



**Testimony of Kyra Armstrong, Environmental Justice Staff Attorney with New York  
Lawyers for the Public Interest, New York City Council Committee on Housing and  
Buildings regarding the FY2024 Preliminary Budget  
March 17, 2024**

First, I would like to acknowledge this committee for its continuous dedication to ensuring City agencies responsible for the implementation of our most important climate laws are being held accountable. I am grateful for the opportunity to submit testimony regarding the FY2024 preliminary budget to the Housing and Buildings Committee and uplift some priorities and concerns regarding the Mayor's austerity budget.

My name is Kyra Armstrong, an Environmental Justice Staff Attorney with New York Lawyers for the Public Interest (NYLPI), a 45-year-old civil rights organization. NYLPI's interdisciplinary teams of litigators, community organizers, and policy advocates work closely with New York communities, using the community lawyering approach, to advance equality and civil rights, with a focus on health justice, disability rights, and environmental justice.

In this budget process, we call on the Council to continue defending vital city services and investments from budget cuts and flatlining. With the Council's forecast of FY23 and FY24 revenue totaling \$5.2 billion more than Office of Management and Budget predictions, and Independent Budget Office's announcement of a \$4.9 billion surplus this year, now is not the time to retreat from our City's sustainability and equity goals.

### **Local Law 97**

New York City's most ambitious climate law is at substantial risk of not being implemented equitably and adequately, nor in a way that aligns with the intent of its framers without City Council intervention and oversight. Frankly, the Department of Buildings' (DOB's) testimony and responses to many questions asked by Councilmembers during the hearing on March 15, 2023, further substantiated that risk. The emergence of unproven, energy intensive technologies like carbon capture, utilization and storage, promoted by for profit corporations like Carbon Quest are already in the process of concerted exploitation of Local Law 97<sup>1</sup>, and wealthy real estate developers are attempting to establish loopholes through the purchase of renewable energy credits as a means of perambulating rather than complying with the law. DOB stated during the hearing that they currently are unaware of any risks to tenants and New Yorkers by using this technology. NYLPI, along with our coalition members in Climate Works for All, would be more than happy to speak to DOB or Council Members regarding the dangers of this technology,

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<sup>1</sup> *A Huge City Polluter? Buildings. Here's a Surprising Fix.*, Brad Plumer, New York Times, March 10, 2023; <https://www.nytimes.com/interactive/2023/03/10/climate/buildings-carbon-dioxide-emissions-climate.html>

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supported by reputable research. In addition, DOB acknowledged discussions with the private technology companies regarding their safety, reliability, and ability to meet climate emissions reduction goals, yet failed to discuss the currently approved permits for these CCS installations, without the research they are supposedly exploring. Further, the permits explicitly report the technology is not being used for LL97 compliance despite the buildings, where CCS is being installed, falling directly under LL97 regulation and are included on the covered buildings list published by DOB. We are currently circulating a sign-on letter for elected officials and organizations to ensure a moratorium is placed on granting permits for the installation of this technology until further studies and analysis are performed.<sup>2</sup> Given DOB's recognition that they do not have sufficient information to reach any conclusions on the safety, effectiveness, and reliability of this technology, we strongly encourage the Council to sign-on along with our over twenty organizations.

Local Law 97 has a fast-approaching compliance period in 2024. Despite the clear forthcoming deadline, there are serious concerns the City has insufficiently staffed the Office of Building Energy Emissions Performance (OBEEP), DOB, and inadequately educated New York City residents and building owners of their obligations under the law. The City will soon have to process the submissions for compliance of every building over 25,000 square feet, nearly 50,000 properties. The review of their compliance must include thorough document review as well as analyses to determine if a building owner has made "good faith efforts," to comply, which are still not defined. Given the slow progress with the rule-making process, lack of publication of compliance guidelines, and uncertainty of factors that will be considered when assessing fines, there is a clear need for the City to allocate substantially more funding to ensure Local Law 97 is efficaciously and equitably implemented.

NYLPI contends that the City should dedicate \$975,000 to increase the staffing of OBEEP with ten new positions. Building owners are not created equally, nor do they have the same access to hire outside consultants and engage with third party resources to ensure they are not only meeting their mandates under the law, but also filing the proper documentation for compliance in a timely manner. For the FY2023 budget, Local Law 97 advocates demanded fifteen additional positions be created in the office of OBEEP, however, only five were funded.<sup>3</sup> OBEEP's responsibilities to oversee implementation for building energy and emissions performance laws and policies for existing buildings, new construction and major renovations are going to substantially increase in demand as Local Law 97 deadlines approach. Evaluating the compliance reports are not the full extent of what OBEEP's obligations will be; they will have to

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<sup>2</sup> *Sign-On Letter : To NYC Department of Buildings Opposing the Permitting of Carbon Capture Technology in Buildings*, Climate Works for All;

[https://docs.google.com/forms/d/16bajeXCMIgWyeiYS7G7c1MrEI\\_Nn6vLbCEIja2Mmohw/viewform?edit\\_request=ed=true](https://docs.google.com/forms/d/16bajeXCMIgWyeiYS7G7c1MrEI_Nn6vLbCEIja2Mmohw/viewform?edit_request=ed=true)

<sup>3</sup> *New City Budget Includes Some Funding to Implement Landmark Building Emissions Law*, Samar Khurshid, Gotham Gazette, June 17, 2022; <https://www.gothamgazette.com/city/11387-nyc-city-budget-climate-mobilization-act>

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provide specific guidance to individual building owners and be responsive to their questions and concerns.

In addition to increased funding for the NYC Accelerator, we also request, no less than \$6 million to local NYC-based organizations to provide education, outreach, technical assistance services for the fast-approaching compliance period, tenant support, and lease assistance. While the NYC Accelerator is a wonderful resource that currently provides free assistance, it is not clear how effective the previously allocated \$36 million to the NYC Accelerator has been, given the substantial confusion and lack of awareness community members have surrounding the implementation of Local Law 97. Community based organizations are in a unique position to directly assist the communities they serve with a range of Local Law 97 issues that are not reduced purely to building owners, such as leasing, affordable housing, tenant involvement, and co-op specific compliance. Throughout our educational outreach work on Local Law 97, we have encountered numerous community members who are unfamiliar with the law, and others who are fearful of its implications for tenants, co-ops, and other less resourced building owners. A recent New York Times article on Local Law 97 with over 200 comments only confirms this unacceptable precedent.<sup>4</sup> As such, financial assistance for community based organizations is critical to ensure we do not force them or the residents they serve out of their local communities, as well as

The City should also fund three to five staff positions at the Department of Housing Preservation and Development (HPD) to increase staff capacity dedicated to affordable housing and Local Law 97 compliance. While Article 321 of Local Law 97, which addresses affordable housing's emissions reduction requirements, provides prescriptive measures rather than the strict mandates contained within other provisions of the law, it is clear the City is falling short on its obligations of ensuring residents living in affordable housing receive the same benefits of all New Yorker's from living in cleaner, healthier, and safer homes. We encourage the City Council to draft, introduce, and pass legislation establishing a Green Affordable Housing Fund. A Green Affordable Housing Fund would allow private building owners to pay into a fund, serving primarily low-income and environmental justice communities, instead of paying fines in Local Law 97 that are placed in the City's general fund. Affordable building owners would be allowed to access the fund to have upfront capital improvement costs covered for projects that reduce a building's emissions. This fund is not a new proposal, as it was announced as a recommendation in November by NYC Comptroller, Bran Lander.<sup>5</sup> In addition to the Comptroller's report, Boston's version of Local Law 97, Berdo 2.0, has a provision establishing an Equitable Emissions Investment Fund, explicitly prioritizing fund expenditures to benefit "...projects that benefit Environmental Justice Populations and populations disproportionately affected by air

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<sup>4</sup> *What's Holding Up New York's Climate Progress? Apartment Buildings.*, Stefanos Chen and Winston Choi-Schagrin, New York Times, March 10, 2023; <https://www.nytimes.com/2023/03/10/nyregion/greenhouse-gas-law-nyc.html>

<sup>5</sup> *Cap the Credits*, New York City Comptroller Brad Lander, November 14, 2022; <https://comptroller.nyc.gov/reports/cap-the-credits/>

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pollution...”<sup>6</sup> We look forward to working with City Council on the development of this fund and ensuring there is sufficient flexibility and oversight to best serve low-income and environmental justice communities.

### **Lead Prevention and Services**

NYLPI works with partners in a coalition, New York City to End Lead Poisoning (NYCCELP), working to eliminate lead poisoning in New York City through a holistic, multi-agency approach. While Local Law 1 of 2004<sup>7</sup> has paved the way for significant progress in preventing lead poisoning in New York City, there are still thousands of children found to have high blood lead levels every year.<sup>8</sup> In addition, the most current data for childhood lead testing is outdated and unreliable due to the collection period during the pandemic where we saw a significant reduction of health care utilization. NYCCELP is extremely concerned with Mayor’s proposal to cut the budget significantly through the Program to Eliminate the Gap (PEG). COVID-19 significantly dampened the DOB’s ability to investigate lead complaints and perform their code enforcement responsibilities for lead violations during the past few previous years. Given the urgency for making up for backlog and ensuring proactive enforcement, DOB needs to be adequately funded and staffed.

We look forward to continuing to work with you on implementing Local Law 97 and ensuring New York City meets all our climate goals.

Thank you,

Kyra Armstrong

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<sup>6</sup> ORDINANCE AMENDING CITY OF BOSTON CODE, ORDINANCES, CHAPTER VII, SECTIONS 7-2.1 AND 7-2.2, BUILDING ENERGY REPORTING AND DISCLOSURE (BERDO); <https://www.boston.gov/sites/default/files/file/2021/12/Final%20Amended%20Docket%200775%20BERDO%2020.pdf>

<sup>7</sup> *Local Law 1 of 2004*, [https://nchh.org/resource-library/State\\_and\\_Local\\_Lead\\_Law--New\\_York\\_NY.pdf](https://nchh.org/resource-library/State_and_Local_Lead_Law--New_York_NY.pdf)

<sup>8</sup> *Childhood Blood Lead Level Surveillance Quarters 1-4 2020*, New York City, June 2021, <https://www.nyc.gov/assets/doh/downloads/pdf/lead/lead-quarterly-report-2020.pdf>