Testimony regarding the implementation of NYC Local Law 97

NYC Department of Buildings

October 24, 2023

To the NYC Department of Buildings:

I am a member of the climate group 350Brooklyn, which in turn is a member of the Climate Works 4 All coalition here in New York City. I am also a shareholder in a co-op building that falls under the provisions of Local Law 97. I strongly support the full implementation of LL97 as written and passed in 2019.

I certainly recognize that some large buildings will have difficulty marshaling the financial resources to meet the 2024 emissions standards under LL97 and indeed may be far from meeting the 2030 standards. Some of these buildings are co-ops with shareholders who have modest income, and some of these are affordable housing buildings. But I have real concerns that the DoB’s proposals for mitigating the requirement that all buildings over 25,000 square feet comply with the law are not consistent with the law itself.

Under the DoB’s current proposals, the DoB would have significant latitude to ease the pressure on buildings to comply. LL97 explicitly gives the Office of Administrative Trials and Hearings and the courts the authority to mitigate penalties for non-compliant building owners, not the DOB. If a building’s compliance is to be adjusted, it should only be for extraordinary circumstances that its owners can demonstrate to a judge.

Moreover, the proposal that building owners have penalties waived or reduced if they show that that they have a decarbonization plan is not sufficient to demonstrate that building owners have complied “to the maximum extent practicable.” While it is certainly the case that our lives were disrupted by the eruption of Covid-19 in 2020, sufficient time has passed that the DoB should expect that all buildings already have a plan in place and are already making at least some progress on it. Even if they have not done substantive work yet, they should be able, for example, to show competitive bids on key projects. Otherwise, a “plan” is just paper. Under your current proposals, this can translate into a building being allowed by the DoB to put off substantive decarbonization work until 2026 without penalties.

That said, the DoB must make it clear to Mayor Adams and the City Council that buildings with modest financial resources must have access to financing outside the usual bank financing. Nor can these retrofits rely on federal funding, as that is subject to the political winds of Washington. There are a number of ways such funding could be structured, such as a Green Affordable Housing Fund that would finance upgrades in affordable housing and buildings in environmental justice communities. I applaud the DoB’s inclusion of a new energy credit that rewards beneficial electrification before 2030, which is a real “carrot” even for buildings that meet the 2030 standard, thus leading to an overall lowering of our carbon pollution.

I do recognize that the full implementation of LL97 does not entirely rest with the DoB. The rest of us must make it clear to Mayor Adams and our Council Members that the DoB itself must be at full staff in order to ensure that all buildings over 25,000 are genuinely moving towards full compliance. The Accelerator, a resource for advice for so many buildings, must be similarly robustly funded. Unions and community colleges bear responsibility for educating the workforce that all this work will require. And nonprofit organizations throughout the city can do much to help with public education.

Nevertheless, the regulations that the Department of Buildings promulgates are the lynchpin of the successful implementation of LL97. I urge the DoB to revise its regulations concerning waivers for compliance and standards for evidence of compliance.

Sincerely,

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