



RED TAPE COMMISSION

60 WAYS TO CUT RED TAPE AND HELP SMALL BUSINESSES GROW



NEW YORK CITY COMPTROLLER SCOTT M. STRINGER



Contents

LIST OF COMMISSIONERS	4
EXECUTIVE SUMMARY.....	6
INTRODUCTION.....	8
FINDINGS.....	10
CITYWIDE REFORMS.....	13
Many City Agencies Are Too Slow to Respond to Small Businesses and Customer Service is Poor	14
Too Many Small Businesses Feel That the City Treats Them as Sources of Revenue Instead of Partners in the City's Growth	18
The City Can Do More to Support Small Businesses with More Effective Information and Services	21
<i>A Closer Look At New York City's Non-Profit Economy.....</i>	<i>26</i>
AGENCY BY AGENCY REFORMS	28
Department of Buildings.....	29
<i>A Closer Look At Renewable Energy & Green Projects</i>	<i>34</i>
Department of Consumer Affairs	36
Department of Health and Mental Hygiene	37
<i>A Closer Look At Mobile Vendor Licensing.....</i>	<i>40</i>
Department of Information Technology and Telecommunications	42
Department of Small Business Services.....	43
<i>A Closer Look At Minority and Women Owned Businesses.....</i>	<i>45</i>
Department of Transportation	48
Mayor's Office of Operations.....	50
New York City Economic Development Corporation	52
Office of Administrative Trials and Hearings	53
CITY COUNCIL REFORMS.....	54
STATE REFORMS.....	55
CONCLUSION	56
ACKNOWLEDGMENTS.....	57
ENDNOTES	58

List of Commissioners

The Red Tape Commission is made up of small business leaders, regulatory experts, and advocates from around the City who are dedicated to finding ways to help business owners cut through the red tape.

MEET THE CO-CHAIRS



MICHAEL LAMBERT

Executive Director, Bed-Stuy Gateway Business Improvement District

Michael Lambert serves as the Executive Director of the Bedford-Stuyvesant Gateway Business Improvement District (BID) one of Central Brooklyn's busiest commercial thoroughfares with almost 400 businesses in a district that stretches 1.5 miles at its widest point. As the Executive Director of the six year old BID that was created from the Fulton-Nostrand United Merchants Association, Michael is responsible for all of the BID's day to day operations including strategic program development and execution, financial management, and relationship building with members of the BID's board of directors, business owners, property owners, government and community officials, and community residents. Mr. Lambert currently serves as the co-chair of the NYC BID Association.



JESSICA LAPPIN

President, Alliance for Downtown New York

Jessica Lappin is the President of the Alliance for Downtown New York. The organization manages New York City's largest Business Improvement District (BID) and provides service, advocacy, research and information to advance Lower Manhattan as a global model of a 21st century Central Business District. Lappin also serves as the President of its sister organization, the Downtown Lower Manhattan Association, and serves on the Steering Committee of the Association for a Better New York (ABNY), and the boards of the FDR Memorial and Four Freedoms Park, Battery Conservancy, and American Skin Association.



COMMISSION MEMBERS

NASREEN AHMED

President, Bangladesh Cultural Society of North America

KATE ALBRIGHT-HANNA

Founder and CEO, Tarbell Industries

ANTOINETTE BALZANO

Owner, Totonno's Pizzeria

LINDA BARAN

President and CEO, Staten Island Chamber of Commerce

RAPHAEL BENAVIDES

East Harlem Merchants Association, East Harlem Presents, Poet's Den Theater and Gallery

KEN BIBERAJ

Chairman, Manhattan Chamber of Commerce

JONATHAN BOWLES

Executive Director, Center for an Urban Future

JONATHAN BUTLER

Co-Founder, Brooklyn Flea, Smorgasburg, Berg'n

LENNY CARO

Chief Community Relations Officer, Mercy College

MELISSA CHAPMAN

Senior Vice President for Public Affairs, Brooklyn Chamber of Commerce

HON. ROBERT CORNEGY JR.

Council Member, New York City Council

CHARLES DESTEFANO

Law Office of Charles C. DeStefano

SCOTT GERBER

Founder, Young Entrepreneur Council (YEC)

THOMAS J. GRECH

Executive Director, Queens Chamber of Commerce

DR. ROY HASTICK SR.

Executive Director, Caribbean American Chamber of Commerce and Industry, Inc. (CACCI)

PETER HOW

President, Asian American Restaurant Association

DEB HOWARD

Executive Director, IMPACCT Brooklyn

JUKAY HSU

Founder, Coalition for Queens (C4Q)

JILL JOHNSON

Chief Executive Officer, Workshops in Business Opportunities (WIBO), Institute for Entrepreneurial Leadership (IFEL)

MANU KAPOOR

President, Indian Business Association, Inc.

MARC LANDIS

Managing Partner, Phillips Nizer LLP

JONATHAN LOVITZ

Executive Director, National Gay & Lesbian Chamber of Commerce New York (NGLCCNY)

NGOZI OKARO

Interim Executive Director, Project Enterprise

ROMMY PENNELLA

Executive Director, New York Hispanic Cosmetology and Beauty Chamber of Commerce

ANDREW RIGIE

Executive Director, New York City Hospitality Alliance

JULIE SAMUELS

Executive Director, Engine

PAUL SLEE

Executive Director, Ensemble Studio Theatre

DAVID WEBER

President, New York City Food Truck Association (NYCFTA)

JUSTIN YU

Chairman, Chinese Chamber of Commerce of New York



Executive Summary

Growing New York City's economy means growing our small businesses. But all too often, these businesses struggle, or worse yet fail, as a result of the outdated, complicated, and costly web of rules and regulations, agencies, and bureaucracies across City government.

For years, City leaders have sought to reduce red tape and make it easier for small businesses to grow. Despite these efforts, red tape continues to sap the entrepreneurial energy that fuels growth across the five boroughs.

To overcome these challenges, in January 2015, New York City Comptroller Scott M. Stringer launched the Red Tape Commission. Co-chaired by Michael Lambert, Executive Director of the Bed-Stuy Gateway Business Improvement

District (BID) and Jessica Lappin, President of the Alliance for Downtown New York, the Commission is a collection of 31 New Yorkers with experiences running small businesses, advocating for small businesses, and navigating City government. The goal was to go directly to business owners for ideas on how to make government a partner, rather than a barrier, to their growth.

The Commission interacted with hundreds of New Yorkers, who in general expressed dissatisfaction with the way that City government interacts with small businesses. The findings of a Red Tape Commission Survey of almost 300 business owners revealed:

- 1 Broad dissatisfaction with City agencies:** When asked to grade City agencies on a scale of 1-5, with 1 being very unsatisfied, business owners gave most agencies a grade of 2. The Department of Buildings, Office of Administrative Trials and Hearings, the Taxi and Limousine Commission, and the Department of City Planning were cited as the least satisfying to engage, while the Fire Department and Department of Small Business Services got the highest marks.
- 2 Painfully slow permit and license approval processes:** Nearly 30 percent of small businesses surveyed said it took them six months or longer to get all the approvals they needed from the City to open for business, and 13 percent took more than a year.
- 3 Privately hired "expeditors" add cost but little value:** Nearly 40 percent of small businesses surveyed said they found it necessary to hire a private "expeditor" to navigate the City bureaucracy, but more than half said spending the extra money was neither helpful nor effective.
- 4 Lack of fairness, information and communication:** Nearly half of all business owners surveyed (48 percent) said they did not feel like they had been treated fairly by city inspectors, and more than 58 percent said agency inspectors had failed to adequately communicate expectations and requirements.
- 5 Frustration over City policies:** Asked to identify their single greatest frustration with City government, fines and inspections were cited as the most common complaint among those surveyed (20 percent), followed by agency response times (18 percent) and high taxes and fees (17 percent).

Based on these findings, the report identifies 60 solutions to problems ranging from slow response times and poor customer service to a punitive inspection culture and inadequate support services.

Many of the ideas were suggested to the Commission by the small business owners themselves, while other ideas

were developed by the Comptroller's Office with help from the members of the Red Tape Commission. Taken together, these proposals will not only reduce existing rules and procedures that stifle small businesses, but will also reorient City agencies so that they can better serve these businesses going forward.

The 60 solutions called for by the Red Tape Commission include:

- **Establishing clear timelines for the approval of permits and holding agencies accountable if timelines are not met.** Too many small business owners pay top dollar to wait months for agencies to approve applications, which very often have no timelines attached to them. Agencies should be held accountable for poor service.
- **Abolishing expeditors at the Department of Buildings and creating Small Business Advocates in each City agency.** So-called expeditors are private “fixers” hired to navigate the arcane City bureaucracy, principally at the Department of Buildings. Expeditors should be removed from the process and replaced with professional agency staff dedicated to serving all applicants.
- **Improving services for Limited English Proficient New Yorkers.** Business owners who are not yet proficient in English often have a very difficult time navigating the City bureaucracy and understanding how to comply with the law. The City can do more to improve these services, including providing better translations of websites and more guides, documents, and notices and in key languages of the City.
- **Helping business owners to learn how to comply with rules and regulations rather than relying on fines.** Many small business owners expressed frustration about the difficulty understanding all of the City's rules and regulations. For example, restaurateurs must pay \$400 to obtain a consultative session with an inspector. This cost discourages restaurants from engaging with the City and creates a culture of distrust.
- **Making better use of technology.** Many of the challenges small business owners described could be mitigated through better use of technology. For instance, wider use of electronic filing for permit and license applications and the development of more online training courses and videos could make it easier for small business owners to interact with City agencies.
- **Reforming the Commercial Rent Tax.** The rapid increase of commercial rents is pushing many small businesses out of Manhattan. To help these business owners, the City Council should reform the Commercial Rent Tax.

New York City continues to be a magnet for business development. At the same time however, the City faces increasing competition from cities across the country and around the world. As a result, it is essential that our government work with the private sector to enhance our competitiveness and ensure that all businesses—big and small—can continue to grow and power the economy.

Introduction

New York is a city of small businesses. Whether it is a recent immigrant opening a business for the first time or a long-time shop owner adding a second store in a new neighborhood, the City thrives on the dreams and aspirations of small business owners.

Starting and maintaining a small business is no easy task. It takes courage, endurance, intelligence, and a keen eye for potential opportunity to succeed in one of the most expensive and competitive cities in the world.

For too many of New York City's small business owners, however, identifying that opportunity or developing a great idea isn't enough. That's because the many challenges a new small business owner faces in New York City are compounded by the gauntlet of complex, costly, and sometimes unintelligible government regulations that small business owners must overcome before they can even open their doors.

In fact, New York City has over 6,000 rules and regulations, 250 business-related licenses and permits, and 15 separate agencies that govern small businesses.¹ Before opening, a New York City restaurant may need to obtain as many as 30 permits, registrations, licenses, and certificates and could face as many as 23 separate inspections.² All told, it takes business owners an average of 225 days—that's seven and a half months—to hang an open sign in their window.³ In a world where time is money, that's an enormous burden to place on any business, much less a small start-up with limited resources.

This alphabet soup of agencies and regulations can leave even the most knowledgeable business owner frustrated. Indeed, it comes as no surprise that a recent study by the Federal Reserve Bank of New York found that 10 percent of small businesses in New York State said their top business challenge was complying with government regulation,

while another nine percent said that the increasing costs of running a business was the largest challenge.⁴

These concerns are much more than the gripes of a few business owners. Instead, they reflect a fundamental failure of government to respond to the needs of small businesses throughout the five boroughs—a failure that results in real costs to the City and its residents. As one small business owner summed it up, **“It's just fighting on too many fronts.”**

Small business owners need government to be a partner rather than an impediment to their development. That's why New York City Comptroller Scott M. Stringer launched the Red Tape Commission in January 2015—to listen to small business owners and entrepreneurs in order to better understand and propose ways to lessen the burdens they face as they try to build their dreams and grow the City's economy.

The Commission, co-chaired by Michael Lambert, Executive Director of the Bed-Stuy Gateway Business Improvement District (BID) and Jessica Lappin, President of the Alliance for Downtown New York, is composed of 31 members representing business owners, advocates, and regulatory experts.⁵

The Commission held public hearings in all five boroughs between July and December 2015. These hearings gave small business owners the opportunity to share their experiences with the Comptroller and the Commission.

In addition to the hearings, the Commission launched a website and developed an online survey in English and Spanish that gave New York City businesses an opportunity to submit their own comments.⁶

”

New York City has over 6,000 rules and regulations, 250 business-related licenses and permits, and 15 separate agencies that govern small businesses.¹ Before opening, a New York City restaurant may need to obtain as many as 30 permits, registrations, licenses, and certificates and could face as many as 23 separate inspections.

THE COMMISSION INTERACTED WITH HUNDREDS OF NEW YORKERS INCLUDING:

383

people who attended
a Commission hearing
in-person

77

people who testified
at a Commission
hearing

282

people who responded
to the Commission's
survey

The New Yorkers who responded to the survey reflect the diversity of the City. Survey respondents included business people working in all types of firms including education and health services, professional and business services, construction, manufacturing, retail services, and others. They also ranged in age from new entrepreneurs in their early 20s to experienced business people over 65. About 40 percent of respondents were women and about half were non-white. Additionally, 70 percent of respondents owned or worked for businesses that employ less than 10 people.

This report details the findings of the Commission and provides a series of recommendations designed to cut red tape and make government more responsive to the needs of business owners. The members of the Commission provided critical feedback to help develop a set of recommendations that

both reflects their knowledge and expertise and is responds to the concerns expressed by small business owners.⁷

The report relies on the testimony from the hearings, stories submitted via the survey, and other interviews and meetings the Comptroller's Office had with small business owners. The Comptroller's Office made every effort to verify the accuracy of the testimony, but did not discuss specific cases with City agencies.

The report begins with a discussion of problems that merit either a citywide or multi-agency response and then outlines additional reforms on an agency-by-agency basis. Throughout the report, the stories told by business owners themselves—either in person or via the survey—are used to highlight problems and inform solutions.

Findings

Small businesses dominate New York City. In fact, more than 220,000 businesses – over 95 percent of all businesses in the five boroughs – have fewer than 50 employees.⁸

TABLE 1: NYC BUSINESS ESTABLISHMENTS

Business Establishments	Number of Businesses	Percent of Businesses
1 to 4 employees	146,598	63.41%
5 to 9 employees	35,199	15.23%
10 to 19 employees	22,919	9.91%
20 to 49 employees	16,117	6.97%
50 to 99 employees	5,440	2.35%
100 to 249 employees	3,210	1.39%
250 to 499 employees	971	0.42%
500 to 999 employees	424	0.18%
1,000 employees or more	312	0.13%
Total	231,190	100%

Small businesses are a major source of jobs for New Yorkers, with almost 1 million employees in 2014. Businesses with fewer than 20 employees are responsible for nearly 700,000 of those workers.⁹

Recent job growth in New York City has been concentrated in these “smaller” small businesses, with companies with fewer than 20 employees responsible for almost 25 percent of new hires between 2007 and 2012.¹⁰ The Center for an Urban Future recently found that businesses with fewer than five employees gained 31,421 jobs between 2000 and 2013, while businesses with more than 500 employees lost 5,022 jobs.¹¹

Despite this strong job growth, about half of all new businesses in the US—the vast majority of which are small businesses¹²—close their doors within their first five years of existence.¹³

This is precisely why it is so important for government agencies to do all they can to support the City's small business owners. Unfortunately, as the Commission discovered, many small business owners are dissatisfied with their city government.

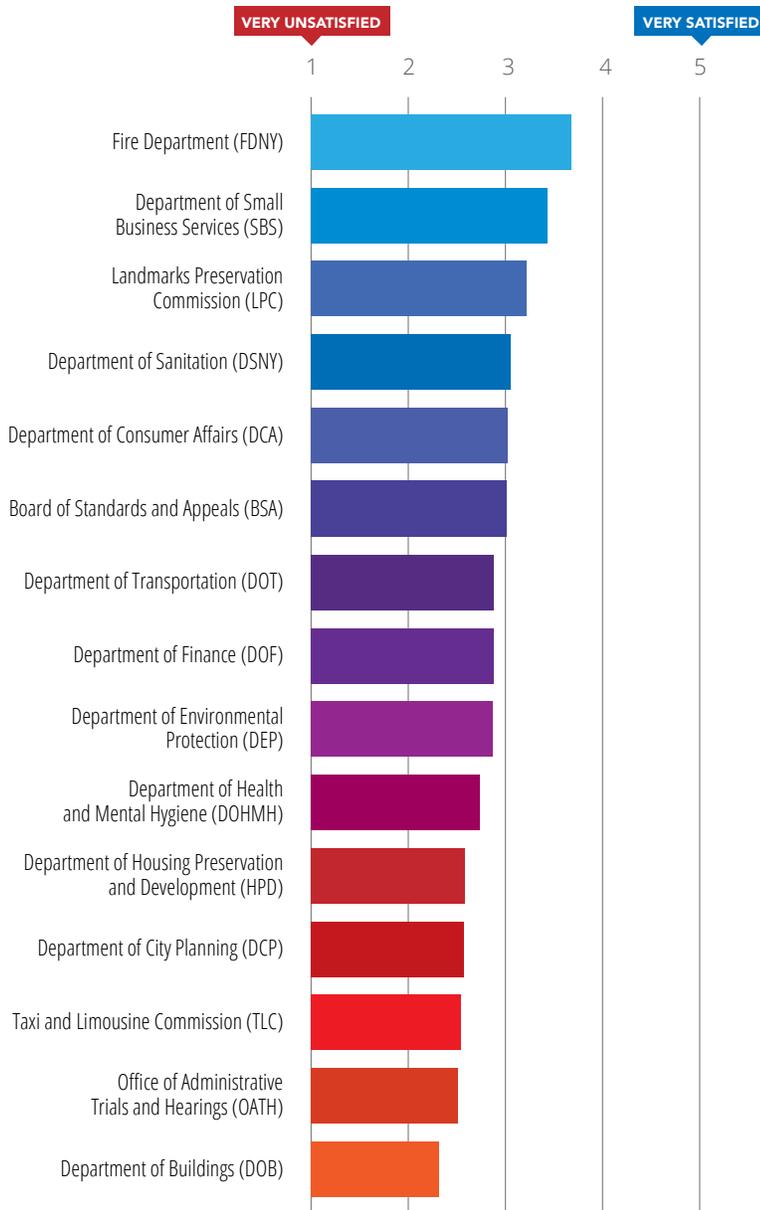
As shown in Table 2, New Yorker's expressed the greatest dissatisfaction with the Department of Buildings, the Office of Administrative Trials and Hearings, the Taxi and Limousine Commission, and the Department of City Planning. In fact, none of the 15 City agencies reviewed in this survey scored a 4 or above on a scale of 1 – 5 (with 5 being very satisfied and 1 being very dissatisfied). Overall, City agencies averaged a score less than 3, reflecting widespread dissatisfaction of City efforts to support budding entrepreneurs.

In addition, as Table 3 also shows, respondents to the survey cited a range of frustrations with City government, with the most common being fines and slow response times from City agencies. These findings are consistent with the testimony gathered by the Commission, in which small business owners routinely expressed their frustrations with the City's government. One survey respondent summarized his/her experience with the City as **“too many people making decisions about regulating things they have absolutely no experience with.”**



“Too many people making decisions about regulating things they have absolutely no experience with.” –*Survey respondent*

TABLE 2: HOW SATISFIED ARE YOU WITH THE FOLLOWING AGENCIES?



OVER 95%
of all businesses in
the City *have fewer
than 50 employees*

Small businesses
employed almost
1,000,000
New Yorkers in 2014

Businesses with
fewer than five employees
↑ GAINED
31,421 JOBS
between 2000 and 2013

TABLE 3: WHAT HAS BEEN YOUR SINGLE GREATEST FRUSTRATION WITH CITY GOVERNMENT SINCE OPENING FOR BUSINESS?

Complaint	Percentage
Fines/Inspections	20%
Agency response times (e.g. application for a permit)	18%
Taxes and fees	17%
Wait times (e.g. at the agency office/on the phone)	8%
Neighborhood cleanliness	5%
Safety	4%
311	3%
Other	25%

ABOUT HALF
of all new businesses
in the US, which are almost
all small businesses,
*close their doors within their
first five years of existence*

Efforts to combat red tape are not new. In 2009, Mayor Bloomberg launched a Regulatory Review Panel to identify outdated or duplicative rules and regulations that should no longer be on the books. The panel issued a report in April 2010, which outlined a number of ways that the City government could improve its interactions with, and support for, local small businesses.¹³ Among the recommendations was a proposal to require City agencies to identify outdated violations that were no longer needed but nevertheless negatively burden small businesses. In 2012, the City Council enacted legislation directing each City agency that interacts with small businesses to undertake this analysis, but this legislation has not meaningfully reduced the amount of regulations that small businesses face.¹⁵

More recently, in 2015, Mayor de Blasio published a report titled *Small Business First*, which described a number of new initiatives to help small businesses.¹⁶ The policies outlined in *Small Business First* are in various stages of implementation.

IDENTIFYING DUPLICATION Red Tape isn't just an issue for cities—it is a challenge across all layers of government. Indeed, since 2011, the U.S. Government Accountability Office (GAO) has issued annual reports on opportunities to reduce fragmentation, overlap, and duplication in Federal programs. Going agency by agency and program by program, these reports identify specific recommendations to make government more efficient and reduce spending.



GAO Online Portal

As part of this initiative, GAO created an online portal that allows the public to track whether its recommendations have been acted on by Congress or the executive agencies.¹⁷ While the focus of these reports is not identifying burdens on small businesses directly, by finding areas of duplication, the report helps Federal officials streamline operations and better serve the public.

While these initiatives have certainly helped improve the regulatory climate for small businesses, outdated or duplicative rules, regulations, and violations continue to make life difficult for small business owners in New York City.

Addressing these challenges is critical to the continued growth of New York City's economy. As one survey respondent concluded, **"When looking to allocate capital, we invest outside of [New York City] if all other things are equal due to unexpected costs."** Reducing these costs—including, but not limited to, unnecessary regulations, punitive fines, long wait times, and unpredictable inspections—is critical to spurring the creation of new investments, businesses, and jobs, and ensuring the long-term economic competitiveness of our city.

Given the persistence of red tape in the City's government, solving many of the issues will require a multi-agency or citywide effort. The citywide problems that necessitate multi-agency solutions fall into three major themes:

- 1 Many City agencies are too slow to respond to small businesses and customer service is poor
- 2 Too many small businesses feel that the City treats them as sources of revenue instead of partners in the City's growth
- 3 The City can do more to support small businesses with more effective information and services

In addition, many of the problems that small business owners raised can be solved by individual government entities making specific policy changes. That discussion follows an exploration of the citywide or multi-agency problems.

A vibrant, high-angle photograph of a busy city street, likely in New York City. The street is filled with yellow taxis, a white bus, and a blue car. Pedestrians are walking on the sidewalks, and tall buildings line the street. The sky is clear and blue. The text "CITYWIDE Reforms" is overlaid on the image.

CITYWIDE

Reforms



PROBLEM

Many City Agencies Are Too Slow to Respond to Small Businesses and Customer Service is Poor

Signing a lease on a new storefront should be a cause for celebration and excitement. For many entrepreneurs in New York City, however, that joyous occasion instead represents the start of a laborious process of applications, reviews, denials, and delays caused by the City's labyrinthine bureaucracy.¹⁸

As a result, many would-be small business owners across the five boroughs told the Red Tape Commission that they lose thousands of dollars paying rent for stores they cannot legally open without a clear sense of when their permit or license applications will be reviewed and approved.

Business owners across New York City told the Red Tape Commission that they understand the need for sturdy buildings, safe workplaces, and clean businesses, and that they know that getting approval for every permit and inspection will not happen overnight. But, they also believe that there is

no excuse for City agencies to leave them in the dark about the timeframe for permit approvals.

One small business owner who waited almost two years to receive permits from the Department of Buildings (DOB) and the Department of Health and Mental Hygiene (DOHMH) to open her restaurant said that her business lost thousands of dollars as a result of being "unable to move forward ... generate income ... employ people and add constructively to the tax base."

She concluded: **"Every step of the way the City has made this more difficult...I would not open another business in New York City knowing what I know now...there has got to be a way to do this quicker. The large companies can get through, but the little guys don't unless you show up in person and demand it."**

SOLUTIONS

- 1 Establish Clear Timelines for the Approval of Permits
- 2 Expand Real Time Tracking of Pending Permits
- 3 Hold City Agencies Accountable for Poor Customer Service
- 4 Reestablish the Position of Chief Business Operations Officer
- 5 Create a Small Business Advocate in Key City Agencies



"If you have these kind of mandates, someone needs to be able to get back to you in an appropriate time manner."

-Deborah Koenigsberger, Manhattan small business owner



Deborah Koenigsberger

Other business owners relayed similar stories. David Rose of Automotive Realty in the Bronx told the Commission that his business has faced numerous delays when dealing with City agencies, including waiting three months to receive a permit from the Department of Environmental Protection (DEP) that should have taken only a few weeks because it was sitting on the desk of an employee who had either left the office or been terminated without having their work re-assigned. Mr. Rose further told the Commission that it took 90 days for the Department of Buildings (DOB) to provide him with a “no objection” letter, despite the agency advising him that the process would take about 45 days.

Similarly, Deborah Koenigsberger, a business owner in Manhattan, told the Commission that she had a difficult time getting prompt responses and approvals from the Landmarks Preservation Commission (LPC). As she put it, “if you have these kind of mandates, someone needs to be able to get back to you in an appropriate time manner.”

Unfortunately, as the Commission heard, these experiences are far too common. Indeed, the majority of the businesses that responded to the survey reported that it took more than three months to get the required approvals from the City before they opened for business, with almost

TABLE 4: HOW LONG DID IT TAKE YOU TO GET ALL THE NECESSARY APPROVALS FROM THE CITY BEFORE OPENING FOR BUSINESS?

Time to Get City Approvals	Percentage
Less than a month	21.51%
1-3 months	27.33%
3-6 months	21.51%
6-12 months	16.28%
1-2 years	9.30%
Over 2 years	4.07%

30 percent of respondents reporting that it took over six months, and nearly 15 percent reporting that it took over one year.

By making the reforms in this report, the City would give business owners some certainty about how long the process of getting permits and licenses will take and ensure that agencies are incentivized to meet the standards they set.

NINE MONTHS OF WAITING

Frank Franz is a business owner and current board member of the Belmont District Management Association, a New York City Business Improvement District (BID). In 2014, Mr. Franz decided to open a cultural center and artistic workspace to help bring a different group of people into the community to drive consumer spending and spur economic development. Mr. Franz needed a waiver from the Mayor’s Office for People with Disabilities (MOPD) in order to occupy the space, so he applied to MOPD for the waiver and to the Department of Buildings for a Public Assembly License.



A few weeks later, MOPD contacted the architect to ask for the Public Assembly License application, which the architect promptly provided. After eight months of inquiring with MOPD about the waiver application, resending the information

on more than one occasion, and unsuccessfully asking for help from the Department of Small Business Services, Mr. Franz took it upon himself to visit MOPD in person. Doing so allowed him to finally get a call from an MOPD employee who informed him that MOPD never received the requested materials. Mr. Franz informed the employee that couldn’t be possible, at which point the MOPD staff member asked him for his email, found the correspondence, and put Mr. Franz on hold for two minutes before informing him the waiver had been approved.

As Mr. Franz put it, “it only took him two minutes to review this application but it took nine months for somebody to look at it.” All told, throughout this process, Mr. Franz and his group had been paying \$3,500 per month in rent for the space, and ended up spending over \$30,000 while waiting for MOPD.

1 Establish Clear Timelines for the Approval of Permits

Each City agency that issues permits or licenses and/or conducts inspections of businesses should be required to establish and maintain, for each such permit or license, publicly available timelines that define how long businesses should expect to wait for their permit or license application to be considered and approved.

These formal timelines will increase accountability by providing a metric to measure actual performance. Once established, agencies should consistently revise these estimates based on their actual performance in close to real time. This information should be published alongside the performance indicators that are already included in the Mayor's Management Report as a way to hold Commissioner's accountable for meeting application timelines.

2 Expand Real Time Tracking of Pending Permits

As City agencies develop timelines for permit application reviews and approvals, to the extent they have not already, they should also establish tools that allow permit applicants to track the status of their application in real time, much like packages can be tracked by utilizing bar codes and other technological advances. This information should be built into existing systems wherever possible. While some City agencies, including DOB and the Department of Consumer Affairs (DCA) already do this, adoption has not been universal.

3 Hold City Agencies Accountable for Poor Customer Service

In addition to taking weeks or months, obtaining permits and licenses from the City can be very expensive. For example:

- ▶ **Sidewalk Café Licenses** – Restaurants routinely complain about the costs associated with securing a sidewalk café license from the Department of Consumer Affairs. The cost of applying for one of these licenses runs in the thousands of dollars, and depending on the type of license and number of seats, could easily be as much as \$6,000.¹⁹ All told, when considering the architect fees and other costs, some businesses have paid as much as \$24,000 to obtain a sidewalk café license.²⁰
- ▶ **Rooftop Solar Panels** – Installing rooftop solar panels is also a costly and time consuming process. According to individuals in the solar panel installation industry, City permits and inspections can cost as much as \$2,000 while the cost of hiring an expeditor to navigate the DOB can add another \$2,500 to \$3,000 to the project.²¹

These thousands of dollars add up quickly and today, far too many business owners are paying top dollar for poor service. For this reason, in addition to establishing timelines for permit application reviews and reporting data on those reviews to the public, the City should consider additional ways—through financial penalties, management changes, or otherwise—of holding agencies both financially and publicly accountable if they do not adequately meet the timelines they establish.

4 Reestablish the Position of Chief Business Operations Officer

In 2012, Mayor Bloomberg created a new position titled Chief Business Operations Officer. Mayor Bloomberg tasked the Chief Business Operations Officer with overseeing and coordinating a number of citywide initiatives, including NYC Business Express, the development of Business Acceleration Teams, and the NYC Development Hub at the Department of Buildings. Working across City agencies, the Chief Business Operations Officer's role was to push forward projects and programs that would make it easier for businesses to work with City government.²²

Unfortunately, that position has not been filled by the current administration. Reestablishing the Chief Business Operations Officer would help ensure that small businesses and the small business advocates discussed in the next recommendation have someone in City Hall dedicated to working on their behalf.

5 Create Small Business Advocates in Key City Agencies

Each City agency that deals directly with small businesses should create a Small Business Advocate or Ombudsman that would report directly to the head of the agency. This individual would be tasked with working with small business owners to review and streamline the policies and procedures of the agency and help to facilitate compliance with existing rules and regulations. In addition, the Advocate/Ombudsman would act as a liaison between the agency, the Department of Small Business Services, and the Chief Business Operations Officer previously discussed.

One of the core responsibilities of these officials would be to consistently review and, when warranted, propose the elimination of duplicative agency rules and regulations. Too often, these types of initiatives happen on a one-off basis and, when implemented, are not taken seriously enough by agency heads. For that reason, building more accountability into these reviews would improve their effectiveness.

In his *Small Business First* report, Mayor de Blasio proposed establishing up to ten small business compliance advisors at the Department of Small Business Services who would be trained in a range of issues that impact businesses at each City agency.²³ While these compliance advisors are a good start, advisors that report directly to the agency head would be more effective. In the meantime, these individuals must be empowered to advocate directly to agency heads in order to maximize their effectiveness.





PROBLEM

Too Many Small Businesses Feel That the City Treats Them as Sources of Revenue Instead of Partners in the City's Growth

Business owners want to comply with the law, but when the City fails to create a climate that encourages business owners to proactively reach out to agencies and inspectors, it creates a culture of animosity that pits business owners against the City.

Many small business owners told the Red Tape Commission that they feel the City treats them as a **"revenue generator"** or a **"cow to be milked."** In fact, almost half of business owners who responded to the Commission's survey stated that they did not believe they were treated fairly by the City's inspectors.

Indeed, many small business owners were not only frustrated by the fine process, but also by the tenor of their conversations with City agencies. As one survey respondent

put it, "when did New York City become so complacent and mean-spirited?"

Specifically, multiple business owners complained that the City was too focused on punishing small businesses rather than working with business owners to proactively encourage compliance. In fact, just under half of the survey respondents told the Commission that agency officials failed to provide adequate information about how to cure violations, and almost sixty percent of respondents stated that officials did not adequately communicate expectations or requirements for inspections.

By helping businesses comply with the law, the City can reduce the burden on inspectors, allow businesses to avoid fines, and protect the public health and safety of consumers.

SOLUTIONS

- 6 Provide Businesses with Free Consultative Sessions
- 7 Expand Marketing of Existing City Services
- 8 Create Training Videos for Businesses in Multiple Languages
- 9 Develop Collaborative Programs That Reduce Fines and Improve Compliance
- 10 City Agencies Should Coordinate So Similar Inspections Are Done At the Same Time
- 11 Business Owners Should Be Able To Grade City Agencies

48% OF RESPONDENTS felt that they were not treated fairly by the City's inspectors

48% OF RESPONDENTS stated that inspectors did not adequately provide information about how to cure violations

58% OF RESPONDENTS stated that officials did not adequately communicate requirements for inspections

6 Provide Businesses with Free Consultative Sessions

Each City agency that inspects businesses should, on request, provide business owners with at least one free in-person consultative training in the business' first year, and then at least one additional training every three years thereafter. This initiative could be coordinated by the Department of Small Business Services, which already has experience leading efforts like this through the NYC Business Acceleration program.

Adopting this policy would build on the existing successful programs that are already helping business owners better comply with the law. For instance, businesses that are enrolled in the NYC Business Acceleration program can receive a free consultative session from the Department of Health and Mental Hygiene prior to the business opening. Additionally, Chicago has a similar program for new restaurants.²⁴

Expanding these models would allow business owners to learn directly from City officials about how to identify, prevent, and resolve problems before they turn into costly fines and would lead businesses to see government as a partner, rather than an obstacle, to their success.

7 Expand Marketing of Existing City Services

A number of existing City programs already help small businesses navigate the City's bureaucracy and solve problems. Unfortunately, many small business owners reported that they did not know about programs like NYC Business Acceleration, NYC Business Solutions, and Business Express until it was too late to use them.²⁵ For that reason, the City should make an across-the-board effort to ramp up marketing for these programs, which are already helping business owners understand their responsibilities and comply with City rules and regulations. This effort could be led by the Chief Business Operations Officer discussed earlier in the report, and could involve more direct outreach to staff at local Business Improvement Districts and Chambers of Commerce, who are well positioned to help the City promote its effective programs.

8 Create Training Videos for Businesses in Multiple Languages

Many small business owners told the Commission that language barriers often complicate their interactions with City officials. For this reason, the City should produce and put online short instructional videos in multiple languages on how to navigate the permit process and prevent specific problems. These videos could help business owners find easy explanations for City rules and how to prevent violations from occurring in the first place.

9 Develop Collaborative Programs That Reduce Fines and Improve Compliance

City agencies should take a proactive approach to reducing violations and the fines that accompany them.

One successful model is the Voluntary Protection Program (VPP) sponsored by the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA). This program encourages businesses to partner with OSHA to develop high quality workplace safety and health plans. In turn, OSHA reduces inspections on businesses in the program and does not issue citations against the businesses for standard violations that are promptly cured. This program has been a proven success for more than 20 years, with 65 sites actively taking part in New York State.²⁶ This type of collaboration should be looked to as a model for City agencies going forward.²⁷



Voluntary Protection Program (VPP) Website

THE CURE LAW In 2013, the City Council passed Local Law 153, which instructed the Department of Consumer Affairs to adopt rules allowing businesses the opportunity to “cure” certain first time signage-related violations without being fined. Under the law, there are 84 different violations that businesses can now fix without paying a fine.²⁸

According to the 2015 Mayor’s Management Report, this law and other efforts resulted in the Department of Consumer Affairs issuing almost 8,000 fewer violations and collecting over \$15 million less in fines in FY15 than in the previous fiscal year.²⁹ The City should look to Local Law 153 as a model for future action.

10 City Agencies Should Coordinate So Similar Inspections Are Done At the Same Time

Both in person at the Commission hearings and in response to the online survey, business owners complained that inspectors were very disruptive to their business, sometimes appearing more than once on the same day. While inspectors should not be required to tell a business owner when they will be inspecting the business, City agencies should coordinate so that similar inspections are conducted at the same time. As noted in Manhattan Borough President Gale Brewer’s *Small Business, Big Impact* report, “combining inspections would give owners fewer interruptions from tending to their business.”³⁰



Small Business, Big Impact Report

11 Business Owners Should Be Able To Grade City Agencies

One way to ensure that City government provides businesses with high quality customer service is to provide business owners with the opportunity to offer feedback on City agency performance. This could be accomplished by providing business owners with the opportunity to annually review their interactions with City agencies by filling out an electronic survey.

The survey would not be a platform for business owners to dispute agency inspections and reviews, for which there is already a formal appeals process. Rather, it would an opportunity for business owners to provide feedback to agencies about how they can improve their materials, websites and services. To protect the identity of the business owner, the survey could be administered by a third party or a business owner could fill it out anonymously.



PROBLEM

The City Can Do More to Support Small Businesses with More Effective Information and Services

Many small business owners told the Commission about specific challenges that the City could help them overcome with improved programs and services. In some cases, these business owners talked about the need to strengthen and improve existing City programs, while in others they discussed areas where new City programs could help fill an existing void.

SOLUTIONS

- 12 Expand and Improve the Business Express Wizard
- 13 Incorporate Data on Permit Application Review Times into the Business Express Wizard
- 14 Translate the Guides and Information on Business Express in More Languages
- 15 Improve Use of Language Line Translation Services
- 16 Disseminate More Information in Ethnic Newspapers
- 17 Improve Filing Systems
- 18 Further Promote the Use of Online Document Filing
- 19 Create an Online Bulletin Board for Office Space Crowdsourcing
- 20 Help Small Businesses Connect With Local Lenders
- 21 Create a Microlending Institute

Information on City Services Is Too Hard to Find and Differs in Quality

On multiple occasions, small business owners told the Commission that they had a hard time finding the information they needed about a City policy or City agency. While agencies often provide the public with a wealth of information, the quality and organization of the information varies depending on the agency. Indeed, as Karen Eason told the Commission in Staten Island, **“having a lot of information is almost as bad as having none. It can be difficult for an aspiring entrepreneur to navigate through all of it successfully.”**

12 Expand and Improve the Business Express Wizard

According to the Mayor’s *Small Business First* report, the City is currently developing a single comprehensive online portal for businesses. As the City does so, it should build on the existing Business Express Wizard, which provides a convenient online tool for small business owners to answer specific questions about their business and then obtain a list of permits and licenses that their business will need in order to open.

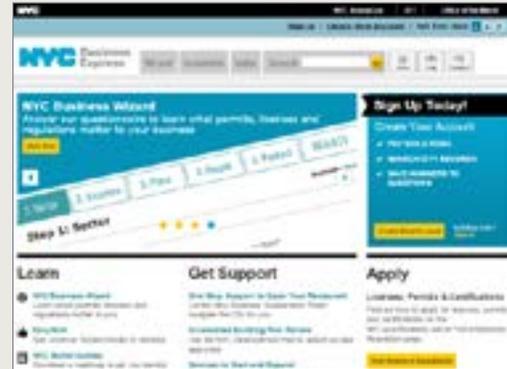
One way to build on the Wizard’s success is to improve the quality of information that each agency provides about what a business owner needs to do in order to apply for each type of permit. For instance, while some agencies provide high quality information and step-by-step guides about permits and licenses, others do not. Furthermore, some of the guides that the Wizard links to redirect to webpages that do not exist or are no longer active.³¹

Additionally, as part of improving the Wizard, the City should provide business owners with greater clarity on the order in which they should apply for their permits and licenses. Business owners told the Commission that one of the reasons the permit application process takes so long is that certain agencies will not even consider an application unless certain other applications have first been approved. To reduce confusion and make it easier for business owners, the Wizard should also clarify the order in which business owners should apply for permits and licenses.

BUSINESS EXPRESS WIZARD The City provides business owners with information about the permits, licenses, services, and regulations that can impact a business online via the Business Express portal: <http://www.nyc.gov/portal/site/businessexpress>.

One of the more innovative and helpful parts of the portal is the Wizard, which allows business owners to provide basic information about their business and receive a list of the types of permits and licenses the business will need in order to operate in New York City. The Wizard also provides business owners with information about how to apply for certain permits and licenses.

By consolidating this information in a single site, the Business Express Wizard helps prospective and current business owners better navigate the City bureaucracy.



Business Express Wizard Website

13 Incorporate Data on Permit Application Review Times into the Business Express Wizard

The Business Express Wizard should also provide business owners with a sense of how long it will take to receive each permit or license that they need. Small business owners that spoke to the Red Tape Commission consistently mentioned the need to have some sense of how long it would take to get their applications approved so they can plan accordingly.

To address this issue, the City should build off of the prior recommendation to develop metrics for how long it takes to approve each type of permit or license and incorporate that into the Business Express Wizard. Ideally, this tool could eventually provide business owners with close to real-time results on how long similar applications took to be considered and approved so the business owner can plan accordingly.

City Services Are Not Available in Enough Languages

New York City's business owners are as diverse as the City itself. For that reason, in 2008, Mayor Bloomberg signed Executive Order 120 requiring City agencies that provide direct public services to have a Language Access Plan.³² Unfortunately, despite the progress made under EO 120, the Commission repeatedly fielded complaints about City agency capacity to engage with people of Limited English Proficiency.

For example, Liliana Carrillo, the owner and founder of the Woodside Business Center in Queens, told the Commission that businesses she works with frequently struggle to obtain clear information from City agencies. This is the case even when agencies have taken the time to translate documents from English to Spanish because they are frequently poorly translated and therefore only partially relay complex information. She also noted that many business owners who are not proficient in English have a difficult time navigating government websites to find documents not in English due to the complex layout of many City websites, particularly on mobile devices.



Liliana Carrillo

14 Translate the Guides and Information on Business Express in More Languages

Business Express provides plain language "NYC Starter Guides" for specific types of businesses along with lists of the typical permits and licenses a business would need to receive based on the type of business.³³ However, these guides are only available in English, making them ineffective for many New Yorkers. For that reason, they should be translated into multiple languages.

15 Improve Use of Translation Services

It is vital that inspectors and other City officials who visit small businesses are able to clearly explain violations and provide business owners with information on how to cure those violations in a language that the business owner can understand.

When City officials need help communicating with business owners, they are supposed to use a service called Language Line, which provides translation assistance over the phone through a standing contract with the City. However, use of this service varies among City agencies, and while many agencies that interact with small business use the service widely, others do not. Table 5 below shows the number of times certain agencies used Language Line services between May and October of 2015.³⁴

TABLE 5: NUMBER OF TIMES EACH AGENCY USED LANGUAGE LINE SERVICES (5/15 - 10/15)

Agency	Department of Health/Mental Hygiene	Department of Consumer Affairs	Office of Administrative Trials and Hearings	Department of Small Business Services	Department of Buildings
# of Calls	6,899	2,119	1,500	30	14

City officials must take better advantage of translation services, not only for in-office meetings and services, but also in the field during inspections.

16 Disseminate More Information in Ethnic Newspapers

One of the ways City agencies can better communicate with non-English speaking small business owners is to publish information in community-based and ethnic media outlets. Unfortunately, as a recent analysis by Comptroller Stringer and Brooklyn Borough President Adams demonstrates, the City is not doing enough to take advantage of the reach of these media outlets.³⁵

To counter this, City agencies should take more proactive steps to publish information about upcoming events and services available to small business owners in community-based and ethnic media outlets. Doing so would allow agencies to better target their outreach to business owners that could particularly benefit from learning about City programs in publications they trust.

Document Filing is Too Difficult

In 2016, there is little reason for government agencies to require that every document be filled out by hand and filed in person or through the mail. Incredibly, the City's document filing process remains stuck in the 20th century, forcing business owners to spend time filling out documents by hand, getting those documents notarized, going to the post office, and paying for stamps.

One example of this issue was shared at the Commission's hearing in Manhattan. At that hearing, Chris Collins of Solar One explained that he had to submit multiple sets of the same separately notarized documents in order to receive funding from the Department of Youth and Community Development (DYCD). As a result, he reported that one of his staff members had to work full time for many months just to complete the required paperwork and answer questions from DYCD staff.

17 Further Promote the Use of Online Document Filing

While several agencies have taken concrete steps to bring their filing systems into the 21st century by creating an online portal, more must be done to allow forms to be filled out and submitted electronically, including accepting electronic signatures in lieu of formal hand written signatures at all City agencies and local community boards.

Improving the online filing process should not be overly difficult for City agencies. For instance, Comptroller Stringer has already taken several steps to streamline the contracting process. In December 2015, the Comptroller announced that vendors will be able to file and edit W-9 vendor information forms online, eliminating a decades-old hard copy requirement.³⁶ In addition, the City's Procurement Policy Board recently approved a recommendation from the Comptroller that will make email the default method of releasing Requests for Proposals and Competitive Sealed Bids, which have traditionally been sent in the mail. This change, which will take effect in 2016, will not only reduce paper and save taxpayer dollars, but will also enable small businesses to quickly and easily track opportunities for procurement.

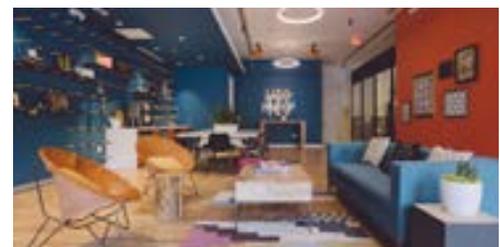
MODERNIZING THE DEPARTMENT OF FINANCE In order to merge, subdivide, or reapportion a parcel of land, a property owner needs to file a number of forms with various City agencies. One of those forms goes to the Department of Finance, which must approve modifications to tax lots. In response to the Red Tape Commission survey, one respondent complained that one of these forms, the Department of Finance's Application for Mergers or Apportionments form, can only be filed in person at the Department of Finance's Manhattan office.³⁷ This poses a real cost—in both time and money—for the many City residents that do not live or work in Manhattan.

18 Improve Filing Systems

The Department of Finance should also allow this form to be filed online, making it easier and fairer for City residents. If it is unwilling to do that, at minimum, the Department should allow the form to be filed at offices outside of Manhattan as well.

19 Affordable Office Space is Hard to Find

Another challenge many small business owners expressed to the Commission is finding affordable office space across the five boroughs. For example, Tani Chambers and Karen Eason told the Commission that there is a lack of affordable, centrally located, coworking space available for small businesses in their Brooklyn and Staten Island neighborhoods. With commercial rent prohibitively expensive for many very small businesses or self-employed entrepreneurs, the City should do more to help these business owners and entrepreneurs find the office space they need to succeed.



Co-working Space

19 Create an Online Bulletin Board for Office Space Crowdsourcing

One way the City can address this problem is to create a new platform called NYC ShareSpace, which Comptroller Stringer has called for since 2012.³⁸ NYC ShareSpace would be a website run by the Department of Small Business Services that would provide a platform for real estate companies to post information regarding available office space and would allow small start-ups to come together to find space that suits their needs. For example, this service would allow a start-up with 10 employees to work with a start-up with 25 employees to negotiate a lease for space for 35 people, thereby finding more affordable spaces than they could access on their own. NYC ShareSpace would enhance the City's recently launched UrbanTech NYC program, which is helping to provide office space to companies too big for incubator programs but not large enough to afford market rate rents at sites in the Brooklyn Navy Yard and midtown Manhattan.³⁹

Many Small Businesses Lack Access to Capital

One of the most difficult issues many small businesses face is accessing capital and financial support to turn their ideas into reality. According to the Pepperdine University Private Capital Access Initiative, 67 percent of businesses with less than \$5 million in revenue reported difficulty finding debt or equity financing.⁴⁰ Similarly, a 2014 report from Harvard Business School found that in the wake of the Great Recession, banks have grown more reluctant to lend to small businesses.⁴¹ Not surprisingly, small business owners across the City expressed a desire for the City to do more to help them confront this challenge at Commission hearings and through the online survey.

Help Small Businesses Connect With Local Lenders

The City can take a number of steps to make it easier for small businesses to access credit. Leonid Ostrovsky, the Director of Lending at the Business Center for New Americans, told the Commission that the City should create an online tool for small business owners to find lenders in their area, and provide a simple means to contact those lenders with their business plans, and vice versa. As with the NYC ShareSpace proposal discussed previously, SBS could use its knowledge to create a list of lenders in each community and make this list widely available to small businesses.



Leonid Ostrovsky

Create a Microlending Institute

New York City is home to a number of existing microlenders, such as Grameen America, Accion, and Business Center for New Americans along with new startups like Kiva Zip. But, more can be done to support their work and link them with New York City clients.

To do so, the City should create a microlending institute modeled on the successful Chicago Microlending Institute, an innovative public-private partnership between the City of Chicago, Citi, and ACCION that has provided millions of dollars to support small businesses in the Windy City. ACCION trained micro-lenders are given access to Institute funds that they use to make loans to small businesses. This type of program could be successful in New York City with a limited amount of City funds, given the large number of potential non-governmental partners in the area.³³ It could also be targeted to new and young business owners, who frequently struggle to get traditional bank loans given their lack of credit history or business experience.



Chicago Microlending Institute Website

CITYWIDE

A CLOSER LOOK AT

New York City's Non-Profit Economy

New York City is home to the greatest collection of non-profit arts and cultural institutions in the world. In fact, there are more than 35,000 nonprofits—many of them small—in New York City that employ more than 600,000 workers, or about 18 percent of the City's private workforce.⁴³

In June, 2015, the Center for an Urban Future published Creative New York, a detailed look at the benefit of, and challenges faced in, the creative sector in New York.⁴⁴ The report included more than 20 ways to better help the creative sector in the areas of real estate affordability, government programs, economic and community development, and diversity. Among the many good ideas in the report, the Center proposed:

- ▶ Helping artists find affordable work space by expanding programs like the Seniors Partnering with Artists Citywide, a partnership between the Departments of Cultural Affairs (DCLA) and Aging, in which artists receive a stipend and access to workspace in exchange for providing programming for seniors.
- ▶ Providing greater support for collaborative work spaces by investing more in equipment and supporting artist collectives.
- ▶ Making it easier for artists to apply for affordable housing and health care by creating partnerships between DCLA, the Department of Housing Preservation and Development, and the Department of Health and Mental Hygiene.
- ▶ Developing dedicated revenue sources to fund cultural organizations and projects to make up for recent federal, state, and local funding cuts and prevent future cuts.
- ▶ Supporting mid-sized cultural institutions by helping them consolidate and share expenses for back-office operations and support services.
- ▶ Establishing more creative sector innovation districts as has been done successfully in the Brooklyn Navy Yard.
- ▶ Creating a new position of Chief Creative Officer in the Mayor's Office to spearhead citywide initiatives that support art and cultural projects in New York.
- ▶ Expanding the well-regarded NYC Fashion Fellows program to more types of creative institutions so that artists and others can learn high quality business practices.

As with many small for-profit business, non-profits can also be hindered by red tape or insufficient City services. In fact, a recent report from the New York City Economic Development Corporation stated that "various types of red tape—such as overly burdensome reporting requirements, delays in payments, and unexpected cost escalations—pose serious challenges for nonprofits."⁴⁵

For example, at the Commission's hearing in Brooklyn, Eric Edwards discussed the challenges he faced to obtain financial support for a Cultural Museum of African Art in Bed-Stuy. At the hearing, Mr. Edwards asked the Commission, "How can you help us cut out the red tape?"

The City is Slow to Pay Non-Profit Grantees

One particular issue that was brought to the Commission's attention by numerous respondents concerned delays in receiving payments from the City. Under current law, City agencies are required to remit payment to non-profit service providers within 30 days of receiving a proper invoice.⁴⁶ However, because invoice submissions can only be submitted through the mail in paper form, the process can take a long time even when invoices are properly submitted on the first attempt.

In addition, one business owner who responded to the Commission's online survey stated, **"The actual time it takes to get from award letter to an executed contract is crazy long. Meanwhile services are being provided on the backs of organizations that have little funds to begin with."**

Similarly, at the Staten Island hearing, Kelly Vilar, a member of Staten Island Community Board 1 and spokesperson for the Let's Rebuild Cromwell Community Coalition, told the Commission that it takes months for small businesses and nonprofits in the City to receive the funds they have been awarded, making it difficult to fulfill the terms of the grant agreement and discouraging them from bidding on City work in the future.

Allow Non-Profits to Submit Paperwork Electronically and Track Reimbursements in Real Time

To provide better information to non-profits about the status of their grants, the City should develop a system that allows non-profits to submit invoices and track their reimbursements in real time. Just as a consumer who purchases a product from Amazon receives emails confirming the purchase, tracking the package, and verifying delivery, a non-profit in New York City should be able to track its funding from start to finish in real time.

Critically, the system should be designed to allow receipts and supporting documents to be submitted electronically. In addition, the system should also be able to electronically notify non-profits about the status of their reimbursements. So, for example, if a non-profit failed to submit all the required paperwork the system should automatically notify that non-profit of that missing paperwork so it could be quickly corrected. By doing so, the system would make the process more transparent and allow non-profit service providers to quickly remedy any problems with their invoices so they can be promptly paid by the City.

In December, 2014, Comptroller Stringer initiated a Request for Information to identify ways to implement such an electronic process system. The Comptroller is currently evaluating the information to determine how to best move this initiative forward.



A street-level view of a city street, likely in New York City, looking down a narrow street lined with tall, ornate buildings. In the center background, the Freedom Tower (One World Trade Center) stands prominently, its spire reaching towards the sky. The street is filled with various elements: a construction site with orange traffic barrels and a blue truck on the left; a yellow taxi and pedestrians on the street; and various signs and banners on the buildings. The overall atmosphere is that of a busy urban environment.

AGENCY BY AGENCY

Reforms

Department of Buildings

One of the major sources of frustration for many small business owners is the Department of Buildings (DOB). DOB regulates over one million buildings in New York City—examining and approving building plans, issuing construction permits, and inspecting properties.⁴⁷ DOB also issues Certificates of Occupancy that allow business owners to legally occupy their store and open for business once all other permits have been obtained.

DOB received the lowest satisfaction rating of any City agency from business owners responding to the Red Tape Commission survey.³⁷ This can be partially explained by data in the 2015 Mayor’s Management Report that showed that DOB routinely fails to respond to customers in a prompt manner compared to the other agencies identified in the Commission’s report.⁴⁹

In fact, the percent of customer emails responded to by DOB within 14 days went from 65 percent in FY14 to 51 percent in FY15.⁵⁰ And, although the percent of letters that DOB responded to in 14 days went from 49 percent to 69 percent, that improvement still placed DOB below many of its peers. While not every City agency documents this data in the Mayor’s Management Report, these indicators support the statements of one small business owner who told the Commission that the staff of the Department of Buildings is

TABLE 6: PERCENT OF EMAILS & LETTERS RESPONDED TO IN 14 DAYS IN FY 2015

	Emails	Letters
Office of Administrative Trials and Hearings	100%	100%
Department of Small Business Services	100%	100%
Department of Transportation	95%	95%
Department of Information Technology	95%	91%
Department of Cultural Affairs	92%	100%
Department of Health and Mental Hygiene	58%	36%
Department of Buildings	51%	69%

“literally and figuratively behind locked doors.”

As explained below, solving the myriad problems at DOB requires a holistic approach.

DOB’s Dual Mission Leads to Significant Inefficiencies

For years, DOB has been responsible for issuing permits for construction while also being tasked with inspecting existing buildings for compliance with the Building Code. However, there is an inherent conflict when the same agency is responsible for both approving and policing the same project, and as a result, DOB’s dual mission has contributed to significant inefficiencies.

Split DOB into Two Separate Agencies

As Comptroller Stringer has previously proposed, DOB should be split into two separate entities in order to divide the inspection and remediation responsibilities from the permit and review functions.⁵¹ While the permit and review functions would remain at DOB, the job of inspecting and addressing violations would become the mandate of a new Office of Inspection.

Taking this step would help improve the Department in a number of ways. First, by reducing the number of issues in DOB’s purview, it would allow the staff to focus on serving businesses by promptly reviewing, commenting on, and ultimately approving permit applications. Second, combined with other reforms outlined below, it would change the agency so that it would measure its performance on the basis of how efficiently it served businesses rather than on how frequently it inspected or fined the businesses it previously provided with permits.



NYC Department of Buildings

It Takes Too Long To Receive Responses to Permit Applications

The catalogue of complaints with DOB is long, but it starts with the cost— in time and money —of filing for permits. In fact, the first time many permit applicants hear from the Department is when they receive a list of objections to granting a permit.

As one business owner explained to the Commission: **“The cost and delay in permit filing is outrageous ... Every new business owner starts with a very padded budget in the anticipation of hidden or unseen circumstances. But when chunks of it are eaten away by archaic DOB regulations even before you open the doors, it can be very discouraging. I still want to believe that my decision to start a business in New York was a good one but this process is weakening my resolve, to say the least.”**

Another small business owner told the Commission that “the quagmire that is the DOB very much hinders my business. Many clients lose their taste for even hiring an architect when they understand what the process will be at DOB.”

ELECTRICAL METER FILINGS One important recent improvement at the Department of Buildings (DOB) is the ability to electronically file permit applications rather than filling out and delivering paper copies by hand. However, electronic filing is not available for every type of permit application. For instance, Don Pagano, the President of DRP Electrical Contracting, Inc. in Staten Island, told the Red Tape Commission that DOB still requires paper filings delivered by hand for electrical permits to establish new electrical meters at dwellings that have already received approval for a zoning change.

Electronic Filing

Allowing more applications to be filed electronically would help save time and money for taxpayers, DOB, electricians, and their customers alike.

DOB Should Establish Clear Policies on How Long it Takes to Review and Approve Applications

DOB should establish and make publicly available a formal policy on how quickly businesses should expect to receive initial responses and final approval for each type of permit, license, or certificate. Doing so would provide business owners with a much needed sense of when they could expect to hear back from the Department and allow the Department to measure its performance against real metrics. Once established, this information should be integrated into the Business Express Wizard so that business owners know approximately how long each permit they are required to obtain will take to be approved.

In addition, the Department should expand the amount of information it provides on its performance in the Mayor’s Management Report. Once these metrics are developed, DOB should go further and publish a real-time update on the average time it takes to approve each type of permit or license.

✂ Expeditors Disadvantage Small Businesses

Few facts serve as a greater indictment of the City's regulatory superstructure than the existence of expeditors. Called "Filing Representatives" by the DOB, these for-hire fixers have been engrained into the fabric of DOB, charging fees to help would-be business owners navigate the Department of Buildings and "expedite" the approval process.

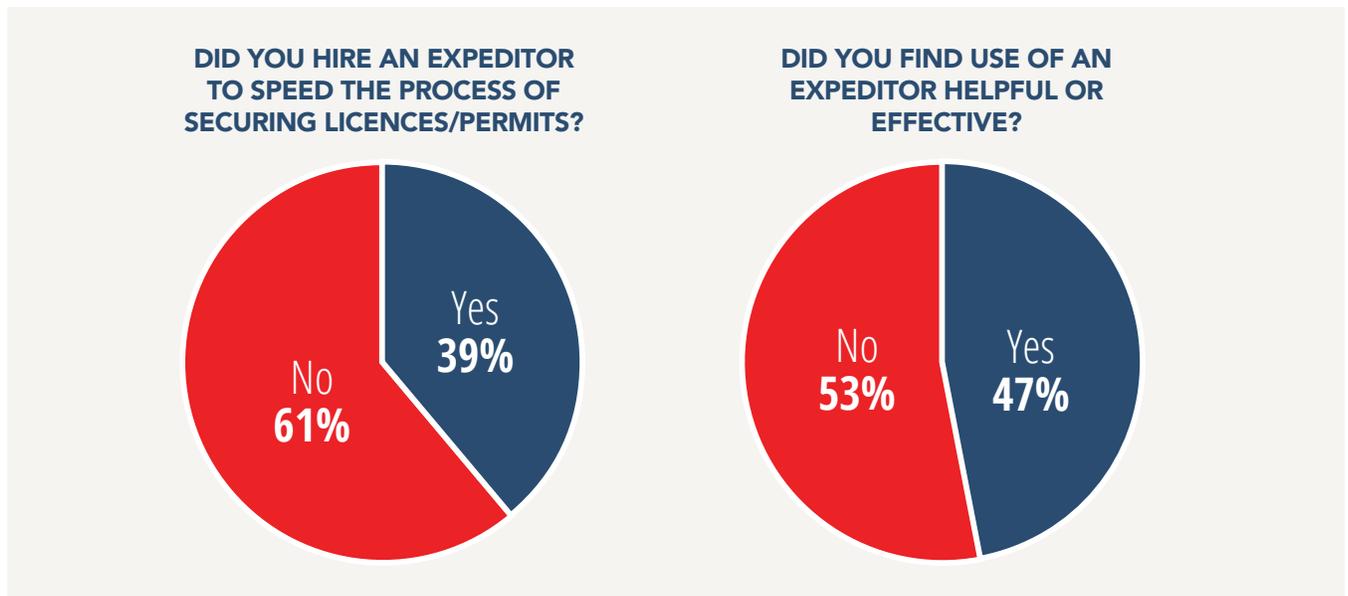
”

“The process of getting a building permit is considered so complicated and time-consuming that an entire industry has been spawned to deal with it, even to the point where expeditors hire their own expeditors.” –*A New York Trade Thrives on Red Tape, The New York Times (Sep. 13, 1991)*⁵²

While expeditors are required to be licensed by DOB, they are not DOB employees and may have various contractual relationships with the businesses they serve. As one survey respondent told the Commission, **“The DOB is difficult or impossible to navigate without an expeditor ... so yes, the expeditor was helpful. But I resent the fees involved to contract such a person when I should be able to do it myself.”**

That businesses feel the need to hire someone to help them work with their local government is problem enough. But the unfairness of this system is compounded for small businesses that are pushed to the back of the line as large businesses and their expeditors get their issues addressed more quickly.

Interestingly, many of the business owners surveyed by the Commission stated that they did not find using an expeditor to be helpful or effective. For example, one survey respondent stated that, **“I am not sure what the expeditor does but I am sure that I could have done it quicker myself.”** Another simply asked, **“Should it really be necessary to pay to have simple forms filled out?”**



26 Turn Expeditors into Business Advocates

To fix this system once and for all, DOB should no longer sanction the role of "Filing Representatives" and should instead establish a team of in-house Business Advocates to solve problems for businesses free of charge. This change would be particularly helpful for small businesses that struggle to pay the fees associated with expeditors.

Stubborn Scaffolding

According to the Department of Buildings, there are approximately 9,000 sheds above our streets and sidewalks, up from about 3,500 in 2003.⁵³ That's the equivalent of 1 million feet of scaffolding separating businesses from would-be customers across the five boroughs.

Ann Benedetto, a business owner in Manhattan and founder of the Tribeca Alliance Partnership, told the Commission that her business is suffering as a result of scaffolding that has lingered in front of her store for months, with no end in sight. Her store, A Uno Tribeca, is an independent clothing retailer, which means that her inventory changes with the seasons. When scaffolding obstructs her storefront, it can have a significant impact on her ability to sell her merchandise before it is out of season or style, hurting her bottom line.

Ann's story is not unique, as the City is littered with reports of unused scaffolding remaining on buildings for years after their initial use.⁵⁴ While scaffolding serves an important safety purpose, installing it can be very expensive. For that reason, building owners frequently prefer to leave scaffolding in place rather than take it down and put it back up year after year.



Ann Benedetto

27 Require Unused Scaffolding to Come Down

Building owners must obtain a permit before installing most scaffolding and scaffold sheds, and must maintain those permits in order to keep the scaffolding in place. As a result, one way to mitigate the effects of scaffolding is to require building owners to complete projects expeditiously, and to remove all scaffolding once the job is done. If the permit applicant cannot document in good faith that plans are in place to use the scaffolding again within a certain time period, then it would have to come down.

28 Promote the Use of Innovative Scaffolding

In a city with as much construction as New York, scaffolding is an inevitable part of life. However, improving the design of scaffolding in order to take up less of the sidewalk and let in more light can make it less of a hindrance to consumers and business owners alike. The New York City Building Congress recently launched a competition to do just that,⁵⁵ and in December, announced four winners. These new designs are currently being evaluated by the Department of Design and Construction.⁵⁶

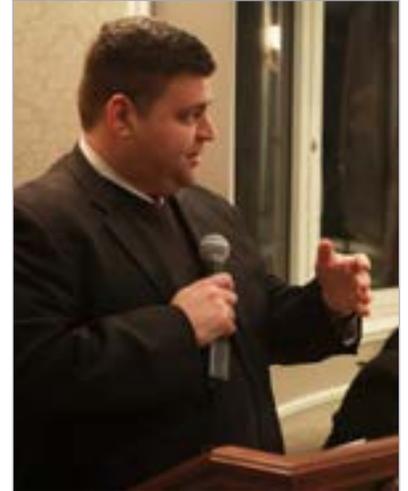
As the agency that issues scaffolding permits, DOB can help speed up the adoption of these innovative designs by encouraging scaffolding companies to purchase these new types of scaffolding, providing information to building owners about alternative scaffolding models, and promoting their use.

DOB Does Not Promptly Approve Site Safety Manager License Applications

Michael Arvanites of the Safety Professional Association expressed concerns to the Commission about the long period of time it takes DOB to license site safety managers, a process that can take over a year. This delay causes significant hardship since a site safety manager must be present at the construction site when work is being conducted in order to ensure compliance with the building code. As a result, when site safety managers cannot be onsite—either due to DOB delays or otherwise—construction grinds to a halt.

In order to become a site safety manager, an applicant must apply for and pass a DOB administered exam as well as a background investigation. If the applicant successfully completes both of these steps, the applicant is then eligible to apply for a site safety manager license. No individual can apply for the site safety manager license without completing those two steps.⁵⁷

The number of site safety managers in the City is not sufficient to meet demand and the Commission heard reports that it can take over a year for applicants to receive their official license from DOB.⁵⁸



Michael Arvanites

29 Increase the Number of Examiners that Approve Site Safety Manager Applications

The Department should task additional staff with reviewing and approving applications for site safety managers in order to avoid unsafe workplaces and needless and costly construction delays.⁴⁶



Renewable Energy & Green Projects

In One City Built to Last: Transforming New York City's Buildings for a Low-Carbon Future, Mayor de Blasio pledged that New York City would achieve an 80 percent reduction in greenhouse gas emissions by 2050.⁵⁹ Unfortunately, the Commission heard multiple accounts of red tape and regulatory hurdles that prevent businesses—many of them small companies—from installing rooftop solar systems that will help the City meet this ambitious goal.

Red Tape Hinders the Growth of New York City's Solar Industry

Rooftop solar has the potential to generate as much as 13 million megawatt-hours per year in New York City, enough to power 1.2 million homes.⁶⁰ As a result, harnessing the power of the Sun can reduce greenhouse gas emissions, grow "green-collar" jobs within the City, and cut energy costs for consumer.⁶¹

While private solar power generation has greatly expanded within the City—more than doubling since the end of 2013—certain policies and regulatory hurdles threaten to inhibit the growth of rooftop solar and limit our City's progress towards a greener future.⁶²

Those wanting to install rooftop solar panels face both hard and soft costs. Hard costs include the costs associated with the panel and other equipment while soft costs include the money and time spent on application fees and permitting delays. Today, soft costs comprise over sixty percent of the total cost of a residential system in New York City.⁶³ This is because installing rooftop solar systems requires navigating a dizzying array of permit applications, building code regulations, inspections, certifications, forms, and letters that make New York City a notoriously difficult place to install solar energy systems. For example:

- ▶ Department of Building (DOB) regulations can require as many as 11 separate forms, costing as much as \$3,500 in application, inspection, and related fees.⁶⁴
- ▶ The City's byzantine building code does not exempt solar from energy conservation requirements because the process of installing a solar panel may involve drilling minor penetrations on rooftops. Forcing installers to comply with energy conservation codes adds time, complexity, and cost to a project.⁶⁵ Relying on an expeditor to navigate the City's permitting process can add anywhere between \$2,500 and \$3,000 in costs.⁶⁶
- ▶ DOB requires that all solar installation projects be inspected even after they have already been approved by the Special Inspection Agency, a separate unit in DOB, creating even more delays.
- ▶ Installing solar panels on flat roofs, common on brownstones and row houses, entails an entirely different and more onerous set of regulations than outfitting sloped roofs with solar power.⁶⁷ Regulations promulgated by DOB and the New York City Fire Department can drastically reduce the amount of solar-eligible space on a rooftop, raising the costs of a project.
- ▶ Stringent flood zone requirements demand solar installers provide pages of information verifying whether a building is situated in a flood zone or wetland, even when those designations have no discernable impact on a rooftop project.⁶⁸
- ▶ Solar installers are required to employ a registered architect or professional engineer to serve as the designated "applicant of record," even if the installer already has all of the required expertise.⁶⁹
- ▶ Recent changes now require a formal letter of justification for any residential solar systems whose price exceeds \$4 to \$5 per watt, which is very difficult to achieve given the costs associated with navigating the City bureaucracy.

These regulatory roadblocks have prevented the widespread adoption of rooftop solar in New York City. Indeed, as Rob Ashmore, a self-described "paper-pusher who sometimes installs solar panels" for Aeon Solar told the Commission, **"as the process of installing solar becomes more and more streamlined across the country, the solar industry in New York is being left behind."**

Indeed, by comparison, cities and towns in New York and across the country have made it much easier to install rooftop solar panels. Chicago's Solar Express program has won accolades for easing permitting guidelines and driving down the cost of solar for single family homes, boasting a "one-day permit turnaround time for small solar projects."⁷⁰ Similarly, to encourage the adoption of rooftop solar, Denver has capped the cost of necessary solar permits to a very affordable \$50 per project.⁷¹

30 Establish Green Energy Expertise at the Department of Buildings

Much of the redundancy and complexity surrounding the solar permitting process could be alleviated by developing solar specific expertise inside DOB. Currently, the Mayor's Office of Sustainability, Sustainable CUNY, the New York City Economic Development Corporation, and DOB collaborate to develop regulatory policy.

Solar arrays are cutting edge technology, requiring expertise and experience from installers, regulators, and inspectors. Establishing a dedicated unit or personnel within the DOB would grant solar installers access to a single point of contact that can shepherd applications through a streamlined process.

Councilmember Donovan J. Richards has introduced a bill to create a solar ombudsperson within the Department of Buildings.⁷² This ombudsperson could help to establish a uniform process for solar installations and a reasonable timeframe for the processing of permits. Rather than wait for the Council to act, the Department of Buildings should establish such a position today and invest it with the necessary authority and resources to overhaul the current permitting system.

Solar adoption would also be aided by the passage of Int. 846, also introduced by Councilmember Richards, which would establish the New York City Office of Solar Energy tasked with the job of catalyzing the development of solar within the City.⁷³ Soon after its creation, the Office of Solar Energy should convene relevant stakeholders, including the Fire Department, the Department of Buildings, and solar advocates and installers to develop a common sense regulatory regime, which would balance safety with sustainability.

31 Fast Track Green Permitting

To promote the development of solar energy systems and other types of green energy projects, the Department of Buildings should explore developing a fast track permitting process for green work that makes it easier for renovations, new construction, and the installation of cutting edge technologies to move forward.

New York's aging building stock is responsible for 70 percent of citywide greenhouse gas emissions.⁷⁴ Making these aging buildings more energy efficient can significantly help the City reach its emission reduction goals. A fast track permitting process would help encourage these investments by making the permitting process as easy as possible, overcoming the reticence that may overwhelm building owners before they launch a project.⁷⁵

Several cities around the country have developed green permitting processes that have served to boost the pace and scale of green work in private homes and businesses. Seattle's 'Priority Green Expedited' program promises a single point of contact and faster processing of plans for projects meeting certain certification levels.⁷⁶ Over the past 6 years, Seattle has approved over 400 projects in the program.⁷⁷

VERTICAL FARMING Another promising green technology is the development of vertical farms. Jason Green, the CEO and co-founder of Edenworks, a Brooklyn-based startup, told the Commission about how his company is transforming the City's landscape by developing warehouses as indoor vertical farms.

However, as with the solar industry, red tape has added real costs—in both time and money—that have made it more difficult for Edenworks to do business in New York.

For instance, before pursuing indoor vertical farms, Edenworks proposed the development of rooftop greenhouses pursuant to the Zone Green reforms to the zoning regulations designed to remove impediments to the greening of buildings. However, despite having adopted Zone Green in 2012, when contacted by

Edenworks in 2015, the City still did not have any of the required forms, checklists, or processes written or established so that Edenworks could move projects forward. Similarly, it took Edenworks more than 6 months of work with the Department of Finance to become eligible for the Commercial Expansion Program.

Given the ambitious goals set by *One City Built to Last*, it is vital that City agencies dedicate themselves to breaking down these types of barriers so that renewable energy and green projects can flourish in New York.

Photo Courtesy of Edenworks

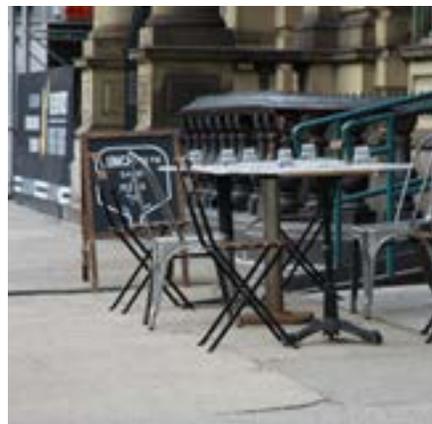


Department of Consumer Affairs

Sidewalk Café Permits

Among other responsibilities, the Department of Consumer Affairs (DCA) issues permits for sidewalk cafés. To make this process easier for businesses to understand, DCA recently created an online map that shows all of the sidewalk café permits applied for and issued in New York City.⁷⁸ The mapping tool also allows business owners to check on the status of their permit applications and provides permit applicants with information about how long each step in the application process will likely take.

Despite this positive development and additional changes to the permitting process,⁷⁹ many business owners remain frustrated at the process to obtain a sidewalk café permit. For example, Ruairi Curtin of the Bua Bar Group explained that it takes four to six months to receive a permit on top of the thousands of dollars in fees needed to pay for an architect to fill out the required forms.



Sidewalk Café

Standardize Community Board Application Forms

Each application for a sidewalk café permit is reviewed by the local community board during the DCA's review process. However, each community board has a different application form, and the ease of finding the correct form on the relevant community board's website differs greatly depending on the board.

To improve this process, DCA should work with the City's community boards to create a standard application form that can be easily accessed on the website of both the Department and each community board. DCA should not restrict community boards from asking for limited supplemental information important to that board, but should seek to create as uniform an application document as possible to promote consistency, thereby making it easier to apply.

Get Rid of Duplicative Applications Requirements

DCA's website includes a helpful guide that lists each of the steps that a business applying for a sidewalk café permit must complete as part of the application.⁸⁰ While each step may be reasonable on its own, the totality of the requirements creates a burdensome process that DCA should seek to simplify.

For instance, an applicant must send a letter notifying entities such as local building owners of the application, but also must provide DCA with both the certified or registered mail receipts and a notarized affidavit attesting to the fact that the notification letter was sent. The requirement to submit both a notarized affidavit and the certified mail receipts is duplicative, and ought to be streamlined.

Department of Health and Mental Hygiene

While many types of small business interact with the Department of Health and Mental Hygiene (DOHMH), concerns about the Department were most frequently voiced by restaurants. This is because DOHMH officials visit food service establishments—mostly, but not exclusively, restaurants—for unannounced inspections at least once a year.⁸¹ These inspections lead to the now familiar grades that are posted in restaurant windows across the five boroughs.

The grading system is an important innovation that has improved public health and provided consumers with easily understood information about the restaurants they frequent.⁸² Moreover, the system has contributed to rising compliance with food safety regulations. Indeed, in FY 15, 95 percent of restaurants scored an “A” grade, up from 90 percent in FY 14 and 81.7 percent in FY 11.⁸³ Nevertheless, a number of reasonable reforms could further improve how DOHMH interacts with small businesses.



Restaurant Grade

Restaurant Grades Are Inconsistent

Despite the benefits of the inspection and grading regime, many restaurant owners have expressed legitimate concerns about how the program is carried out.

As detailed in a report published in the *Yale Law Journal*, restaurant inspections by DOHMH can be notoriously inconsistent.⁸⁴ For instance, Per Se in Columbus Circle received 23 points on its first post-grading initial inspection, 8 points on the re-inspection, and 41 points on the next initial inspection. Mamoun’s Falafel in Greenwich Village received 59 points on its first post-grading initial inspection, 5 points on its re-inspection, 16 points on its subsequent initial inspection, 9 points on the re-inspection, 27 points on its third initial inspection, and 26 points (grade pending) on the re-inspection.

Promote Consistency in Restaurant Grades

DOHMH should seek to improve the consistency of inspections by using data metrics to provide inspectors with targeted training. For instance, if DOHMH were able to determine that specific violations were being graded with varying degrees of leniency or severity, then DOHMH could provide additional feedback to inspectors to promote consistency. By using big data, DOHMH can ensure that the agency is treating the same issues uniformly across the City.

Restaurant Re-Inspections Occur Regardless of the Outcome of Administrative Appeals

Under current rules, if a restaurant does not receive an “A” grade on its initial inspection it is automatically re-inspected. Restaurants that do not receive an “A” are allowed to either agree to a settlement offered by the City or contest the initial grade at an Office of Administrative Trials and Hearings (OATH) tribunal. The re-inspection occurs *no matter the outcome of the OATH tribunal*.

As a result, victory at the hearing is rendered meaningless because a re-inspection occurs no matter the outcome of the OATH hearing on the initial inspection. This wastes valuable inspector time and creates an unwarranted and unnecessary disruption to business owners.

A large number of restaurants that are awarded “B” grades on their initial inspection have those scores changed to what would be “A’s” following an administrative hearing at OATH. In fact, according to data from DOHMH, nearly 2,000 restaurants were rated “B” upon the initial inspection, but had their scores changes to “A” by OATH in 2014 alone.

35 **Cancel the Automatic Re-inspection of a Restaurant that Receives an A Grade on Appeal**

To address this problem, the City should institute a policy that would cancel the automatic re-inspection of a restaurant if that restaurant receives an “A” grade following an appeal of the initial inspection result at an OATH tribunal. Under this system, automatic re-inspection would only be triggered when OATH affirmed the initial “B” grade issued by the inspector.

This change would allow DOHMH resources to be better targeted to restaurants most in need of added inspections and also reduce the burden of additional inspections on “A” rated restaurants.

Preventive Services Are Too Expensive

Several small business owners noted that DOHMH requires food service establishments to pay a fee in order to receive a consultative session to help the business understand how to perform well on routine inspections. Under current DOHMH policy, a business that has not yet received a graded inspection must pay \$100 for a consultative session while a business that has received a grade inspection must pay \$400 for this service.⁸⁵

Business owners who testified before the Commission expressed their desire to be good citizens and comply with the law. But when the City charges them hundreds of dollars in order to learn how to best do so, they can feel like the City is just trying to take their money rather than partner in their success. A culture that pits business owners against the City makes it harder for the City and small businesses to work together.

36 **Provide Each Restaurant with a Free Consultative Session in its First Year**

Currently, DOHMH and the NYC Business Acceleration program provide restaurant owners enrolled in the Acceleration program that have not yet served food or drink with free consultative inspections.⁸⁶ This is a good policy, but it should be expanded so that any restaurant can access a free consultative inspection in its first year of operation. The City should explore applying a similar approach to the Department of Sanitation and other agency inspections that can result in fines or penalties, thereby increasing communication and collaboration.

37 **Reduce Fees for Consultative Sessions**

In addition to providing a free consultative session in a restaurant’s first year of operation, DOHMH should reduce the fee for subsequent consultative sessions so that more small businesses can afford to access these preventative services. Doing so will ensure that more business owners are trained how best to comply with the law, while also reducing the burden on inspectors when they visit restaurants. All told, making consultative sessions more frequent would make inspectors, businesses, and consumers better off.

DOHMH Services Are Not Available in Enough Languages

DOHMH services, including both recorded and written services, are not available in enough languages. For instance, DOHMH's free online or in-person food protection courses are offered only in English, Spanish, or Chinese.⁸⁷ Additionally, the fact sheets on the DOHMH website that explain the grading process, sign posting requirements, and penalties are only available in English, Spanish, Chinese, and Korean.⁸⁸

38 **Make Materials Available in More Languages**

DOHMH should make training materials and online courses available in more languages. Expanding the online courses into additional languages would make essential trainings like the food protection course more widely accessible and better understood, improving public health and making it easier for small businesses owners to operate safely.

This effort would be relatively inexpensive given that many of these materials are simply posted to the DOHMH website and do not require constant updating.



NYC Business Acceleration Website

Mobile Vendor Licensing

New York City's residents have been hawking their wares from carts and street corners since before the founding of the Republic. In fact, the first legal restriction on food vending in New York came in 1691 when the City banned street vendors from selling near public markets until two hours after the markets opened.⁸⁹ While much has changed since the 17th century, the tensions between street vendors and the City have continued unabated.

Mobile Vending Licensing Takes Too Long

One source of frustration for mobile vendors is that it takes at least six to eight weeks for new employees to receive the licenses needed to start working on a food cart or truck. That's because each mobile food vendor employee must complete the following steps before beginning work:

- 
- ▶ Apply for and receive a Certificate of Authority from New York State, which gives a person the right to collect sales tax in New York.
 - ▶ Take and complete either the Food Protection Course (which covers food protection for non-mobile restaurants as well as mobile vendors) or the Mobile Food Vending Food Protection Course (which applies for mobile vending only).
 - ▶ Prove their address.
 - ▶ Have an acceptable photo ID.
 - ▶ Have a valid Social Security Number or Individual Taxpayer Identification Number.
 - ▶ Resolve any outstanding issues with the Environmental Control Board.
 - ▶ Submit a notarized Child Support Enforcement Form.
 - ▶ Pay a license fee of \$50 for a two year license or \$10 for a seasonal license.
 - ▶ In addition, applicants must be at least 18 years old and applications can only be filed in person by the individual seeking the license.⁹⁰

This is a needlessly protracted process that is especially hurtful to mobile vendors, many of whom are seasonal in nature and have only limited time to recoup their investments. It is also different than the existing rules for traditional non-mobile restaurants, for which only individuals supervising the production of food need a Food Protection Certificate and only one Certificate of Authority is needed for each business location.

As detailed below, while the City Council continues to debate the larger and more complicated set of issues impacting mobile food vending, there is an opportunity to take action immediately to reduce the time and complexity of securing licenses for employees of mobile vendors.

39 No Longer Require All Mobile Food Employees to have a Certificate of Authority

The City should no longer require that every employee of a mobile food business have a Certificate of Authority. Instead, the City should require that one employee on site have a Certificate of Authority. Given that the burden of collecting sales tax falls on the business, rather than each employee, there is no need for more than one employee to have a Certificate.

Councilmember Brad Lander recently introduced a bill which would require only individuals applying for a mobile food permit have a Certificate of Authority.⁹¹

In lieu of this broader change, the Council could allow employees of mobile food businesses to begin working for the business while their application for a Certificate is pending, provided they have completed the necessary food safety training and there is another certified employee on site.

40 Allow Employees on Mobile Food Businesses to Begin Working With Temporary Licenses

Similarly, the Department of Health and Mental Hygiene (DOHMH) should allow licensed individuals to begin working at mobile food businesses prior to receiving their permanent picture ID license in the mail. It takes DOHMH about three weeks from the time it approves an application and takes an applicant's picture for the applicant to receive their permanent picture ID.⁹² The City can make it easier for mobile food units to fill staffing vacancies by allowing approved applicants to begin working with a DOHMH issued paper ID while the permanent licenses are being processed (not unlike temporary Drivers Licenses provided by the State Department of Motor Vehicles).⁹³

41 Improve Online Services for Mobile Food Licensing

DOHMH should improve its online capabilities so that filings and courses can be completed more easily. Currently, the mobile food protection course is only offered in person but the general, and more in depth, food protection course is offered online and in person (although the test must be taken in person).

Similarly, DOHMH should permit online license applications. Currently such applications must be submitted in person, which undermines the ease and convenience of submitting documents electronically. Finally, DOHMH should allow applicants to get their ID pictures taken at the site where the mobile food vending course is offered, which could be done immediately following an individual's completion of the course or passage of the test.

Department of Information Technology and Telecommunications

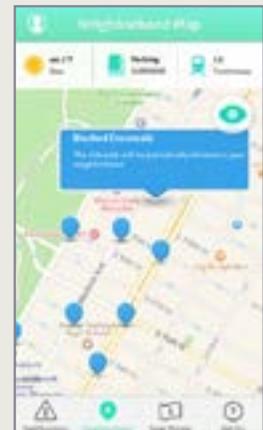
The Department of Information Technology (DoITT) is responsible for maintaining the core IT infrastructure that supports all City agencies. One of its main public-facing systems is 311, the City's non-emergency information hotline/mobile app. Since its launch in 2003, 311 has fielded over 213 million calls on everything from complaints about hot water and noise to questions about parking tickets and appointments for IDNYC.⁹⁴ The City should further leverage 311 to benefit small business owners.

✂ Small Business Owners Are not Notified of 311 Complaints

311 is a powerful system that has made City agencies more responsive to residents and has allowed residents and elected officials to use data to hold those agencies accountable for their performance. The system, however, does not proactively notify business owners of complaints or concerns. As a result, problems that could be quickly addressed are instead left to escalate.

THE POWER OF DATA By harnessing the power of data, the City can help business owners be more aware of rules and regulations and encourage compliance without relying on inspectors and fines. For instance, if business owners were made aware in real time whenever a 311 complaint was filed against their business and given information on how to cure any potential problem, they could take steps to address legitimate complaints before an inspector (and fine) arrives. Similarly, if business owners were made aware in advance of construction or street closures that could impact their business, they would be able to plan for the disruption accordingly.

One New York City company, Vizalytics Technology, has created a service called Mind My Business to do just this. Mind My Business, which was named best mobile app at the 2014 NYC BigApps competition, uses the City's open data portal to provide shopkeepers with alerts and information about issues ranging from subway and street construction to 311 complaints that could impact their business. If, for example, someone complains of rodents in their neighborhood, Mind My Business can send an alert to each business owner in the neighborhood telling them that rodents were sited near their store and also inform the business owner of relevant City regulations. Using data effectively can improve outcomes for the City and business owners alike.



Mind My Business App

42 Create Small Business Liaisons in 311

To improve 311, the City should establish a team of small business liaisons within the 311 system. These individuals would be responsible for reaching out to businesses as relevant items are reported to the system and linking businesses that identify problems or request support from City agencies to the appropriate officials.



311 Website

Department of Small Business Services

The Department of Small Business Services (SBS) is the City's leading agency supporting small business development. As its name suggests, SBS runs a number of programs to help small businesses succeed, including NYC Business Solutions, a program that provides a suite of services ranging from legal assistance to information about tax and workforce training programs. NYC Business Solutions also includes a network of centers around the City that business owners can visit in order access these services.⁹⁵

Many small business owners and business organizations told the Commission that SBS services are very valuable. However, they also raised a series of concerns, including confusion about the purpose of each service, a lack of knowledge about available programs, and the inability to access services because of language or geographic barriers.

Many Business Owners Cannot Reach the NYC Business Solutions Centers

In a city as geographically large and densely populated as New York, it is critical that small business owners be able to easily access City services and communicate with City officials. As was noted at the Commission hearing in Queens, the closest Small Business Solutions Center to Flushing is in Jamaica, and the staff at the Center doesn't speak Korean or Chinese, which are widely spoken in Flushing.

Instead of waiting for small businesses to come to them, SBS should proactively engage small businesses.

Create Mobile NYC Business Solutions Centers

SBS should build off the "Chamber on the Go" program by deploying five mobile Small Business Solutions vans.⁹⁶ "Chamber on the Go" is a recent partnership between the five borough chambers of commerce and SBS that sends trained business specialists to small businesses in neighborhoods across the City for specialized advice and services. SBS could expand on the promise of this model by creating mobile Small Business Solution centers that would provide many of the same services that exist in brick and mortar centers. The MTA has a similar program that brings Metrocards to seniors and residents of transit deserts using vans and buses.⁹⁷



"Chamber on the Go" Van
Photo Courtesy of Brooklyn Chamber of Commerce

Communicate in Business Owners' Preferred Language

Given the diversity of business owners in the City, SBS should ensure that the NYC Business Solutions staff can provide services in the languages spoken by business owners in their communities. This effort includes hiring additional multi-lingual employees, promoting greater use of telephonic Language Line services, and increasing the number and quality of translated materials.

Many Business Owners Are Too Busy to Attend SBS Workshops

For many business owners, especially those fighting to get their enterprise off the ground, time is money. As a result, many cannot attend workshops or trainings at SBS centers, particularly during the work week.

45 Provide Online Access to Workshops and Trainings

Massive Open Online Courses (MOOCs) have grown rapidly in recent years, with thousands of offerings now available to students and entrepreneurs across the country and around the world.⁹⁸ SBS should follow this trend by making SBS' suite of courses and workshops accessible online so they can be watched at any time by prospective business owners. To ensure broad access to these videos, they should be available in a wide range of languages.

NYC BUSINESS ACCELERATION Business owners around the City, particularly restaurateurs, touted the benefits of the Business Acceleration program, which since 2012 has provided a suite of services to help businesses successfully get off the ground. The program was originally designed for food and beverage establishments, but was later expanded to include retail establishments.

Each business in the program is assigned an individual client manager that serves as the business owner's central point of contact during the program. The client manager helps the business owner by addressing questions and coordinating the required inspections and reviews.

Similarly, the Business Acceleration staff work directly with City agencies like the Department of Buildings and the Fire Department to provide business owners with information about the quality of their plan submissions. The Business Acceleration staff also coordinate consultations and inspections with City agencies like the Department of Health and Mental Hygiene so that business owners can learn directly from City inspectors prior to opening their doors.

Since its inception, the program has served over 17,000 unique businesses and conducted almost 2,000 consultations.⁹⁹

SBS Officials Don't Have First-Hand Business Experience

Several business owners expressed concern that the services provided by SBS and other agencies came from individuals who lack experience starting a business. For example, as Lovie Pignata, an entrepreneur in the Bronx told the Commission, **"What I found is that a lot of the City-run agencies didn't have small business owners so they would go through their slide show but if you asked any question that wasn't part of the slide show, they couldn't help you."**

One way to overcome this is through mentorships that link entrepreneurs with experienced business owners. While SBS has launched successful mentorship programs in construction and for minority and women-owned business enterprises (M/WBEs),¹⁰⁰ the agency can do more to expand these critical supports to more small businesses.

46 Incorporate Mentoring into the Business Acceleration Program

The Acceleration Program has been effective at helping many small businesses open their doors to the public. However, there is ample opportunity to both incorporate stronger mentoring services in the program and better publicize existing services to ensure that it is providing the best services possible to all business owners who seek assistance.

Minority and Women Owned Businesses

New York City business owners are among the most diverse group of business owners in the country. According to the most recent Census data available, among firms with paid employees in New York City, 31 percent are minority-owned and 21 percent are women-owned.¹⁰¹

TABLE 7: BUSINESS OWNERS BY RACE

Race of Business Owner	Number of Firms with Paid Employees	Percent of Total
White Owned	126,861	65%
Black Owned	5,532	3%
American Indian Owned	280	0%
Asian Owned	41,226	21%
Hispanic Owned	13,377	7%

TABLE 8: BUSINESS OWNERS BY GENDER

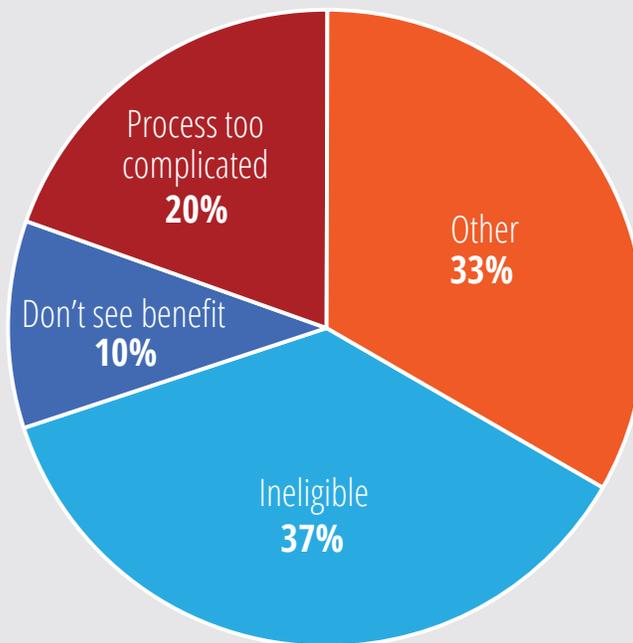
Gender of Business Owner	Number of Firms with Paid Employees	Percent of Total
Men Owned	127,859	71%
Women Owned	37,494	21%
Equally Male/Female Owned	15,139	8%

To help these minority- and women-owned businesses (M/WBE) develop and grow, the City, State, and Federal governments, along with many private sector businesses, have developed certification programs. There are a number of unique M/WBE certification programs in the New York City area, including a State government program, a City government program, a Port Authority program, and a Metropolitan Transportation Authority (MTA) program. For New York City government specifically, the Department of Small Business Services certifies M/WBE firms doing business with New York City agencies.

Yet, women and minorities are not the only groups of diverse business owners in New York that face challenges. In fact, there are thousands of disabled, veteran, gay, lesbian, and transgendered businesses owners who have faced significant historical barriers and are not currently included in the City's program. As recent policy changes in California and Massachusetts indicate, including groups like these could help expand the City's supplier base and bring the government in line with best practices in the private sector.

While the existing M/WBE program has helped thousands of New York's small business owners, all levels of government can improve their M/WBE programs.¹⁰²

TABLE 9: IF YOU ARE NOT A REGISTERED MWBE, WHY NOT?



M/WBE Certification is Too Cumbersome

Many M/WBEs report that the cumbersome nature of the application process discourages them from applying for the certification in the first place. Indeed, 20 percent of the business owners who responded to the Red Tape Commission survey questions about M/WBEs and identified as a M/WBE owned firm say they have not applied to be a certified due to the complexity of the application process.

Currently, a business owner that has received State M/WBE certification is not automatically certified with the City, and vice versa. While there is a fast-track process to help businesses receive certification from both the City and the State, a business owner still needs to fill out a significant amount of paperwork to be classified as a M/WBE by the City and State.¹⁰³

Create a Single M/WBE Certification Document

One way the City can alleviate unnecessary burdens on M/WBEs is by making the certification process universal and user-friendly. To do so, the City and State should work together to create a true “Common Application” that creates a single standard that agencies and authorities use for basic information collected by each entity. Each agency or authority could have a supplemental application with a few additional questions relevant to the needs of that organization. Doing so would eliminate duplication and reduce the time and work associated with filing for multiple certifications.¹⁰⁴

AI ENGINEERS, INC. At the Commission hearing in Queens, Tariq Islam, the head of business development at AI Engineers, Inc., told the Commission that Federal, State, and local M/WBE programs provided the incentives and support needed for his father, a Pakistani immigrant, to realize his dream of establishing a consulting-engineering firm. Thanks to this support, Mr. Islam’s father was able to build a successful company, which now employs over 180 people and generates over \$30 million in annual revenue.



Tariq Islam



M/WBEs Struggle to Gain Access to City Contracts

An additional challenge facing the M/WBE program is that M/WBEs continue to be significantly underrepresented in procurement decades after Mayor David Dinkins' pioneering efforts to expand the number of M/WBEs competing for and winning City contracts.

Despite the intent of the M/WBE programs, relatively few M/WBEs actually receive government contracts. In fact, in FY 2015, only 4.6 percent of the City's \$16 billion procurement budget was spent with M/WBEs, and of the 46,738 vendors in New York City only 873—or 1.87 percent—were certified M/WBEs. All told, the number of M/WBE vendors has remained between 715 and 897 in the last five years, meaning that about 80% of the 4,100 certified M/WBEs in New York City do not have active contracts with the City.¹⁰⁵



48 Develop an Online Tool to Proactively Match, Engage, and Identify M/WBEs for City Contracts

The low likelihood of actually receiving a contract may dissuade many M/WBEs from undertaking the certification process in the first place. For that reason, the City should invest in user-friendly technology that enables M/WBEs to readily access contracting opportunities, including RFPs, micro-purchases, and small purchase items. In addition, the City should connect M/WBEs to procurement officers, business resources, and live engagement opportunities for networking and capacity building. City agencies should also be able to identify M/WBEs that could potentially meet their needs and to track the agency's progress with M/WBE procurement.

Department of Transportation

While New York City has the most extensive public transit system in the country, businesses across the City—especially those in transit deserts—also need an adequate supply of parking for consumers and deliveries. Unfortunately, that is not always the case.

Customers and Business Owners Struggle to Find Parking

Joe Thompson of the White Plains Road BID in the Bronx told the Commission that parking meters are constantly out of service in his neighborhood, hurting small businesses that are competing with big box retailers at malls.

Similarly, businesswoman Deborah Koenigsberger told the Commission that she struggles to find parking in front of her Manhattan store to load and unload goods without being ticketed. All told, as the Commission heard in Brooklyn, "parking has a major, major impact on how businesses operate."

While New York City's streets will always be crowded, there are a number of steps the City can take to leverage technology to address parking challenges.



Parking

Expand and Improve PARK Smart Program

The Department of Transportation (DOT) should expand and improve PARK Smart—a pilot program run by DOT in which the price of parking rises or falls based on demand.¹⁰⁶ This "dynamic" pricing discourages drivers from parking in the same place for long periods of time, thereby ensuring that would-be customers are more likely to find an open space.

Currently, PARK Smart is deployed in Greenwich Village, Park Slope, Jackson Heights, Atlantic Avenue, and Smith and Court Streets in Brooklyn. No new areas have entered the program since 2013.

Despite its limited reach, the PARK Smart pilot in Park Slope has had success, decreasing the duration of parking by 20 percent and increasing the total number of vehicles parked by 18 percent.¹⁰⁷ Similarly, San Francisco's dynamic pricing system—SFPark—has had a profound impact, with double-parking falling by 22 percent and drivers spending 43 percent less time searching for spots.¹⁰⁸ This means less congestion, reduced pollution, and more "churn" for businesses.

However, as representatives of the Atlantic Avenue BID made clear to the Commission, PARK Smart pricing is too low to discourage "squatters" from using street parking over the course of the entire work day. For example, the PARK Smart program on Atlantic Avenue increased the cost of parking during peak periods from \$1 to \$1.50 for one hour of parking and from \$2 to \$4 for two hours of parking. By comparison, off-street parking rates in the area frequently exceed \$9 per hour.

PARK Smart could be even more beneficial to local business areas if a portion of the proceeds from higher pricing were to go directly back into the local neighborhood for street maintenance, beautification projects, or to help maintain local parks.

Expand the Use of Intelligent Parking Systems

DOT should expand the use of technology that allows drivers to use smart phones to locate available parking. These "intelligent parking systems" use small sensors in the pavement and were piloted by the Bloomberg Administration along Arthur Avenue in The Bronx.¹⁰⁹ The DOT is considering expanding these systems, which would further reduce the need to cruise for parking and provide additional benefits to residents and businesses alike.¹¹⁰

51 Improve DOT Coordination with NYPD Parking Enforcement

DOT should establish a taskforce with business representatives and the New York Police Department to improve communication and address the legitimate parking concerns of business owners and the parking needs of City officials. By holding regular meetings, businesses will be able to have more open lines of communication with both agencies, while also encouraging the agencies to work together to address problems that are important to local businesses.

52 Create a Business-Owner Parking Permit

DOT should consider issuing business-owner specific permits that would allow business owners to easily park near their stores for short periods of time during non-rush hours in order to load or unload goods without being ticketed.

CITY ISSUED PARKING PLACARDS According to a 2011 Report from Transportation Alternatives, more than three out of four government parking permit holders used their permit illegally, parking unsafely or taking spaces that could otherwise be used by shoppers to frequent city businesses.¹¹¹

This concern was also relayed to the Commission by Josef Szende of the Atlantic Avenue Business Improvement District (BID), who discussed how government vehicles often take up valuable spaces in his neighborhood: **"We have over 300 businesses in our area and the main issue businesses complain to us about is cars being parked all day in certain places mainly by municipal employees ... [it's] keeping our customers from coming to the Avenue. [City vehicles] are there for eight hours at a time and this takes away forty or more spots that customers cannot use to park and shop ... it's hurting our bottom line at a time when it's not easy to be running a brick and mortar small business."**

53 City Issued Parking Placards Should Include A Bar Code

To facilitate enforcement and promote rational parking policy, all City-issued placards should include a bar code. Doing so would allow parking enforcement officials to verify that the City-issued placard was indeed issued by the City and not a counterfeit. A bill to do this was introduced by Councilmember Garodnick in 2014 and a bill that would do the same for State-issued permits was introduced by State Senator Avella last year. Neither bill has become law.

This policy would reduce widespread abuse of parking placards, while providing the City with crucial data to determine parking policy going forward.

Mayor's Office of Operations

The Negative Impact of Large Construction Projects

The great American author O. Henry once declared, **“New York will be a great place - if they ever finish it.”** Indeed, even when Henry made his home in New York at the turn of the 20th century, the City was constantly awash in construction—reinventing itself for the next generation.

The need for large scale construction projects is never going away. After all, many of these projects, such as subway expansions and affordable housing developments, are essential to the City's economic future. But, if not handled properly, these projects can also cause severe disruptions for local businesses—particularly small businesses that don't have the resources to absorb the impact of a torn up street or a multi-year construction project outside their door.

Unfortunately, large construction projects often cause needless headaches for small business owners. For instance, Meredith Phillips Almeida, the Executive Director of the Myrtle Avenue Brooklyn Partnership, explained to the Commission that the addition of a 25,000 square foot pedestrian plaza and much needed streetscape improvements on Myrtle Avenue promised long-term benefits for the community, but was unnecessarily hurting small businesses during the construction period. She noted that while there is a 72-hour courtesy notice for water main shut offs, in practice businesses sometimes get as little as 24 hours' notice: "Can you imagine how difficult it is for a small business to make staffing plans or purchasing plans ... with 24 hours to adjust? And then it might be canceled. And then imagine you might have 3, 4, or 5 consecutive days of water main turnoffs. How are you expected to absorb that? We want the project to move forward and for the most part businesses understand that the result will be positive, but we don't want small businesses hurt during the process. With some intentional pre-planning we could mitigate some of these impacts."

”

“Can you imagine how difficult it is for a small business to make staffing plans or purchasing plans ... with 24 hours to adjust? And then it might be canceled. And then imagine you might have 3, 4, or 5 consecutive days of water main turnoffs. How are you expected to absorb that?”

—*Meredith Phillips Almeida, the Executive Director of the Myrtle Avenue Brooklyn Partnership*



Meredith Phillips Almeida

54 Develop Best-Practices on how to Minimize the Impact of Large Construction Projects on Businesses

The Mayor's Office of Operations, which has experience coordinating projects across City agencies, should create a best practices guide that lays out how agencies like the Department of Design and Construction, the Department of Transportation, and New York City Transit should consult with and address the concerns of small businesses in the planning and implementation of significant construction projects in New York City.

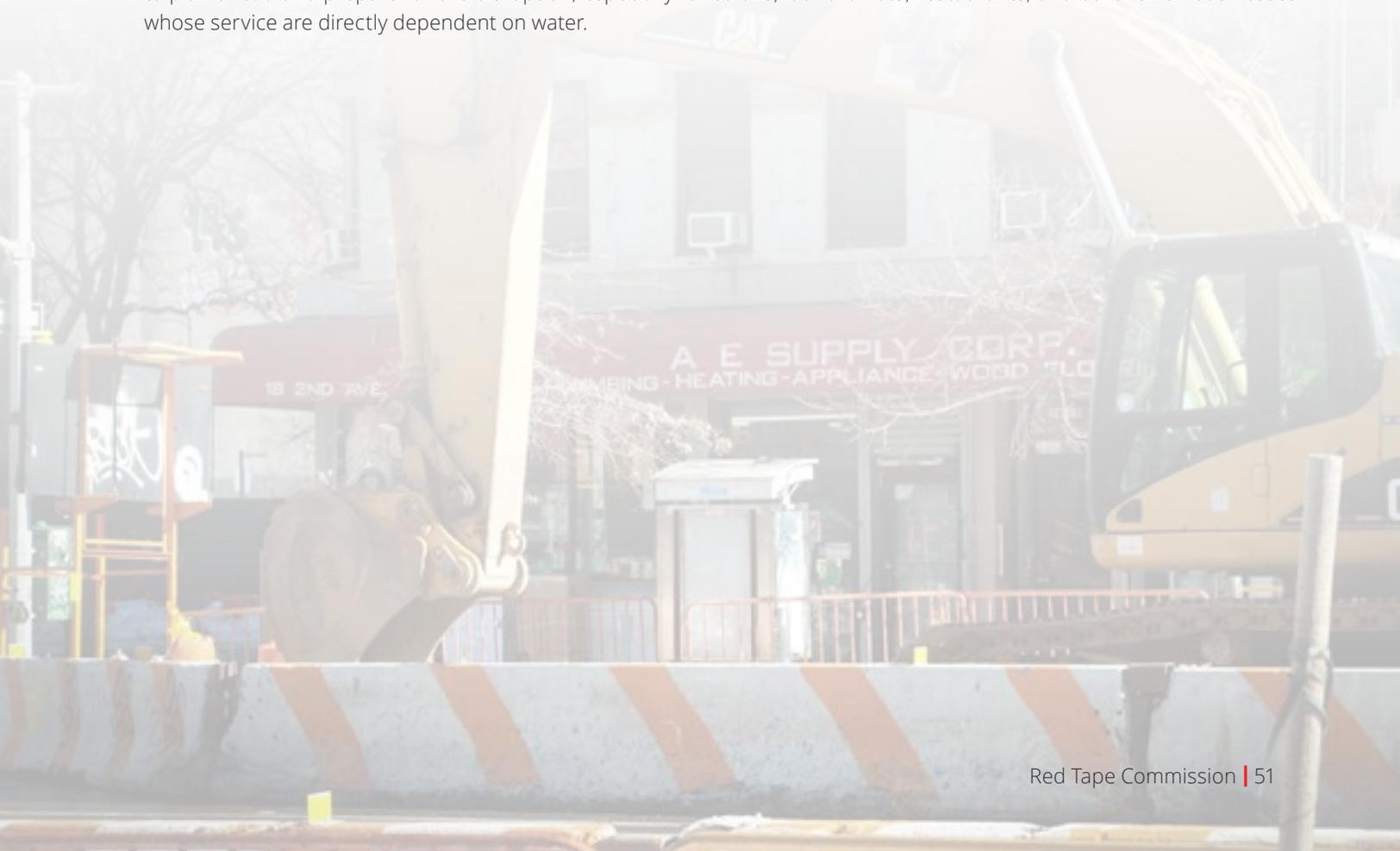
At a minimum, these practices should require that the Mayor designate a lead agency for each project and that each lead agency appoint an individual to serve as the community liaison during the life of the project. The community liaison would be responsible for the day-to-day work of coordinating with business owners, addressing their concerns, and minimizing any possible disruptions to local businesses. Each lead agency should also create an easily accessible website that provides information on the project, its expected date of completion, updates on the project's progress, and emergency contact information.

The Second Avenue Subway project is one example of how agencies can work with small businesses to mitigate the impact of major projects. Following substantial complaints from small business owners, business groups, community members, and local officials, a regular series of meetings and consultations were initiated between impacted parties and the Metropolitan Transportation Authority. In this way, local small businesses were able to have their concerns heard so that the project managers could mitigate the effects of construction as much as possible.

As the case of the Second Avenue Subway demonstrates, this type of process does not require creating a new agency or radically altering construction projects. Instead, it demonstrates the need as well as the benefit of making a commitment to include community members and business owners in the process as early as possible, and the willingness to maintain a consistent flow of information to business owners as the project progresses.

55 Provide Business Owners with Adequate Time to Prepare for Water Shut Off

Business owners should never receive less than 72 hours-notice before any non-emergency water shutoff. Given the significance of losing access to running water, anything less than 72 hours does not give small business owners adequate time to plan ahead and prepare for the disruption, especially for salons, laundromats, restaurants, and other small businesses whose service are directly dependent on water.



New York City Economic Development Corporation

Slow Cleanup of Graffiti

Clean and accessible streets, sidewalks, and buildings are essential to attracting consumers. Unfortunately, many business owners and business associations report difficulties working with the City to create a welcoming environment.

For example, Joe Thompson of the White Plains Road BID told the Commission, **“The City says we will clean your graffiti, but if it takes over a month to clean the graffiti then your business is going to look pretty bad.”**

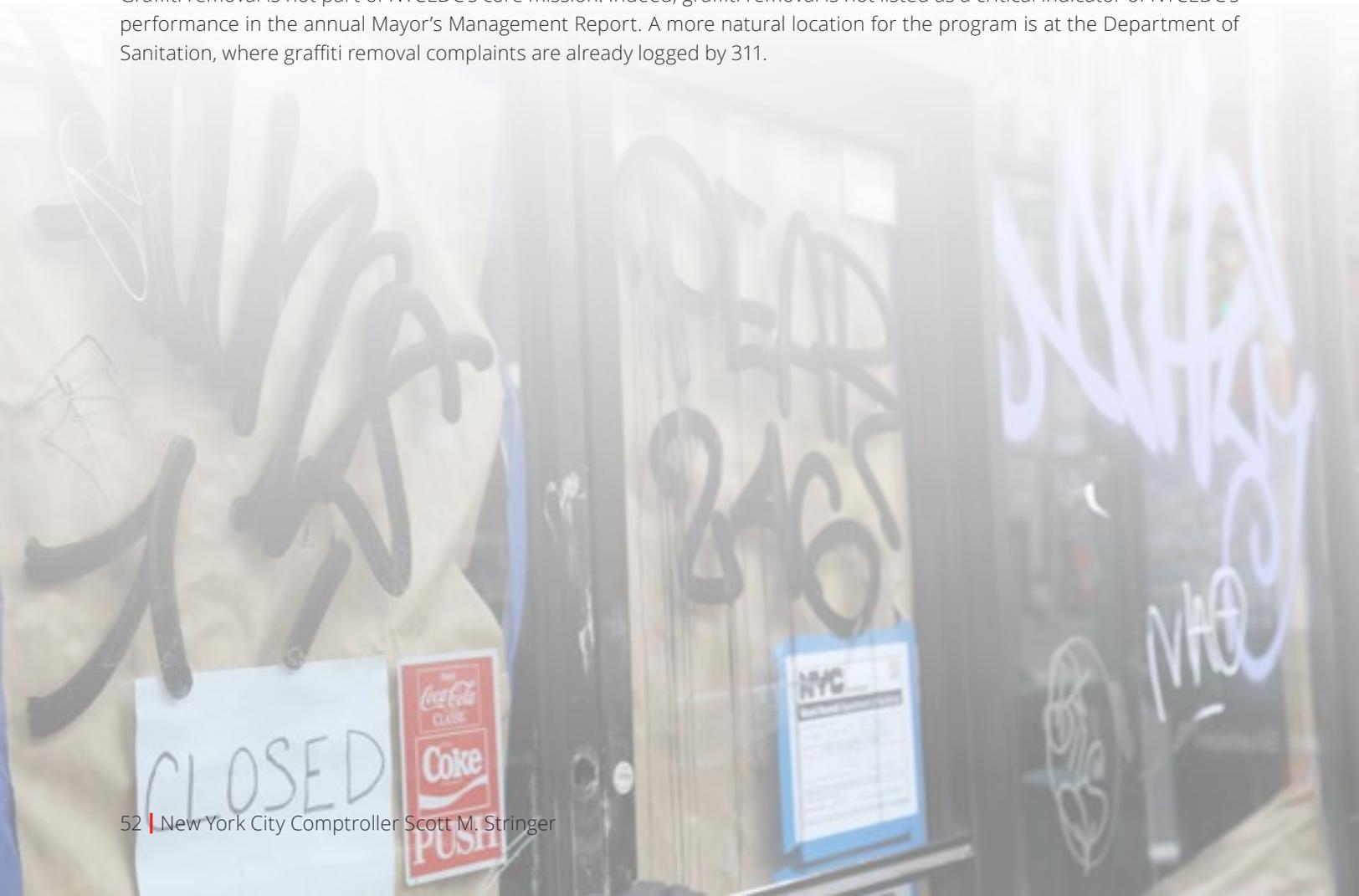
While graffiti is often viewed as a thing of the past in New York City, it unfortunately continues to affect many neighborhoods. In fact, there were over 13,000 reported graffiti complaints in 2015 alone.¹¹²

56 Move Graffiti Free NYC to the Department of Sanitation

Recently, Mayor de Blasio announced a new initiative called CleanNYC that will expand graffiti removal and trash collection services. However, more can be done.

To better combat graffiti, the City should move the Graffiti Free NYC program, which provides free graffiti removal services to city residents, from the New York City Economic Development Corporation (NYCEDC) to the Department of Sanitation.

Graffiti removal is not part of NYCEDC’s core mission. Indeed, graffiti removal is not listed as a critical indicator of NYCEDC’s performance in the annual Mayor’s Management Report. A more natural location for the program is at the Department of Sanitation, where graffiti removal complaints are already logged by 311.



Office of Administrative Trials and Hearings

The Office of Administrative Trials and Hearings (OATH) adjudicates licensing, regulation, and enforcement issues for the majority of City agencies. The scope of issues under OATH's purview has increased in recent years, as OATH was given additional authority over administrative cases from the Environmental Control Board (ECB) in 2008 and the Department of Health and Mental Hygiene (DOHMH) and Taxi and Limousine Commission (TLC) in 2011. As a result, OATH now adjudicates all business related violations in New York City except for violations issued by the Department of Consumer Affairs.

OATH's Rules Disadvantage Small Businesses

While the consolidation of administrative tribunals into one agency has been beneficial, small business owners identified a number of concerns regarding OATH, as noted below.

As Rhonda Binda, the Executive Director of the Jamaica Center BID, told the Commission: "OATH does not always afford our businesses a fair chance at appealing violations that sometimes may not reach owners' attention until after they already miss hearing dates, [resulting in additional] damages. The process overall favors the City in raising millions of dollars at our small businesses' expense."

Quickly Implement Reforms in Small Business First

OATH should standardize processes and procedures so that the system can be more easily navigated by small business owners.

As part of *Small Business First*, Mayor de Blasio has proposed creating single site hearing centers across the City that would have a standard set of procedures and hear any type of case in a single venue.¹¹³ Similarly, the Mayor has proposed expanding the number of violations that can be adjudicated without an in-person hearing, which should help reduce the amount of time a small business owner would need to spend away from his or her business. The Administration should implement these important initiatives as soon as possible

In addition, since the publication of *Small Business First*, OATH has reached agreements with the Fire Department, the Department of Buildings, and the Department of Environmental Protection to allow more violations to be adjudicated over the phone or by mail, and OATH recently held an outreach event in Brooklyn to better connect with local small businesses.

”

"OATH does not always afford our businesses a fair chance at appealing violations that sometimes may not reach owners' attention until after they already miss hearing dates, [resulting in additional] damages. The process overall favors the City in raising millions of dollars at our small businesses' expense."
—Rhonda Binda, the Executive Director of the Jamaica Center BID



Rhonda Binda

CITY COUNCIL

Reforms

City Council

Commercial Rents Are Increasingly Unaffordable for Small Businesses

Many small business owners stated that the rising cost of commercial rent is a major impediment to their ability to stay open and grow. For example, Eunice Lee, a clothing designer and owner of UNIS in Manhattan, expressed concerns about the dramatically increasing rents in her neighborhood that leave her worried about her ability to renew her lease in the future.

As is the case with the City's affordable housing crisis, there is no silver bullet solution to combat rising commercial rents. However, the City Council can help tackle this challenge with targeted legislation.



Eunice Lee

Reform the Commercial Rent Tax

The Commercial Rent Tax (CRT) is in need of fundamental reform. Currently, businesses south of 96th Street in Manhattan whose annual rent payments exceed \$250,000 pay a tax to the City equal to 3.9 percent of their annual rent. While the CRT is expected to generate \$770 million for the City in Fiscal Year (FY) 2016 and \$805 million in FY 2017,¹¹⁵ it also poses a significant burden to small and growing commercial businesses across Manhattan, from retail stores like UNIS to companies in the growing media and technology sectors.

For that reason, the City Council should reform the tax with a focus on reducing the burden that it poses to the smaller businesses it impacts while developing a plan to potentially phase out the tax entirely. One possible approach to limit the impact the tax has on smaller businesses has been put forward by Councilmember Dan Garodnick. The bill would, among other things, limit the tax to commercial businesses that spend at least \$500,000 a year on rent, while reducing the allowable deduction for commercial tenants paying \$3,000,000 or more per year in rent to 30 percent of their rent from 35 percent.¹¹⁶ According to the Manhattan Chamber of Commerce, this reform would ease the tax burden on over 2,600 small businesses in Manhattan by a total of over \$30 million annually.¹¹⁷

STATE *Reforms*

New York State

In addition to concerns about City agencies, the Commission also fielded complaints about red tape at the state level that negatively impact New York City small businesses.

Liquor License Applications Are Inconsistent

Currently, business owners need to notify the local community board of liquor license applications through the State Liquor Authority (SLA). Community boards then review and provide non-binding opinions on each application as they are considered by the SLA. However, each community board requires different information as part of its notification and review process, which creates unnecessary complications for businesses that apply for liquor licenses in more than one community.

Require SLA to Develop a Standard Form for All Community Boards to Use

At the Manhattan Commission hearing, New York State Senator Brad Hoylman told the Commission about the need to streamline the liquor license application process. To resolve this problem Senator Hoylman proposed requiring SLA to consult with the City's community boards to develop and disseminate a standard notification form that all community boards could use and submit electronically. The State legislature should adopt this common sense proposal.



Brad Hoylman

The High Cost of Forming a Limited Liability Company or Limited Partnership

Unlike many other states, New York currently requires new limited liability companies (LLCs) and Limited Partnerships (LPs) to file a notice of their creation in two newspapers. Specifically, New York law requires new LLCs to file a notice of their creation within 120 days of incorporation and for that notice to appear for six weeks in one daily and one weekly print publication in the county in which the LLC is created.¹¹⁸

According to reports and testimony given to the Commission, this requirement alone can cost new businesses as much as \$2,000.¹¹⁹ As Mark Sternberg, an entertainment lawyer, told the Commission: **"The biggest red tape all my clients face in setting up their businesses is the ridiculous publication requirement on LLCs...No one actually goes to a publication to find a new LLC - they just search it online."**

Amend the Outdated LLC Filing Requirement

A resolution has been introduced in the New York City Council by Councilmember Robert Cornegy Jr.¹²⁰ that calls on the State to amend the LLC filing requirement and allow new LLCs to file information electronically with the Secretary of State or with an online website rather than pay \$2,000 to inform the public of their creation in a print publication.¹²¹ The Council should pass this resolution and the state should act to amend this antiquated regulation.

Conclusion

It's been nearly 40 years since Liza Minnelli first told the world that if you can make it in New York, you can make it anywhere. Even today that simple phrase speaks to both the aspiration and the frustration inherent to the New York experience— that although there is no ceiling on your potential achievements, finding success will be more difficult here than anywhere else.

That experience rings true to many small business owners in New York City today. For while these entrepreneurs power the City's economy, they also find that local government can be more of a hurdle than a help in their quest to make it in New York. It does not need to be this way.

This report, from New York City Comptroller Scott Stringer's Red Tape Commission, lays out a series of steps that government should take so that more small businesses can make it here. Its recommendations are informed by the struggles and successes of business owners across the five

boroughs who took the time away from their businesses to communicate the challenges they face in surveys and public hearings.

These steps alone won't solve every issue that business owners brought to the Commission's attention. But by reorienting government agencies so they think first and foremost about how to be an ally of small business owners and entrepreneurs, the Commission's recommendations will lay the groundwork for a stronger partnership between the City and its businesses.

Acknowledgments

Comptroller Scott M. Stringer thanks co-chairs Michael Lambert and Jessica Lappin and the Commissioners for their time, commitment, and dedication to the Red Tape Commission.

Comptroller Stringer expresses his gratitude to Zachary Schechter-Steinberg, Associate Policy Director, the lead writer of this report, Vesna Petrin, Special Projects Manager & Assistant to the Chief of Staff, for managing the Red Tape Commission, and Angela Chen, Senior Web Developer and Graphic Designer for designing this report.

Comptroller Stringer recognizes the important contributions to this report made by: David Saltonstall, Assistant Comptroller for Policy; Alaina Gilligo, First Deputy Comptroller; Sascha Owen, Chief of Staff; Kathryn Diaz, General Counsel; Camille Joseph, Deputy Comptroller for Public Affairs; Marjorie Landa, Deputy Comptroller for Audit; Lisa Flores, Deputy Comptroller for Contracts and Procurement; Eric Sumberg, Director of Communications; Andrew Kalloch, Deputy Policy Director; Carra Lynette Wallace, Chief Diversity Officer; Wendy Garcia, Deputy Diversity Officer; Christian Stover, Executive Director & Legal Counsel Bureau of Contract Administration; Richard Friedman, Deputy General Counsel; Jennifer Conovitz, Special Counsel to the First Deputy Comptroller; Nichols Silbersack, Policy Analyst; Andrea Garcia, Press Officer; Jonathan Navarro, Photographer and Videographer; Traci Oshiro, Digital Media Manager; Chloe Chik, Press Intern; Kristen Ellis, Personnel Assistant, and Antonnette Brumlik, Senior Web Administrator.

Comptroller Stringer also thanks his Community Affairs, Community Action Center, and Special Events teams, without whom this Commission would not have been possible.

Endnotes

- 1 <http://www1.nyc.gov/assets/smallbizfirst/downloads/pdf/small-business-first-report.pdf>.
- 2 <http://www.nytimes.com/2010/12/28/nyregion/28permits.html>.
- 3 This analysis is based on data from Small Business Services Business Acceleration Program, which states that the program reduces the amount of time it takes to open a business by 1/3 (or 75 days).
- 4 <http://www.newyorkfed.org/smallbusiness/SBCS-2014-Report.pdf>.
- 5 A full list of Commissioners is included at the beginning of the report.
- 6 <http://comptroller.nyc.gov/redtape/>. The website received 727 unique views between September 2015 and February 2016.
- 7 In addition to consulting the members of the Commission, the Comptroller's Office also relied on testimony gathered through the Commission's hearings and website along with reports from the Mayor, the Manhattan Borough President, and the Center for an Urban Future.
- 8 US Census Bureau County Business Patterns 2013 Survey, <http://www.census.gov/econ/cbp/>.
- 9 US Census Bureau Quarterly Workforce Indicators Q1 2015, <http://qwexplorer.ces.census.gov/>.
- 10 <http://www1.nyc.gov/assets/smallbizfirst/downloads/pdf/small-business-first-report.pdf>.
- 11 <https://nycfuture.org/pdf/Small-Business-Success.pdf>.
- 12 <http://www.bls.gov/bdm/entrepreneurship/entrepreneurship.htm>.
- 13 http://www.mitpressjournals.org/doi/pdf/10.1162/REST_a_00288.
- 14 http://www.nyc.gov/html/nycrules/downloads/pdf/regulatory_review_panel_report.pdf.
- 15 <http://council.nyc.gov/html/pr/100212business.shtml>.
- 16 <http://www1.nyc.gov/assets/smallbizfirst/downloads/pdf/small-business-first-report.pdf>.
- 17 <http://www.gao.gov/duplication/overview>.
- 18 Depending on the kind of business being opened and the type of space that will be used, opening a business in New York City can require permits and licenses from many city agencies including: the Department of Health and Mental Hygiene (DOHMH); the Department of Buildings (DOB); the Department of Environmental Protection (DEP); the Fire Department (FDNY); the Department of Consumer Affairs (DCA); the Landmarks Preservation Commission (LPC); the Department of Transportation (DOT); and the Department of Sanitation (DOS).
- 19 <https://www1.nyc.gov/nycbusiness/description/sidewalk-cafe-license/apply>.
- 20 <http://www.wsj.com/articles/for-new-york-cafes-getting-a-sidewalk-license-is-no-breeze-1402447341>.
- 21 https://www.cuny.edu/about/resources/sustainability/solar-america/installingsolar/InstallerInterviewSummary_Final_v2.pdf.
- 22 http://www.nyc.gov/portal/site/nycgov/menuitem.c0935b9a57bb4ef3daf2f1c701c789a0/index.jsp?pageID=mayor_press_release&catID=1194&doc_name=http%3A%2F%2Fwww.nyc.gov%2Fhtml%2Fom%2Fhtml%2F2012a%2Fpr235-12.html&cc=unused1978&rc=1194&ndi=1.
- 23 <http://www1.nyc.gov/assets/smallbizfirst/downloads/pdf/small-business-first-report.pdf>.
- 24 <http://www.cityofchicago.org/city/en/depts/bacp/sbc/restaurantstartupprogram.html>.
- 25 Each of these programs is discussed in more detail later in the report.
- 26 https://www.osha.gov/dcsp/vpp/sitebystate.html#New_York.
- 27 https://www.osha.gov/dcsp/vpp/success_stories.html.
- 28 <http://rules.cityofnewyork.us/content/cure-period-signage-violations-0>.
- 29 http://www1.nyc.gov/assets/operations/downloads/pdf/mmr2015/2015_mmr.pdf.
- 30 <http://manhattanbp.nyc.gov/downloads/pdf/SmallBusinessBigImpactFINAL.pdf>.
- 31 For instance, as of February 8, 2016 a number of links about the Department of Sanitation's Rules and Regulation relating to Recycling and Waste Removal lead users to a webpage that says "You have reached an outdated page on NYC.gov, the Official new York City website."
- 32 http://www.nyc.gov/html/om/pdf/2008/pr282-08_eo_120.pdf.
- 33 http://www.nyc.gov/portal/site/businessexpress/template.PAGE/menuitem.17bff818859bddea52a755ff6cd2f9a0/?javax.portlet.tpst=73e1aad46a5f344f4772add001c789a0&javax.portlet.prp_73e1aad46a5f344f4772add001c789a0_request_type=starterGuideRender&javax.portlet.begCacheTok=com.vignette.cachetoken&javax.portlet.endCacheTok=com.vignette.cachetoken.
- 34 Data provided to the Comptroller's Office by the Department of Citywide Administrative Services.
- 35 http://comptroller.nyc.gov/wp-content/uploads/2016/01/1-27-2016_Joint-Advertising-Letter-to-CM-Menchaca.pdf.
- 36 <http://comptroller.nyc.gov/newsroom/comptroller-stringer-announces-reforms-to-bring-the-citys-procurement-process-into-the-21st-century/>.
- 37 <http://www1.nyc.gov/assets/finance/downloads/pdf/property/rp602.pdf>.
- 38 Manhattan Borough President Scott M. Stringer, Start-up City: Growing New York City's Entrepreneurial Ecosystem for All (2012), available: <https://basecampaign.files.wordpress.com/2013/06/startupcity-report-stringers-office.pdf> (accessed 30 Dec. 2015).

- 39 http://www.crainsnewyork.com/article/20160211/REAL_ESTATE/160219969/city-to-invest-7-2-million-in-new-hubs-to-bolster-tech#utm_medium=email&utm_source=cnyb-dailyalert&utm_campaign=cnyb-dailyalert-20160211
- 40 http://bschool.pepperdine.edu/about/people/faculty/appliedresearch/research/pcmsurvey/content/q3_2015_results.pdf.
- 41 http://www.hbs.edu/faculty/Publication%20Files/15-004_09b1bf8b-eb2a-4e63-9c4e-0374f770856f.pdf.
- 42 http://www.huffingtonpost.com/rahm-emanuel/small-loans-can-make-a-bi_b_5325437.html.
- 43 http://www.nycedc.com/system/files/files/industry/NonprofitRoundtableReport_June2015.pdf.
- 44 <https://nycfuture.org/research/publications/creative-new-york-2015>
- 45 http://www.nycedc.com/system/files/files/industry/NonprofitImpactPaper_June2015.pdf.
- 46 <https://rules.cityofnewyork.us/content/section-4-06-prompt-payment>.
- 47 <http://www1.nyc.gov/site/buildings/about/about.page>.
- 48 Overall, the Department of Buildings received an average satisfaction score of 2.31 based on 187 respondents.
- 49 http://www1.nyc.gov/assets/operations/downloads/pdf/mmr2015/2015_mmr.pdf.
- 50 Id.
- 51 http://www.huffingtonpost.com/scott-stringer/building-inspection-nyc_b_1163299.html; <http://www.gothamgazette.com/index.php/opinion/699-building-a-better-buildings-department>.
- 52 <http://www.nytimes.com/1991/09/13/nyregion/a-new-york-trade-thrives-on-red-tape.html?pagewanted=all>.
- 53 http://www.crainsnewyork.com/article/20160124/REAL_ESTATE/160129960/the-law-that-created-the-billion-dollar-scaffold-industry-has-turned-city-sidewalks-into-an-obstacle-course.
- 54 <http://www.nytimes.com/2014/09/03/nyregion/a-decade-on-a-sidewalk-shed-is-still-an-unwanted-shelter.html>.
- 55 <http://www.nybuildingfoundation.org/construction-shed.html>.
- 56 <http://www.citylab.com/design/2015/12/4-ways-to-reimagine-boring-old-scaffolding/422064/>.
- 57 <http://www1.nyc.gov/site/buildings/industry/site-safety-manager-certification.page>.
- 58 <http://m.nydailynews.com/new-york/nyc-building-boom-takes-construction-fatalities-spike-article-1.2401538>.
- 59 <http://www.nyc.gov/html/builttolast/assets/downloads/pdf/OneCity.pdf>; The reduction in emissions is pegged to 2005 levels.
- 60 <http://www.mapdwell.com/en/buzz/press-release-mapdwell-puts-the-sun-on-every-roof-in-new-york-city>.
- 61 According to the federal Bureau of Labor Statistics, the New York City metropolitan area (including portions of New York, Northern New Jersey and Long Island, paid as much as 38 percent more than the national average of electricity in November 2015: http://www.bls.gov/regions/new-york-new-jersey/news-release/averageenergyprices_newyorkarea.htm.
- 62 <http://www1.nyc.gov/office-of-the-mayor/news/631-15/solar-installations-more-doubled-since-beginning-de-blasio-administration-mayor-announces>.
- 63 http://www.cuny.edu/about/resources/sustainability/solar-america/installer-resources/CUNY_2015_NYCInstallerWorkshop.pdf.
- 64 Estimate based on information provided to the Commission by solar installers.
- 65 http://www.cuny.edu/about/resources/sustainability/solar-america/installer-resources/NYCDOBSolarPermittingProcess_Updated1.4.16.pdf.
- 66 https://www.cuny.edu/about/resources/sustainability/solar-america/installingsolar/InstallerInterviewSummary_Final_v2.pdf.
- 67 <http://www.cuny.edu/about/resources/sustainability/solar-america/installer-resources/FDNY4142014.pdf>.
- 68 <https://www.burnhamnationwide.com/final-review-blog/new-york-city-solar-permits-in-special-flood-hazard-and-wetland-areas>.
- 69 http://www.nyc.gov/html/dob/html/codes_and_reference_materials/code_internet.shtml#ch27.
- 70 <http://www.cityofchicago.org/content/dam/city/progs/env/SCReportYearOne.pdf>.
- 71 <http://energy.gov/savings/city-and-county-denver-solar-panel-permitting>.
- 72 <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=2253277&GUID=60E7D1DA-264A-410C-9687-609F3B52C959>.
- 73 <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=2364126&GUID=4E0774D0-A857-432B-9DFD-41DF75FC63A3&Options=ID|Text|&Search=846>.
- 74 http://www.nyc.gov/html/planyc/downloads/pdf/NYC_GHG_Inventory_2014.pdf.
- 75 The New York City Retrofit Accelerator program assists building owners in retrofitting their buildings, but does not speed up the time it takes to approve permit applications.
- 76 <http://www.seattle.gov/dpd/permits/greenbuildingincentives/prioritygreenexpedited/default.htm>.
- 77 <http://buildingconnections.seattle.gov/2015/04/01/seattle-priority-green-program-updates-open-house/>.
- 78 <https://www1.nyc.gov/assets/dca/SidewalkCafeMap/#ApplicationInfo>.
- 79 http://rules.cityofnewyork.us/sites/default/files/adopted_rules_pdf/dca-sidewalkcaferulenoticeofadoption-20140729_6.pdf.
- 80 <http://www1.nyc.gov/site/dca/businesses/license-checklist-sidewalk-cafe.page>.
- 81 During the course of the evaluation, observed sanitary violations are scored based on the severity of the violation, totaled, and converted into a letter grade. Establishments that receive between 0-13 points on the examination receive an A, establishments that receive between 14-27 points receive a B, and establishments with more than 28 points receive a C. If a restaurant receives an A on its first inspection any fines related to sanitary violations are waived.

Restaurants that receive a B or a C on their first examination are given the opportunity to be re-inspected so that they can fix any violations and promptly to improve their grade. Restaurants with a B or C grade are inspected more frequently during the year than restaurants with an A grade.

- 82 <http://www.nyc.gov/html/doh/downloads/pdf/rrii/restaurant-grading-18-month-report.pdf>.
- 83 <http://www1.nyc.gov/assets/operations/downloads/pdf/mmr2015/dohmh.pdf>.
- 84 http://www.yalelawjournal.org/pdf/1120_ogjao8vy.pdf.
- 85 <http://www.nyc.gov/html/doh/downloads/pdf/permit/consultative-inspections.pdf>.
- 86 Id.
- 87 https://a816-healthpsi.nyc.gov/dohroot/prjfp/F2300_Default.aspx.
- 88 <http://www.nyc.gov/html/doh/html/environmental/food-service-inspection.shtml>.
- 89 <http://escholarship.org/uc/item/948005rd#page-1>.
- 90 http://www.nyc.gov/html/doh/downloads/pdf/permit/mfv_license_appl.pdf.
- 91 <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=1797001&GUID=BA4963A1-BACE-4A43-ADF3-8909BB856480>.
- 92 http://www.nyc.gov/html/doh/downloads/pdf/permit/mfv_license_appl.pdf.
- 93 <http://dmv.ny.gov/driver-license/temporary-license-and-registration-documents>.
- 94 http://www.nyc.gov/html/ops/ll47/html/ll47_reports/ll47_reports.shtml.
- 95 <http://www.nyc.gov/html/sbs/nycbiz/html/contact/locations.shtml>.
- 96 <http://www.nyc.gov/html/sbs/nycbiz/html/summary/chamberonthego.shtml>.
- 97 <http://web.mta.info/metrocard/mms.htm>.
- 98 <https://www.class-central.com/report/moocs-stats-and-trends-2014/>.
- 99 <http://www1.nyc.gov/assets/operations/downloads/pdf/mmr2015/sbs.pdf>.
- 100 http://www.nyc.gov/html/sbs/nycbiz/html/growing/nyc_construction_mentorship.shtml; http://www.nyc.gov/html/sbs/nycbiz/downloads/pdf/summary/courses/CAP/CAP-NYCEO_2016_FAQs_v1_12-2015.pdf.
- 101 US Census Bureau 2012 Survey of Business Owners, released December 2015. Available: <http://www.census.gov/econ/sbo/>; Business ownership is defined as having 51 percent or more of the stock or equity in the business.
- 102 http://comptroller.nyc.gov/wp-content/uploads/documents/Making_the_Grade_2015.pdf.
- 103 <http://esd.ny.gov/mwbe/getcertified.html>.
- 104 Minority Business Success: Refocusing on the American Dream, Leonard Greenhalgh & James H. Lowry, page 128.
- 105 http://comptroller.nyc.gov/wp-content/uploads/documents/Making_the_Grade.pdf.
- 106 <http://www.nyc.gov/html/dot/html/motorist/parksmart.shtml>
- 107 <http://www.nyc.gov/html/dot/downloads/pdf/2014-10-park-smart-road-show.pdf>.
- 108 http://direct.sfpark.org/wp-content/uploads/eval/SFpark_Pilot_Project_Evaluation.pdf.
- 109 <http://www1.nyc.gov/office-of-the-mayor/news/129-13/mayor-bloomberg-transportation-commissioner-sadik-khan-new-pilot-program-pay>.
- 110 <http://www.nyc.gov/html/dot/downloads/pdf/2014-10-park-smart-road-show.pdf>.
- 111 https://transalt.org/files/news/reports/2011/Totally_Bogus.pdf.
- 112 <http://nypost.com/2015/12/13/graffiti-arrests-drop-30-as-complaints-keep-pouring-in/>.
- 113 <http://www1.nyc.gov/assets/smallbizfirst/downloads/pdf/small-business-first-report.pdf>.
- 114 The tax rate is 6 percent of the base rent. However, because all taxpayers are granted a 35 percent base rent reduction, the effective tax rate equals 3.9 percent. In addition, tenants with annual taxable rents between \$250,000 and \$300,000 are eligible for a sliding-scale credit that partially offsets the tax. For more information, see: <http://www1.nyc.gov/site/finance/taxes/business-commercial-rent-tax-crt.page>.
- 115 http://www.nyc.gov/html/omb/downloads/pdf/tech1_16.pdf.
- 116 <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=2324746&GUID=5F1CB761-B063-4E8F-B72E-328714C639AF&Options=ID|Text|&Search=commercial+rent>.
- 117 <http://www.manhattancc.org/news/newsarticledisplay.aspx?ArticleID=1305>.
- 118 N.Y. LLC Law § 206, available: <http://codes.lp.findlaw.com/nycode/LLC/2/206>.
- 119 <http://www.wsj.com/articles/SB10001424052702304703804579378733962360294>.
- 120 Councilmember Corney is a member of the Comptroller's Red Tape Commission.
- 121 Res 0840-2015: <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=2460371&GUID=DAE72C9A-5D1C-432B-A81C-13F43D3C0E31&Options=Advanced&Search>.



