



**TESTIMONY:
Reopening of Commercial Spaces
and Interim Certificates of Occupancy**

**TESTIMONY BEFORE THE NEW YORK CITY COUNCIL
COMMITTEE ON HOUSING AND BUILDINGS
NEW YORK CITY DEPARTMENT OF BUILDINGS
MELANIE E. LA ROCCA, COMMISSIONER
NOVEMBER 10, 2020**

Good afternoon 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 pleased to be here to discuss the reopening of commercial spaces and legislation that would create an Interim Certificate of Occupancy.

I thank this Committee for holding a hearing on this important issue. It is critical that commercial buildings take measures to protect against the spread of COVID-19. This pandemic has had an unimaginable impact on many aspects of our lives and has certainly impacted our work at the Department. The Department’s priority during this pandemic is to keep the public safe. While we are now working to ensure that construction sites are abiding by guidelines to protect against the spread of COVID-19, we are also continuing our work to keep active construction sites, and the City’s over one million buildings, safe. This includes holding our construction sites to the highest safety standards to continue to drive down construction-related incidents, injuries and fatalities, and performing proactive inspections to ensure that required safety measures are in place to protect tenants residing in buildings undergoing construction. I am proud of the work our staff has been doing throughout this pandemic and commend them for their hard work.

The Department’s primary focus during this pandemic has been to enforce guidelines at construction sites intended to protect against the spread of COVID-19. While most construction work was deemed non-essential by the State government in the early days of this pandemic, some construction work was deemed essential and allowed to continue. For example, emergency construction necessary to protect the health and safety of building occupants, and the essential construction of certain buildings, like hospitals and schools, was allowed to continue. The Department issued guidance to the construction industry to clarify the types of essential construction work that could continue and our inspectors visited all construction sites

to ensure that they were only working if they were performing essential construction work. We also published a detailed FAQ, which answered the most common questions we were receiving from the construction industry, and released maps on our website to provide the public with tools they could use to determine if permitted construction work was essential or non-essential.

In June, our construction sites began reopening, subject to guidelines issued by the Department and the State government. While construction work is now allowed to continue, it looks a little different today. Workers on construction sites must be physically distanced where possible, must wear appropriate face coverings, occupancy limits must be observed for tightly confined spaces, and hand hygiene stations must be readily accessible to workers at all times. Signage must also be posted throughout a site reminding workers to adhere to proper hand hygiene, physical distancing rules, and appropriate use of personal protective equipment. Since these guidelines were issued, our inspectors have been visiting construction sites proactively to ensure that they are being followed.

Similar to the guidelines issued by the State government for various industries, dedicated guidelines have been issued for the management of commercial buildings as they continue to operate or reopen. These guidelines are available on the State's website. Building owners and managers must adhere to these guidelines and submit an affirmation to the State government indicating that they will operate in accordance with the guidelines. Additionally, a safety plan that addresses all aspects of these guidelines must be developed and posted in the building. While the detailed guidelines are available online, I would like to highlight a few key requirements that commercial buildings must follow:

- Occupants must be physically distanced or must wear appropriate face coverings if physical distancing is not possible;
- Practices to maintain physical distancing in small areas, like restrooms, must be implemented;
- Occupants must be provided with appropriate personal protective equipment;
- Before reopening a building, building systems, including mechanical systems, elevators, and HVAC systems, must be checked to ensure they are operating properly;
- The building must be regularly cleaned and disinfected, with a focus on frequently touched surfaces; and

- Signage must be posted throughout the building to remind occupants to adhere to proper hygiene, physical distancing rules, and appropriate use of personal protective equipment.

Turning now to Intro. 2033, which creates a new type of Temporary Certificate of Occupancy (“TCO”), an Interim Certificate of Occupancy (“Interim CO”). A Certificate of Occupancy (“CO”) states a building’s legal use and/or type of permitted occupancy. A building may not be legally occupied until the Department has issued a CO or TCO. A TCO is issued with respect to a building that is safe for occupancy, but where there are outstanding issues requiring final approval. TCOs typically expire 90 days after they are issued, which means buildings relying on a TCO must renew them periodically, even though they may already be partially occupied.

This legislation would create an Interim CO, which would not expire and which would be issued with respect to certain portions of a building when the Department determines that such portions are safe for occupancy. An Interim CO will only be issued after the Department performs an inspection to verify compliance with the New York City Construction Codes and confirm that there are no outstanding issues requiring further approval, or violations to be removed with respect to that portion of the building. Further, an Interim CO will only be issued to a building of noncombustible construction that is protected with an automatic sprinkler system and where adequate means of egress are provided.

I urge this Committee to pass this legislation as it will result in time savings for the industry, streamline the issuance of a CO for new buildings, and add certainty to a project for building owners securing needed financing for their developments. This legislation will also add certainty to commercial and residential tenants moving into a space relying on an Interim CO because there are no outstanding issues requiring Department approval for that space and the type of TCO issued by the Department for that space will not expire.

Thank you for the opportunity to testify before you today. I welcome any questions you may have.

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