



**TESTIMONY:
Amendments to the NYC Energy Code
and Façade Inspections**

**TESTIMONY BEFORE THE NEW YORK CITY COUNCIL
COMMITTEE ON HOUSING AND BUILDINGS
NEW YORK CITY DEPARTMENT OF BUILDINGS
MELANIE E. LA ROCCA, COMMISSIONER
JANUARY 27, 2020**

Good morning Chair Cornegy and members of the Committee on Housing and Buildings. I am Melanie E. La Rocca, Commissioner of the New York City Department of Buildings (“the Department”). I am joined today by Gus Sirakis, the Department’s First Deputy Commissioner and Gina Bocra, the Department’s Chief Sustainability Officer. Together, we are pleased to be here to offer testimony in support of the revisions to the New York City Energy Conservation Code (“Energy Code”) and to discuss façade inspections.

Before I discuss the Energy Code, I would like to thank you, Chair Cornegy, along with all of the members of the Committee on Housing and Buildings, for your partnership on the revisions to the New York City Plumbing Code, which were approved by the City Council last month. The New York City Construction Codes (“Construction Codes”) are the backbone of New York City’s built environment. They, coupled with the New York City Zoning Resolution, which we are responsible for interpreting and enforcing, physically make New York City the place it is today. The Construction Codes, including the Energy Code, are revised periodically to ensure that they are up-to-date, that they reflect advancements in technology, as well as the latest safety standards for building construction. The recently adopted revisions to the New York City Plumbing Code are the first step as the Department works to update the Construction Codes to ensure the City’s built environment – with its more than one million buildings and 45,000 active construction sites – is as safe as can be.

Today, the Committee has before it, **Intro. Number 1816**, which updates the Energy Code. In addition to bringing the Energy Code up to date with the 2020 New York State Energy Conservation Construction Code (“the New York State Energy Code”), this bill aligns the Energy Code with the latest version of the NYStretch Code. This is a model energy code developed by the New York State Energy Research and Development Authority that provides additional

energy savings over the New York State Energy Code. Aligning with the NYStretch Code brings us into compliance with Local Law 32 of 2018 (“Local Law 32”). Local Law 32 requires the Department to submit revisions to the Energy Code to the City Council that align with the NYStretch Code in this revision cycle and in the upcoming revision cycle.

New York City has had its own Energy Code since 2010. The Energy Code, like the balance of the Construction Codes, is periodically updated and was last updated in 2016. It is imperative that the Energy Code be updated periodically to ensure that it is more restrictive than the New York State Energy Code. This is only one piece of the work the Department is doing to address greenhouse gas emissions coming from buildings, the largest source of emissions in New York City, which I will discuss in further detail momentarily. This Energy Code revision process began in early 2018. It involved over 48 industry professionals and stakeholders who volunteered their time to participate in the process and who sat on either the Residential Advisory Committee, or the Commercial Advisory Committee, and who participated in various sub-committees along with 17 guest experts. Advisory Committees are responsible for reviewing all proposed amendments to the Energy Code and providing comments or recommendations for additional amendments to the Energy Code. Advisory Committee members include registered design professionals knowledgeable in energy efficiency, energy conservation, building design and construction; environmental advocates with expertise in energy efficiency and conservation; construction and real estate professionals; and representatives of labor organizations.

The proposed revisions to the Energy Code are based on the 2020 New York State Energy Code, which aligns with the 2018 International Energy Conservation Code developed by the International Code Council and with ASHRAE Standard 90.1-2016. While the proposed revisions use the 2020 New York State Energy Code and the NYStretch Code as a base, they also modify or add new language to the Energy Code tailored to the unique needs and characteristics of the City’s built environment. Together, these changes will result in an average annual energy savings of 13% for new commercial buildings, and an average annual energy savings of 19% for new one- and two-family homes and small apartment buildings. These changes will bring the best in energy efficiency to our building equipment and envelopes, and will ensure that the City’s buildings consume less energy as we work towards achieving carbon neutrality.

Highlights of the revisions being made to the Energy Code by this bill include:

- Requiring more efficient lighting power and additional lighting controls for interior and exterior applications;
- Requiring additional thermal envelope performance requirements for buildings choosing to comply with energy modeling;
- Requiring more stringent insulation and fenestration requirements for most assembly types, including requiring continuous insulation for balconies and parapets, as well as documentation of certain thermal bridges;
- Allowing source energy as a metric, instead of energy cost, for buildings choosing to comply with energy modeling;
- Requiring whole building energy monitoring on large commercial buildings;
- Requiring infrastructure for the future installation of electric vehicle chargers in one- and two-family homes;
- Requiring more new construction projects to perform air leakage testing; and
- Requiring more alteration projects to perform commissioning

In addition to proposing the most stringent Energy Code in the City's history, the Department is hard at work implementing a number of laws aimed at increasing the energy efficiency of our buildings. This includes establishing an Office of Alternative Energy, which will assist with the review and approval of applications submitted to the Department in connection with alternative energy projects, establishing an Office of Building Energy and Emissions Performance, which is tasked with overseeing a program to regulate greenhouse gas emissions from buildings exceeding 25,000 gross square feet, and implementing laws that will require buildings to cover their roofs in solar panels or green roof systems. We will also begin seeing energy grades on our buildings later this year, which will make the energy efficiency of our buildings transparent to the public.

Before I discuss façade inspections, I would like to take a moment to thank the members of the Residential and Commercial Advisory Committees, who contributed their expertise and time to produce the bill before the Committee today.

Turning now to façade inspections, which are required by the Construction Codes to periodically evaluate the condition of certain facades and to ensure that facades are being maintained. In

New York City, all buildings greater than six stories, which currently includes approximately 14,500 buildings, must have their exterior walls inspected every five years. These inspections are performed by registered design professionals with relevant experience, referred to as Qualified Exterior Wall Inspectors (“QEWIs”). These inspectors, which are hired by building owners, are responsible for submitting the results of exterior wall inspections to the Department. As part of these inspections, building facades are categorized as safe, which means the façade is in good condition, safe with a repair and maintenance program, which means the façade is in good condition but requires repair and maintenance during the next five years to remain in good condition, or unsafe, which means that the façade presents conditions that must be repaired within twelve months. If the façade is unsafe, the Construction Codes require owners to immediately commence repairs to address unsafe conditions or take steps to protect pedestrians, which most commonly includes installing a sidewalk shed.

The Department takes seriously its responsibility to hold owners accountable for keeping their buildings safe and code-complaint, and to enforce the requirement that all facades be maintained, and that certain facades be inspected periodically. When the Department receives a façade inspection report, that report is reviewed by a plan examiner and rejected if determined to be inadequate. A rejection could occur if the report omits any required elements or is not detailed enough. Any deficiencies identified in an inspection report must be addressed and an amended inspection report must be submitted to the Department. The Department also performs audits, which include a physical visual inspection by the Department, following the submission of façade inspection reports to ensure that conditions at the building are as described in the report.

The Department issues violations to owners who do not comply with the façade inspection requirements, which includes failing to submit an inspection report to the Department during a reporting cycle. In addition, when an inspection report is not submitted to the Department for a building, the Department will conduct an inspection of that building to determine if the façade presents any hazardous conditions and issues any appropriate violations, which could include violations for failure to maintain. Additionally, the Department may order that pedestrian protections be implemented at that building if required to protect the public. The Department also issues violations to owners who do not file amended inspection reports following an inspection by a QEWI that indicates a façade is unsafe. These amended reports must be filed

after repairs are made to a building's façade to correct any unsafe conditions. The Department also performs complaint based inspections of facades and takes enforcement action where it determines that an owner has failed to maintain a building's exterior walls or that an owner has failed to take steps to protect pedestrians.

Before I discuss additional steps the Department is taking in furtherance of façade safety, I would like to acknowledge two recent tragic façade incidents. On December 17, 2019, there was a façade incident in Manhattan that resulted in the death of a member of the public, Erica Tishman. On January 16, 2020, there was a façade incident in Queens that also resulted in the death of a member of the public, Xiang Ji. The families and friends of Erica Tishman and Xiang Ji are in our thoughts. No pedestrian should be at risk from dangerous façade conditions. I would like to remind owners that they are responsible for maintaining their buildings in a safe condition, which could prevent incidents like these from occurring again in the future.

While the recent incident in Queens is still under investigation, I would like to provide additional background on the incident that occurred in Manhattan in December 2019. This incident involved a piece of façade falling off a building where there were no protections in place for pedestrians, even though the Department had ordered that such protections be implemented following an inspection that occurred months earlier in April 2019. The April 2019 inspection was an audit performed by the Department after a façade inspection report was submitted to the Department for the building. During this inspection, the owner was ordered to make repairs to the façade and to implement safety measures in order to protect the public. A follow up violation was issued to the owner of the building in July 2019 for failure to resolve the earlier violation issued in April 2019. The owner challenged our violations, delayed their hearings at OATH, and failed to implement pedestrian protections as ordered.

Immediately following this incident, the Department performed a sweep of 1,331 buildings. These buildings were previously identified as requiring repair work during required inspections. Of these buildings, 220 lacked proper pedestrian protection and received a violation requiring them to implement protective measures. To date, the owners of 68 of these buildings have installed appropriate protective measures. The Department has issued Immediate Emergency Declarations for the 152 buildings that have failed to install protective measures, which means contractors will be brought in to perform the work at the owner's expense.

Last month, the Department announced that it is doubling the dedicated façade inspection team and enhancing the façade inspection process. These actions will hold owners accountable for both maintaining their facades and keeping pedestrians safe. Doubling the dedicated façade inspection team means that buildings will be receiving additional proactive inspections from the Department. When the Department issues an immediately hazardous violation for a façade condition, we will be back out there in 60 days, and again 30 days after that, to determine whether proper pedestrian protections are in place. Regular inspections will continue after that point to make sure that required pedestrian protections are in place and that any orders issued by the Department are being complied with.

The Department has also published for adoption its amended rules that enhance requirements for periodic exterior wall inspections and repairs performed by property owners, an effort that has been underway for months. The amended rule will be in effect next month, ahead of the next façade inspection cycle, and includes more hands-on inspections of facades fronting public rights of way, greatly increases penalties for failing to file required façade inspection reports and for failing to make repairs to unsafe façade conditions, adds a new requirement that owners post and maintain a building's facade status in the lobby in a manner similar to elevator certificates, and requires additional experience for façade inspectors hired by property owners.

It is critical that buildings, including their facades, be maintained by owners. Adding more dedicated staff to our façade inspection team means more inspections to hold owners accountable for the conditions of their facades, not just for buildings that must inspect their facades periodically, but across the board. For buildings that are subject to periodic façade inspections, starting next month, those inspections will be required to be more thorough and penalties for failing to file inspection reports or failing to conduct repairs will be stiffer. Safety is a priority for this Department and the failure of building owners to maintain their facades or to keep pedestrians safe is not acceptable. Thank you for holding a hearing on this important issue. I look forward to continuing our work together to improve the Department for the benefit of all New Yorkers.

We welcome any questions you may have.

###