

**Testimony of Lorelei Salas
New York City Department of Consumer and Worker Protection**

Committees on Consumer Affairs & Business Licensing and Transportation

**Hearing on
Int. 2096-2020 and Preconsidered Introduction 6677**

September 30, 2020

Good afternoon Chairs Cohen, Rodriguez and Members of the Committees. I am Lorelei Salas, Commissioner of the Department of Consumer and Worker Protection, also known as DCWP. I am joined by Steven Ettannani who is Executive Director for External Affairs. I would like to thank the Committees for the opportunity to testify today on Introduction 2096, relating to temporary operating letters for sidewalk café license applicants, and Preconsidered Introduction 6677, relating to sidewalk café plan drawings.

Before I discuss the bills before the Committees today, I would also like to take a moment to thank the Council for its close partnership with the Department over the past months to ensure that we have been able to continue serving our city's consumers and workers. In working with Chair Cohen and other members here today, we've tackled many important issues confronting the City during extremely difficult times.

Sidewalk Café Licensing

DCWP licenses 106 enclosed and 1,195 unenclosed sidewalk cafés. Applicants for a sidewalk café license are limited to only certain locations of the City, pursuant to the City's Zoning Resolution, and subsequently close to 70 percent of all sidewalk café licensees are in Manhattan.

Approving sidewalk café license applications is a detailed and lengthy process required by the Administrative Code, which includes reviews by DCWP and the Department of City Planning – in instances where the application is for an enclosed café – the local Community Board, the City Council, as well as approval from the Mayor's Office of Contract Services, and finally registration of the revocable consent agreements with the Comptroller. This process can take 4 to 5 months, even if an applicant has submitted their application correctly.

Pursuant to the Mayor's Executive Order (EO) 126, the sidewalk café licensing program was suspended on June 18th as the City began administering Open Restaurants. Pursuant to the EO, DCWP is not accepting or processing new or renewal sidewalk café applications. In early April, the Mayor suspended all sidewalk café consent fees under EO 105. Subsequently, Local Law 54 of this year, sponsored by Chair Cohen, refunded this year's consent fees to licensees.

Introduction 2096 and Preconsidered Introduction 6677

Before I turn to the specifics of the legislation at hand, I would be remiss not to mention that there is an incredible opportunity, right now, to holistically rethink the concept of outdoor dining in New

York City. DCWP believes that any future for the sidewalk café licensing program should be informed by the successes of the Open Restaurants program, operated by my colleagues at the Department of Transportation, which has served more than 10,000 businesses – eight times the size of the sidewalk café licensing program - across the City. While DCWP agrees with the intent of Introduction 2096 and Preconsidered 6677 to make the sidewalk café licensing processes less burdensome and prescriptive for businesses, these amendments will fall short of its goals if pursued in a vacuum. Instead, Council should consider a comprehensive reevaluation of the sidewalk café process in totality.

Moving on to today's legislation, Introduction 2096 would allow applicants of enclosed and unenclosed sidewalk cafés to be issued Temporary Operating Letters, also known as TOLs, pending approval of the applicant's revocable consent agreements. We are continuing to review the bill language and hope to work with the Council to ensure a final version accomplishes the goals of this bill, simplifying the requirements restaurants must meet to successfully operate in New York City, without causing any undue delays.

The Preconsidered Introduction would allow sidewalk café applicants to submit plan drawings, without the requirements that the drawings be prepared by an architect, engineer, or otherwise third-party professional. In our experience, the plan review process is burdensome and expensive for applicants, and difficult for agency staff, who do not have engineering or architectural backgrounds. We believe this legislation could be served by moving away from the current framework and instead enshrining a less prescriptive process for businesses that ensures compliance with applicable safety and accessibility laws.

Conclusion

Since the Council's last hearing on this topic in June, Open Restaurants has become a popular fixture of our City's streetscape with calls for it to be made permanent. We believe that the future of the sidewalk café process needs to take Open Restaurants into account, and its successful implementation by DOT, such as by contemplating a singular program, with the goal to continue supporting our city's restaurants as fairly as possible.

Once again, thank you Chairs Cohen, Rodriguez and Members of the Committees for the opportunity to testify today and I am happy to answer any questions you may have.