



The Community Preservation Corporation

220 East 42nd St, 16th Floor
New York, New York 10017

**New York City Department of Buildings Public Hearing
Amending Section 103-14 to establish penalties for noncompliance with Article 320 of Chapter 3 of
Title 28 of the New York City Administrative Code
October 24, 2023**

Testimony submitted on behalf of The Community Preservation Corporation

This testimony is submitted on behalf of The Community Preservation Corporation (CPC), a nonprofit affordable housing and community revitalization company that was formed in the early 1970s to help New York City and State restore and rebuild communities that had been devastated by deterioration and abandonment.

Today, CPC uses its unique expertise in housing finance and public policy to expand access to housing and drive down the costs of affordable housing production, advance diversity and equity within the affordable housing development industry, and address the effects of climate change in our communities through the financing of sustainable affordable housing. Since our founding, CPC has invested over \$14 billion to finance the creation and preservation of more than 225,000 units of housing through our lending and investing platforms. CPC is the sole servicer and largest originator in the New York City Retirement Systems Permanent Lending Program, and we are also an equity partner in the PACT Renaissance Collaborative, the team selected by NYCHA to renovate and preserve 16 NYCHA properties located in Manhattan. We were involved in the recovery from Hurricane Sandy, and have centered the transition to the green economy across everything we do since launching our Green Financing Initiative in 2008. Currently, we are administering NY State's Climate Friendly Homes Fund, a \$250M commitment to decarbonize 10,000 units of housing statewide in the next 5 years.

Overall, CPC is very supportive of the goals of Local Law 97 (LL97) and we see this legislation as a critical tool to help New York City (the City) decarbonize buildings and meet our national, state and local climate goals. We urge the Department of Buildings (DOB) and the City Council to safe guard the integrity of the legislation and take specific action to increase its impact and efficacy. On behalf of CPC, we offer the following feedback on the Department of Buildings' proposed rules:

Clarification of Regulation

The DOB's proposed rules create options for mediated resolutions for both Article 320 (i.e., market rate) buildings and Article 321 (i.e. rent regulated/houses of worship) buildings. Building owners need more guidance to understand how demonstration of a "Good Faith" financial hardship or a mediated resolution may affect compliance in the short and long term and what resources will be available to support building owners as they move through resolutions. Existing resources, such as technical assistance through NYC Accelerator (NYCA) and financing assistance through NYCA Financing Partners, provide support to building owners but they are not yet sufficiently scaled to work through these resolutions in the short and long term.

Additionally, more guidance is needed as to the specific benefits available to those building owners who replace fossil fuel equipment early (2021-2026) with high-efficiency electric space conditioning or water heating equipment. Encouraging early adoption makes good sense and ensures that the available workforce and resources can scale to accommodate planned work in the near term and that financial institutions, technical assistance providers, and advocacy groups can size the market and need for significant interventions in the long term. Early adopters not only have access to greater benefits but they



also provide proof of concept and encourage uptake across the more general population. Together with easy-to-navigate guidance, DOB and the City must develop a marketing and communications plan for communicating these opportunities and benefits to building owners in order to encourage early uptake.

Finally, a major factor affecting the adoption of electric heat pumps and other appliances is the cost of electricity. Depending on the existing fuel and the level of energy efficiency work completed, operation costs can increase post-electrification retrofit. To support early fossil fuel equipment replacement with high-efficiency electric heat pumps in Article 321 buildings, the City should work with the New York State Public Service Commission (PSC), New York Power Authority (NYPA) and the utilities to offer customers “early adopter” reduced electric rates to minimize any potential operational cost increases from switching to all-electric equipment and appliances.

Flexibility and enforcement

Given the large scale and ambitious vision of Local Law 97, we appreciate DOB providing flexibility in the pathways to compliance. Most options will allow more buildings to successfully comply, ultimately decarbonizing our buildings and avoiding penalties (which only reduce cash flow) to implement the required compliance measures. However, greater flexibility can create openings for skirting responsibility, so we encourage the City to develop thorough enforcement and reporting mechanisms.

Enabling successful implementation

There are a number of external factors that will be critical to shaping a supportive enabling environment for successful implementation of Local Law 97. While these are not necessarily under the purview of the DOB rule making process, we encourage DOB and the City to consider these factors as they structure Local Law 97 rules and ensure that the rules and regulations adopted are structured in a way to enable successful implementation:

- *Financing:* Currently, there is limited financial and technical support available for rent regulated buildings working to comply with Article 321. Rent regulated buildings do not have open access to reserves or debt products that could afford them the opportunity to finance additional energy efficiency retrofits or deeper energy conservation measures. While it is expected that the Governor will sign into law a new tax incentive for multifamily residential renovations that will cover certain retrofit and greening scopes of work, the benefits of this incentive are significantly less than those previously offered under J-51. This new incentive will help offset some decarbonization costs, but it is not enough, especially since there is not a widely available funding source for buildings wanting to retrofit into compliance. This will be a huge barrier for many owners, especially those who own affordable housing and who already face extremely tight margins due to significantly higher costs and lower collections than pre-pandemic. Without these resources, it is difficult for building owners to create an asset management plan to reduce energy consumption when they reach a refinancing event and may have the low-cost capital available to do so. Access to planning tools, tax incentives, and low-cost financing would allow these building owners to plan ahead and “future-proof” their buildings instead of making reactionary or emergency choices that do not consider the long-term energy consumption or carbon emissions effects. Building owners need a widely available funding source with favorable terms to ensure that New York City’s affordable housing is neither overly burdened by nor left behind in the transition to a clean energy economy.
- *Workforce:* We urge the City to consider the workforce components needed to make the implementation of LL97 successful. It is incumbent upon the City to support the development of a robust skilled workforce to support the law’s implementation and to provide DOB and other city agencies with the staff and financial capacity to advance projects quickly and efficiently.



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- *Con-Ed Capacity:* Currently, electrification efforts are facing significant delays and limitations created by limited service capacity to buildings and insufficient electrical infrastructure within buildings. The City must work in lock step with the PSC, NYPA and Con-Ed, the main electrical provider to residential buildings in NYC, to ensure that the infrastructure needed to reliably produce and distribute sufficient electricity to support large-scale electrification is available. Additionally, the City should work with electricity providers to develop preferential rates for early adopters as an added incentive for decarbonization.

Local Law 97 is ambitious and visionary with its scope, and we are optimistic about the future it will help build for New York City's residents. We believe our recommendations will serve to strengthen the implementation of LL97 and ensure that the City's decarbonization plan is truly inclusive of all sectors of the building stock. We applaud the Department of Buildings for their hard work to craft these proposed rules, and CPC stands at the ready to support implementation in any way we can. On behalf of The Community Preservation Corporation, we thank you for this opportunity to provide testimony.