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# 100 YEARS

April 13, 2021

Chairs Constantinides and Rosenthal, and members of the City Council Committee on Environmental Protection and Subcommittee on Capital Budget, thank you for the opportunity to provide testimony regarding the oversight of Local Law 97 (LL97) of 2019.

The New York Building Congress' membership consists of more than 550 constituent organizations and 250,000 skilled tradespeople and professionals, including architects, engineers, contractors and labor, many of whom design and build the projects that create a more sustainable city. As such, we commend the New York City Council and City's efforts to create a greener built environment and more sustainable future for the five boroughs.

Aligned with those goals, we proudly support the intent of LL97 and look forward to working with the City Council and Administration on its implementation. We are deeply concerned, however, with the prospects of building owners paying significant fines for non-compliance on their buildings beginning in 2024 due to flawed language in the law as enacted, targets that are not achievable in the short term and a lack of guidance or flexibility from the City.

First, the law as enacted singles out buildings that may have already invested heavily in cutting their carbon emissions, either because they are newer or have recently undergone efficiency upgrades. By targeting buildings that are 25,000 square feet or larger – which totals 50,000 buildings, or five percent of all buildings in New York City – the law is focusing its efforts on facilities that are much newer, are a small segment of all buildings and are already more efficient and sustainable than those not covered under the law. By virtue of their density, these buildings are already more sustainable and efficient on a per-capita basis than those not covered by the law, and they represent some of the most important buildings to our economy: hospitals, offices and large multifamily dwellings.

Second, while well intentioned, the law sets very aggressive targets that may not be reasonably achievable, and therefore does a disservice to the building industry and the public. The law calls on covered buildings to begin reducing their carbon emissions by 40 percent by 2030, a date not too far into the future. As a matter of best practice, building owners already began working to make their facilities more efficient prior to LL97, and yet they may still face significant penalties if they do not cut their emissions further. For example, One Bryant Park, completed in 2009 and one of the world's first LEED Platinum buildings, could face millions of dollars in penalties beginning in 2024 if it does not begin reducing its emissions. The building industry does not negate its responsibility to meet our shared climate goals, however, the law seems to ignore the reality that our energy infrastructure and outdated electrical grid depend almost entirely on fossil fuels now and will continue to do so in the near future.

Additionally, the pandemic also caused unforeseen delays on green energy projects across the state that would have aided with implementation, and we must all recognize that and adapt accordingly. As we build the necessary infrastructure to support a greener energy network, we must adjust the timeline targets in LL97 to account for these realities, so as not to penalize building owners.

Lastly, a comprehensive effort such as limiting building emissions on a grand scale requires partnership between the public and private sectors. The building industry stands ready to contribute to the goals of LL97 and requires the City and future administrations to help in this effort by releasing timely guidance or making reasonable adjustments in collaboration with us. For example, LL97 calls on the Department of Buildings to grant an adjustment of the annual building emissions limit applicable to a covered building in existence should they meet certain criteria. The deadline for the adjustment application is July 1, 2021 and the City has yet to release the criteria for eligibility for this important provision or guidance on how to apply. Further, certain deadlines are now being extended and new loopholes created. The Council recently enacted legislation (Int 1593A) to delay the submission of the City's Long Term Energy Plan from December 31, 2021 to June 1, 2022, and recently enacted legislation that creates a loophole in LL97 to protect certain fossil-fuel powered systems in buildings. As we move toward the 2024 timeline to begin compliance, we must take a comprehensive look at how we make adjustments to LL97 – either through new legislation or rulemaking – that supports the entire industry, reduces the potential for fines and progresses the goals of the law.

The New York Building Congress and its members are committed to advancing policies that create a cleaner, greener New York. We look forward to a continued partnership with the City Council to help deliver transformative initiatives that will improve the efficiency and reduce the carbon footprint of our buildings. Thank you for your time and consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Carlo Scissura', written in a cursive style.

Carlo A. Scissura, Esq.  
President & CEO