the Council amended CAPA that would require agencies to post a link to NYC Rules, furthering our efforts to create an accessible one-stop shop for all rulemaking actions.

And later this year, the Administration will further enhance the NYC Rules website to make the process even more accessible to New Yorkers. The enhancements include features such as: a more user-friendly interface and design; expanded search and keyword capabilities; and a public hearing calendar that will incorporate all rulemaking public hearings citywide. The calendar feature, in particular, will help the public stay up-to-date on rulemaking activity citywide with a click of the button.

All of these steps are intended to help ensure that CAPA is as transparent, accountable, and accessible as possible, without imposing undue burdens on City agencies seeking to promulgate rules that safeguard the public's health, safety, and well-being. We believe that Int. No. 951-A, in its current form, would disrupt this balance and impose significant undue burdens on City agencies.

First, the requirement that rules must be published in "final form" to be voted on by an agency board or commission, as proposed by Int. No. 951-A, could significantly delay the implementation of critical public policy initiatives, many of which are mandated by this City Council. Indeed, under this bill, any modifications or amendments to a rule, however minor, at the request of a board or commission would trigger the publication of another round of notices and reconvening another meeting to vote on the rule again and move it through CAPA.

For example, the Taxi and Limousine Commission often holds a vote on whether TLC should adopt a particular rule at a public meeting. At the meeting, a rule on the agenda may be subject to further amendments or modifications at the request of one of the TLC commissioners. If the commissioners agree, the amendment or modification is incorporated into the final rule which is then approved at the same meeting. Under Int. No. 951-A, this process would be extended by days, if not weeks, because of the proposed notice and meeting requirements that would be inserted therein.

Second, the bill's requirements apply to all rules, regardless of the rule's potential scope or impact. Such a requirement is unnecessary and impractical in all cases, such as when the Environmental Control Board amends its fee schedule as a purely administrative manner. Indeed, in such cases the notice and meeting requirements 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.

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. Therefore, we propose that the bill be amended to exempt emergency rules from this process.

### Int. No. 927

Regarding Int. No. 927, allow me to again reaffirm the Administration's commitment to transparency, accountability, and accessibility. The Administration is also committed to innovation in government, which includes administering pilot programs that help identify sustainable policy solutions. We believe that all of these objectives are not mutually exclusive and have worked with community boards and other stakeholders on a variety of programs to facilitate their success.

However, we do not believe that a two-month notice period is feasible in all scenarios, for all pilot programs. Indeed pilot programs differ in scope and subject matter. Some programs are of limited duration, lasting for only a few days. Other programs are programmatic in nature and/or concern back-office operations, which do not necessarily impact the public at large within any particular community board. Therefore, we believe the bill is well intentioned but requires further thought as to how best ensure and balance community engagement and government innovation.

### Conclusion

In conclusion, we thank Chair Brewer and the Committee on Governmental Operations for calling this public hearing to discuss Int. No. 951-A and Int. No. 927, and look forward to continue to working with the Council to refine the bills to enhance the rulemaking process and community board outreach. That being said, unfortunately the Administration cannot support the bills as currently drafted because of the harmful albeit unintended consequences that it would have on the operations of City government given the vague yet broad mandates they impose. Thank you and I would be happy to answer any questions you may have.

**FOR THE RECORD**

## **Public Testimony**

Submitted to the

### **Committee on Governmental Operations**

April 3, 2013

### **Regarding Intro**

**In Favor:**

- Proposed Int. 951-A, A Local Law to amend the New York City charter, in relation to public notice of final rules.

Good afternoon, members of the Council. My name is Carolyn Castro and I am the Executive Director of the Livery Roundtable.

The Livery Roundtable is a coordinating council in the New York City ground transportation sector and is made up of four livery industry associations, Carmel Car Service, and Dial 7 Car & Limousine service. We represent over 14,000 livery drivers, 240 base operators, and over 9,000 dispatchers, telephone operators, and other staff. On behalf of all our members, I thank you for providing us a public platform to communicate our thoughts and concerns today.

We applaud the efforts put forth in intro 951-(A), which places requirements and timeframes on regulatory agencies to properly inform the industry when seeking to amend regulation.

As I am sure the Council is aware, late December proved to be a disastrous time for the livery industry when rule promulgations on app technology were suddenly converted by the Taxi and Limousine Commission into a pilot program, simply to ensure the passage of a vote.

The impulsive change from a rule amendment to a pilot program occurred less than 48 hours before the public commission meeting, providing no public notice to the industry, nor proper notification to the Commissioners who were expected to vote on the pilot.

This action stripped us of our rights to comment on the newly created pilot and rendered us voiceless. I'm sure you all understand how detrimental and unfair the consequences can be when changes are enacted without notice to the industry that must abide by such changes.

Having criteria in place for agencies to properly execute programs and properly provide information to the industry will instill fairness and better regulation for both the industry and government entities, allowing both parties to work together for the enhancement of the City.

Again, we thank you for considering the industry and its presence when instilling regulation.

**THE COUNCIL  
THE CITY OF NEW YORK**

*Appearance Card*

I intend to appear and speak on Int. No. 051-A/027 Res. No. \_\_\_\_\_

in favor     in opposition

Date: 4/3/2013

**(PLEASE PRINT)**

Name: SAM NAM

Address: CITY HALL

I represent: OFFICE OF THE MAYOR

Address: \_\_\_\_\_

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