



February 2, 2025

**Re: *Comment on Rules Implementing Hotel Licensing, Local Law 104 of 2024***

Dear New York City Department of Consumer and Worker Protection:

The Asian American Hotel Owners Association ("AAHOA" or "the association") is honored to provide this response to the Department of Consumer and Worker Protection's ("Department") proposal to "add rules implementing Local Law 104 of 2024, which requires that hotel operators obtain a license to operate a hotel in the City of New York."

AAHOA is the largest hotel owners' association in the world and a major driver of American economic growth at the state and federal levels. The association's 20,000 members own 60% of the hotels in the United States, and are responsible for 1.7% of the nation's multitrillion-dollar GDP. AAHOA member-owned hotels employ more than 1 million employees, generating more than \$47 billion annually. In total, AAHOA member hotels support 4.2 million jobs in all sectors of the hospitality industry across the United States. Statewide, AAHOA members own more than 40% of hospitality properties in New York.

By submitting these comments, AAHOA's objectives are to share the perspectives of its members and to support the creation and implementation of rules and regulations that are compatible with the complexities of the hospitality industry and the daily challenges of hotel operations. The considerations, suggestions, and recommendations enumerated within this letter are by no means exhaustive, but were included because of their central importance to AAHOA's members who either currently (or soon will) operate a hotel subject to these licensing requirements. To promote efficiency and highlight the consensus that exists across various industry stakeholders, we have attempted to coordinate with other groups to minimize overlap and avoid raising the same issue in multiple submissions. AAHOA encourages the Department to review and consider the American Hotel & Lodging Association's ("AHLA") comments submitted in connection with this same rulemaking and expressly incorporates those by reference into AAHOA's own submission.<sup>1</sup>

- i. Utilize Contextual Standards for Cleanliness and Housekeeping** – The licensing requirements vaguely state—without more context or detail—that a hotel must "maintain

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<sup>1</sup> In the event of any conflict between AHLA's comments and those of AAHOA, it is these comments that shall control. With the incorporation by reference, AAHOA reserves all rights to pursue legal challenges to the licensing requirements (including the Department's rules and regulations implementing them) as if AAHOA had stated every comment of AHLA verbatim.

the cleanliness of guest rooms, sanitary facilities, and hotel common areas.” § 20-565.4(c)(1).

*AAHOA encourages the Department to accept the existing standards for “cleanliness”—and associated services—that have been developed within discrete market segments across the hospitality industry. The requirements for preparing a room for the next guest and servicing a room periodically during a multi-night stay vary significantly between economy and luxury properties. AAHOA is concerned about the Department imposing its own rubric for cleanliness and required services—and that, without some guidance for Department personnel, the licensing requirements cannot be enforced uniformly and fairly. While AAHOA agrees with AHLA that the Department should not require any higher standard than a third-party brand establishes as part of a hotel’s license or franchise, hotels that are “independent” (because they have not subscribed to one of those business systems) should not be subjected to any additional and/or heightened requirements than their “peer” properties (as determined by service level, average daily rate, and format) that share branding with other hotels. Simply put, no property should receive a “free pass” simply because it pays a royalty. Independent and branded properties must be treated equitably under this law.*

- ii. **Allow Guests’ Freedom of Choice and Permit Guest Incentives for Conservation Programs** – The licensing requirements prohibit charging “for daily room cleaning or offering any discount or incentive to forgo daily room cleaning.” § 20-565.4(4).

*This text counterintuitively and disruptively takes freedom of choice away from guests, particularly in economy or extended-stay hotels where housekeeping may follow an every-other-day schedule or the included housekeeping is provided daily, but only on a “light touch” basis. The licensing requirements may be read as prohibiting guests of these non-luxury hotels from purchasing additional housekeeping services to suit the needs of their stay—whether that be by upgrading the frequency or extent of housekeeping. Similarly, a hotel’s expression of appreciation to a guest—with some type of gesture—for skipping a day of housekeeping would be banned under these licensing requirements, even though these programs have a remarkably positive impact on conserving resources and environmental stewardship.*

*AAHOA encourages the Department to allow guests to choose a service level, rather than legislating one. For example, where a hotel clearly does not offer daily housekeeping and/or trash removal at the time of booking, this alone should constitute a guest “affirmatively declin[ing]” that service. § 20-565.4(c)(4). And, where these services are already provided*

*daily, hoteliers should have the flexibility to offer—and guests should have the freedom to accept—alternatives that they prefer instead.*

*The impact of energy, water, and other conservation programs cannot be overstated. Our members' experience is that more frequent housekeeping and mandated room cleanings inevitably lead to waste—and the licensing requirements are difficult to reconcile with the New York City Department of Environmental Protection's "Hotel Manager's Guide to Water Efficiency."<sup>2</sup> That guide acknowledges: (i) New York City "[h]otels account for approximately 12 million gallons of New York City's total water use each day"; and (ii) "[o]ffering linen and towel reuse options to hotel guests will help lower water consumption ... and may appeal to environmentally conscious guests."*

- iii. **Additional Criteria for "Small Hotel" Designation** – The licensing requirements currently provide only one criterion for a hotel qualifying as a "small hotel": having "less than 100 guest rooms." § 20-565.

*AAHOA urges the Department to establish additional criteria for hotels to meet the "small hotel" designation within the licensing requirement, which currently considers exclusively the total number of guest rooms. Utilizing a single, round-number metric ignores a wide array of other attributes and characteristics of hospitality properties—in addition to guest room count (or "keys," to use an industry term). Countless other factors also warrant (and, in some cases, necessitate) a hospitality property being treated as a "small hotel" under the licensing requirements as well. For example, hotels with marginally more than 100 guest rooms, but with minimal common areas other than room corridors, may be considerably 'smaller' than a hotel with dedicated event space. Likewise, a 100+ room hotel that does not offer in-room dining and provides limited in-room amenities has a remarkably different—and lighter—housekeeping profile than another property that does provide these services and/or contain suites/larger-format guest "rooms." AAHOA encourages the Department to establish additional criteria so that properties with 100 or more rooms may, nonetheless, be licensed as a "small hotel."*

- iv. **Clarification of On-Demand Towel/Bedding Replacement** – Hotels are required to replace towels, sheets, and pillowcases "upon request by a guest" of an "occupied guest room," § 20-565.4(c)(3), but doing so without some guidepost limitations creates safety concerns and operational challenges.

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<sup>2</sup> Available at <https://www.nyc.gov/assets/dep/downloads/pdf/water/drinking-water/hotel-housekeeping-water-saving-booklet.pdf>.

*AAHOA encourages the Department to clarify that this “replacement” requirement is satisfied by furnishing the requested items to the guest at the front desk.*

- v. **Clarification of Self-Service Check-in, Including Kiosks** – The licensing requirements identify particular categories of staff that “must be available to confirm the identity of guests checking in to [a] hotel.” § 20-565.4(a)(3).

*The leading hotel brands have invested in technology that both elevates the guest experience and improves the safety and security of a guest room. These advancements and solutions include offering the option of contactless check-in and guest room “keys” on mobile devices. Business travelers enjoy the resulting time savings, and the vast majority of international guests are able to engage with hotels in their first language. The hotel brands and third-party technology providers have already implemented safeguards (either as part of their brand standards or as a feature of their platform) to ensure the registered guest and the individual arriving at a hotel are one and the same. AAHOA wants to ensure the licensing requirements do not prohibit the use of existing guest self-service technologies, whether that is an app, a hotel website, or an on-premises kiosk. Likewise, AAHOA also wants to ensure the licensing requirements do not limit hoteliers’ ability to deploy new technologies and solutions, as those are developed in the future*

- vi. **Indefinite Administrative Requirements** – Hotel operators and the Department will benefit from clear instructions and guidelines on what specifically is required to be submitted to the Department. Local Law 104 includes numerous references to non-descript authority and requirements, but the proposed rules do not include the requisite details to ensure compliance. See, e.g., § 20-565.2(3) (“Such other information as the commissioner may require.”); § 2-481(b) (“[A]ny other documents and information requested by the Department.”)

*AAHOA encourages the Department to adopt rules that clearly explicate what hotels are required to submit for licensure and that any such clear explication is the product of adherence to the rulemaking process, both in setting the standard for what must be submitted as a matter of course and the upper limit on the Department’s authority.*

- vii. **Removal or Restricted Application of Adverse Inference from Recordkeeping** – Without added specificity, uncertainty necessarily exists with respect to what types and/or volumes of records will be required to satisfy the Department. For example, § 2.482(a)(2)-(3) mandates a “hotel operator ... [to] maintain ... records demonstrating compliance with

the requirements ..." referenced—but provides no guidelines for what the Department will deem sufficient as to each of those referenced requirements.

*AAHOA encourages the Department to provide an explicit statement of what records are sufficient. Under these circumstances, the adverse inference that results because of § 2-482(c) from the Department's conclusion a "failure to maintain, retain, or produce a record that is required" raises fundamental fairness concerns. Using panic buttons as an example, the licensing requirements fail to provide guidance on the number, type, or contents of records that are required to be maintained. AAHOA concurs with AHLA that a certification of compliance from an appropriate person affiliated with a hotel should be sufficient for the Department.*

- viii. **Clarification of Human Trafficking "Violations" and Training Requirements** – Within the proposed rule, § 2-284 allows for adverse action regarding licensure for exceeding a set number of "violations for human trafficking, as defined in section 20-565...."

*For more than a decade, AAHOA has been a leader in training, education, and overall awareness aimed at preventing and detecting human trafficking in the hospitality industry. Consistent with AAHOA's overall request for guidance within these licensing requirements, AAHOA suggests that the Department provide clarification about which specific violation(s) count toward the threshold for denial, revocation, suspension, and/or non-renewal of a license.*

*Beyond this general request, AAHOA also has a specific provision where it encourages the Department to provide clarification that reflects the realities of human resources in the hospitality industry. AAHOA recognizes the Department would allow up to 60 days for a new employee to complete "human trafficking recognition training" within § 20-565.5(b). While many hoteliers aim to complete this training as part of onboarding or shortly after hiring, this is not always feasible. The current phrasing may not account for circumstances where this training cannot be completed within this window simply because not all employees remain active and employed on the 60th day following their date of hire.*

*For example, some new hires may resign, be terminated, or go on leave in the first few weeks of their employment (or even fail to attend/complete the required training, which itself results in termination), so a violation should not result where the employee is no longer active on the 60th day after their date of hire. Further, and in line with aligning accountability with responsible management practices, the text of § 20-565.4 states an "[o]perator of a hotel may not permit the premises of such hotel to be used for the purposes*

*of human trafficking.” AAHOA submits the Department can only find a violation where an occurrence was knowing or willful on the part of the hotelier.*

- ix. **Clarification of “Continuous” Front Desk Staffing** – “Continuous” is defined as “24 hours a day” in relation to staffing a front desk in §§ 20-565, 20-565.4(a)(1) and expressly contemplates only one employee needs to be assigned these duties. Practical considerations, however, must account for brief periods of interrupted front desk coverage without giving rise to a licensing violation.

*AAHOA encourages the Department to clarify the scheduling of a single employee to staff the front desk during that employee’s shift is sufficient to meet the licensing requirements, even if that employee steps away from the front desk, e.g., for a necessary restroom break or required meal period.*

- x. **Private Civil Claim for Retaliation** – While the Department is required to receive “notice” of a civil action that is filed for alleged “retaliatory action against an employee,” the Department otherwise has no role. AAHOA is concerned about the changes this provision may inadvertently cause in employer-employee dynamics, particularly in the context of employment claims that are often vigorously, and expensively, litigated.

*AAHOA encourages the Department to take an active role in allegations of retaliation, including the implementation of a process to prevent frivolous and unsubstantiated contentions from burdening hoteliers with the significant and non-recoverable costs and expenses that they are otherwise required to incur as defendants.*

- xi. **Punitive Structure of Civil Penalties** – While AAHOA appreciates administrative and regulatory regimes must include consequences for non-compliance, both the number of violations a hotel can accrue and the magnitude of the civil penalty that can be levied may be grossly disproportionate to the circumstances. Indeed, a comparatively minor infraction of failing to “conspicuously display hotel license” carries the same penalty schedule as permitting human trafficking to occur on-premises.

*AAHOA encourages the Department to consider the aggregate and/or annual rate of the civil penalties it is creating the authority to impose by treating a “different day” as a new violation. §§ 6-88; 20-656.8. Stated differently, a \$5,000 per day penalty amounts to a civil penalty at the rate of \$1.825 million per year, which is uniquely burdensome to small business owners who are already facing ever-increasing costs and operational challenges.*

*Likewise, AAHOA asks the Department to consider the relative severity of each type or category of violation, and create a tiered structure that reflects those realities—rather than a “one size fits all” approach.*

*AAHOA’s concerns would be heightened (even) more by aspects of privatization within the Department’s monitoring or enforcement mechanism for these licensing requirements, including any revenue-sharing or other incentivization to assess civil penalties for non-compliance. Given the continuing uncertainty surrounding many of the licensing requirements and the unavoidable subjectivity of assessment within the hospitality industry overall, the department must utilize exclusively its own, direct employees to administer every aspect of the licensing requirements.*

To the extent the Department has any follow-up questions or may benefit from further details about any subject addressed within this letter, AAHOA welcomes an opportunity to submit additional responses and/or documentation. On behalf of AAHOA’s 20,000 members (and, in particular, those within New York), we are grateful for every consideration given to our comments.

Sincerely,

A handwritten signature in blue ink, appearing to read "Laura Lee Blake", with a large, stylized flourish extending to the right.

Laura Lee Blake  
President & CEO