

Retail Council of New York State

Chairman Squadron, Chairman Brennan, Committee members:

Good morning. My name is Ted Potrikus; I am Executive Vice President and Director of Government Relations for the Retail Council of New York State. Our association comprises some 5,000 member stores whose characteristics span the retail spectrum - from the largest department and discount stores to the smallest mom-and-pop independents in every part of the state.

It's that diversity within our membership that informs our testimony here today and indeed formulates the position we take on hundreds of bills before you each year. And when we're not busy advocating on behalf of our retail industry members, our association serves as Group Manager for one of the state's most successful workers' compensation safety groups, provides discounted credit card processing, and offers other money-saving services for our dues-paying membership.

We thank you this morning for calling this important hearing, for the invitation to testify, and for your stated desire to support urban economies throughout New York State via the engine of retail small and large.

Retail often is overlooked as a true and reliable generator of economic strength; taken for granted as the centerpiece of the economy of a neighborhood, a city, a county, or the state as a whole. The state's retailers employ nearly one million New Yorkers with a payroll of more than \$26 billion, and pay property and corporate taxes to state and local governments. Stores help generate, collect, and remit more than 24 billion dollars in state and local sales tax revenue, contribute to community and school organizations, attract tourists and their disposable income and, as your hearing notice recognizes, bring stability, vitality, and identity to communities throughout New York.

Retail, too, is the unsung job training hero in New York and beyond. For every job training program funded by taxpayers or assessments of one sort or another, there is a retailer providing on-the-job, paid training - often to those entering the workforce for the first time or reentering after a hiatus from professional employment. More than a few New Yorkers had their first job experience working behind a cash register, bagging groceries, or stocking shelves, learning everything from how to get to work on time to personal responsibility to the all important "people skills" that every job demands. That happens every day in retail, and today it's training that goes well beyond running a cash register or putting items on a shelf. There are high-tech jobs, security jobs, environmental jobs, jobs with strict financial responsibilities. There are entry-level, part-time, and full-time positions with flexible schedules. It truly is an industry where a raw rookie can go from the stock room to the management team in a path that will take him or her into a long and rewarding professional career. These are good jobs, often maligned and short-changed, but invaluable to the people who hold them and learn from them.

These jobs lose out in the public relations game when up against billions in amorphous, press-friendly "job training" dollars for undefined things such as "green jobs" that may, on the surface, have little touch to the retail industry at large. Or they may pale in comparison to the tax breaks given to the latest manufacturer dangling the promise of hundreds or dozens of new jobs for a state or region willing to maximize its ante. Retail endeavors to be a part of these conversations and succeeds, at times - but spends a lot of time defending its role in the job training and creation equations. And it fights to retain even the most modest public considerations from which it might benefit.

A good recent example of such a fight came right here in New York City, where the City's Industrial and Commercial Incentive Program (ICIP) was up for state legislature renewal in 2007. City leaders, facing budgetary pressures, looked to trim this investment incentive

by all but barring retail projects from eligibility. We are grateful that Mayor Bloomberg and the state legislature's New York City delegation kept their doors open to us for many months, giving us the opportunity to state the case for retail retaining its ICIP benefits. Thanks especially to Mayor Bloomberg, Senator Frank Padavan, Assembly Speaker Sheldon Silver, and Member of Assembly Jonathan Bing, the state legislature approved an ICIP renewal that included consideration for retail projects under limited circumstances and in certain portions of New York City most in need of retail development.

One of the themes of our discussions then was the importance of attracting national retailers into city neighborhoods. New national brands engender additional retail activity nearby. New stores encourage neighboring shops to improve their own spaces; they attract other new stores, restaurants, or offices to locations that previously had been vacant. They boost traffic and visibility.

People want new and revitalized stores in their neighborhoods not just because they want to shop there, but because they know that new stores enliven and bolster any neighborhood. And ICIP remains important for retail because, simply put, it's extraordinarily expensive to build or renovate retail space in New York City.

I know this is one of the fundamental purposes of today's hearing - to uncover the reasons why it is so challenging for downtowns across the state to attract new retailing to their neighborhoods. The hearing notice acknowledges the impossibility of pinpointing a single reason for retail's changing profile - to do so could earn someone a Nobel Prize in Economics - but the notice also points to a "devastating common feature" that neighborhood commercial strips and downtown districts have been hollowed out because of "big box" and other suburban retail. To try even to boil it down just to this single "devastating common feature," however, is to ignore a whole host of truisms applicable to the retail industry in any economy - and especially so during this period of prolonged consumer stasis.

Let's look first at the often-repeated real estate adage, "location location location." A store, restaurant, dry cleaner, gas station, car dealer - really, any business where customer visibility and traffic is the key to success - will make it only when the location is right. A retailer can't survive if his or her business comes only during the few hours that office workers dash out during a lunch break. There's no sense in opening a store when the foot traffic won't be there. And foot traffic comes when a downtown or a neighborhood can offer a number of different attractions - a mix of stores, restaurants, arts, entertainment. Some small cities that come to mind are Saratoga, where national retailers build right next to independent merchants on a main street that's only a few minutes from large-scale retailers on the outskirts of town. Neighborhoods in Rochester, such as Park Avenue or near the colleges, fare well featuring the same successful mix that attracts shoppers, students, and visitors throughout each day.

The key here is the mix. Stores aren't denied the opportunity to open simply because they're a national brand. Shoppers respond well to the mix that has been allowed to germinate and thrive on its own terms and as a part of the community.

For retail to succeed, it must pay strict attention to the dictate of the consumer and the dynamic nature of shopping and consumer trends. Large-format retailers, strip plazas, or enclosed shopping malls wouldn't make it to the drawing board if not for the daily support of a lot of shoppers spending money there. Shoppers visit and spend at these locations for any number of reasons - free and easy parking, easy car access, greater variety in a concentrated area, value, choice, safety.

Very few shoppers these days have the time or the money to shop someplace simply because of nostalgia. It should go without saying - but I find myself saying this to the media whenever a well-known or

well-loved store puts up its dreaded "going out of business" sign - that a store isn't going to stay open simply because people feel good about it and get a warm glow when they walk or drive past. If they don't open their wallets and spend in there, then the store will close.

It's a simple reality and a hard truth in the retail industry that the consumer demands value, selection, and service. In a way, retail is very much like public office - stores open and close at the pleasure of the shopping public.

We feel it every day in our own association. The stores that first united as the New York State Council of Retail Merchants back in 1931 were the undisputed titans of their day - Gimble's, Woolworth, Abraham & Strauss, and regional giants like Adam, Meldrum & Anderson and Chappell's. And now they're gone, bought up in mergers or forced out of business by times and consumer habits that changed and left them behind. The stores that populate the membership roster of the Retail Council of New York State in 2009 are today's titans, large and small, and they all face new competitions and economic pressures that their predecessors couldn't have imagined.

Merchants today are up against competition that is significantly different and much more intense than at any time in retail history. It's not just the large-format stores in the suburbs or the competition across the street. Competition comes from all over the world from the Internet - eBay, Amazon, Overstocks. It comes from highly organized thieves stealing merchandise en masse from legitimate stores and selling it on line or in makeshift, transient locations. It comes from unimaginable places - a recent story in The New York Times pointed to the troubles that book stores in England have when trying to compete against book stores owned and operated by noted charity OxFam.

The Internet, of course, is the biggest gorilla eating the lunch of small and large retailers everywhere. So many Internet-based merchants can escape the costs attendant to opening and operating a brick-and-mortar operation, especially in a state like New York where state and local laws, regulations, policies, and requirements can be so punishing as to dissuade anyone from even thinking about opening a new retail establishment. (More on that shortly.) Internet merchants can find ways around laws that might require them to collect the sales tax that every brick-and-mortar merchant in New York must collect from its customers. Shoppers can get on line 24/7 and buy whatever and whenever they want. There's no need to struggle with traffic or parking or bad weather. A few key strokes and the package comes right to your door.

Book stores and record stores - perhaps most emblematic of the type of store that would identify a neighborhood in cities throughout New York - have been hardest hit by the Internet, and that's why so many have dried up. Book stores have to face the steep competition from the most-easily identified Internet merchant; record stores have been hanging it up at remarkable speed thanks to engines like iTunes and downloading services illegal and otherwise.

Let me step outside the objective nature of hearing testimony just for a minute here to illustrate this point. Right across the park from this building is one of the best-known local merchants in New York City and a valued Retail Council member - J&R Music. As an inveterate record and music collector, I make sure to visit and spend in that store whenever I'm in Manhattan. I find it hard to fathom, though, that it's the last big 'record store' in Manhattan - Times Square and Union Square lost Virgin Megastores earlier this year; Tower went under a couple of years ago; HMV moved out before that.

Smaller, independent record stores have suffered pretty much the same fate all across New York. There aren't many left, and they didn't lose out because of suburban plazas or large-format retail. I could

log onto my laptop right now or on my train ride home and add as many songs as I'd want to my collection, and never once set foot inside a store that supports a city neighborhood or collects sales tax.

The point of all of this is to say that competition and consumer choice drove this change. And if the question on the table is how New York can promote and facilitate appropriate retail development in city neighborhoods, the best practice we can espouse is one that keeps that competition and customer choice alive and unimpeded by artificial and/or arbitrary barriers that might bar one retailer or another from building, growing, or investing in an urban neighborhood, a suburban location, or anywhere the 'location location location' equation might add up to be just right.

I stress the modifiers 'artificial' and 'arbitrary' because I don't want to leave the impression that the Retail Council advocates some sort of clear-cutting policy that would let retailers set up shop wherever they want and under the conditions that they would determine unilaterally. Obviously we recognize the importance and value of balanced and sensible public policy.

That said, I'd like to revisit my aside from a few minutes ago regarding laws, regulations, and policies that can constrict retail enthusiasm. Retailers of every size and in every corner of New York are buffeted like never before with new demands from state and local governments alike - all of them costly and all of them absolute disincentives to the development of new or revitalized retail space.

Some examples:

This year's new payroll tax on employers in the MTA service district hit merchants hard - and while supporting public transit makes sense for retailers who rely on the ability of their customers to actually make it to the stores, the surcharge adds a new and not insignificant bottom-line expense to already-maximized costs for unemployment

insurance and is viewed through the spectrum of pending increases in unemployment insurance benefits and workers' compensation costs. Simply put, it costs a lot to hire someone to work in a retail store in New York State.

This year's state budget requires every sales tax vendor - that's every retailer and more - to re-register with the Department of Taxation and Finance in a record-updating project. We don't quarrel with the need for the effort, but we have a huge problem with the new \$50 re-registration fee. It might not sound like much, but to merchants and other vendors, it's an absolute insult and another in the stack of fees and requirements and paperwork that seem to be a cornerstone of doing business in New York. And it comes on top of the bottom-line expense already tied to collecting and remitting sales tax. Do it wrong and you're guaranteed an expensive visit from Tax and Finance. Do it right and you can lose your customers to the aforementioned Internet sites that might not collect and remit.

Either way, sales tax is an expensive proposition for merchants. And to have to pay \$50 is more than a lot of merchants care to do - especially when there is no guarantee that this is a one-time-only fee that will be used for its stated purpose.

If it sounds cynical, it's because we are. We oppose bills every year that would pin additional burdens on retailers, and we appreciate your collective consideration in refraining from enacting these and other measures at this or at any other time. Burdens like point-of-sale fee collecting for everything from plastic shopping bags to batteries to household hazardous waste. Burdens like requirements that retailers train their employees about the difference between counterfeit and real labels from Underwriters' Laboratory.

But then there are the laws that cause just enough trouble to be expensive - the electronics recycling requirement specific to New York City; the item pricing law in Westchester County that stands alone in

its scope and enforcement; the state law that requires a sticker on any item of clothing that could be 'faux fur.' There are more, and all of them are examples of the mandates and restrictions that can keep a vacant storefront vacant and dusty for years to come.

Let me underscore that the Retail Council and the stores we are privileged to represent understand and support fully the role of retailers small and large in supporting and upholding public policy that is responsible and responsive to the public. I'm proud of the Retail Council's reputation for working closely and constructively with the state legislature to help craft and support new laws addressing environmental issues such as plastic bag recycling, guidelines for the sale of gift cards, standards for the manufacture of apparel made and sold in New York State, new requirements for the disclosure of return policies and recalled product returns, and working with the state to recognize the need to participate fully and constructively in discussions about the state's fiscal priorities and needs.

We pledge to continue to participate in this manner with you and look forward to the opportunity to do so. We applaud your commitment today to injecting new vitality into neighborhood retailing and hope to continue a productive dialog in the months and years ahead.

Testimony of Michael A. Weiss
Executive Director, MetroTech Business Improvement District (Downtown Brooklyn)
Senate Committee on Cities
Assembly Cities Committee

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250 Broadway, 19th Floor New York, NY

Thank you Senator Squadron and Assemblyman Brennan for arranging for a hearing on this very important issue and for allowing me to make some remarks related to the matter of preserving “retail diversity and neighborhood health”.

In our area of Downtown Brooklyn we serve over 150 retail businesses, in addition to over 20,000 office workers, 25,000 college students, 2,000 jurors a week and thousands of shoppers, tourists and now and increasing large number of residents. This diverse group seeks a clean, safe, multi-use, 24 hour a day, vibrant community and to reach that goal we need to nurture and retain our local retail businesses to a much greater extent than in the past. It is they who can best provide convenience, unique merchandise, customer friendly service, and an interesting urban experience.

However, those businesses are suffering. They were having difficulty competing with the large regional and national chains before the recent recession. Now many of them are in critical condition as they confront dried up credit markets, a reduction in shopping traffic and increased competition from deep pockets chains.

So what can we do to help? First let me state that we do not need more organizations to assist in getting quality programs passed through to our retailers and service businesses. There are already many highly qualified organizations, with proven track records including BIDs, Chambers of Commerce, and related non-profit and government agencies to get the job done. In short, the delivery system exists. It is the programs that need to be reformed and supported.

In the past year, the MetroTech BID has devised some new and innovative programs to directly address the need to strengthen and retain our small retailers. Borrowing more money is not necessarily the answer. Many of these businesses are already saddled with debt that they cannot support. What they need is intensive and targeted assistance to analyze their business model, understand their cost structure, their merchandising, inventory control, customer service model, and marketing and promotion efforts. Many of them have been doing the same thing – the same way for years –and time has passed them by – with questions about what they are selling and how.

Here is just one Case Study:

A long standing store in our district has been struggling to stay in business. After arranging a series of meetings with the owner, the BID’s Retail Services Director and a retail merchandising consultant hired by the BID, the following recommendations emerged.

1. Issue: **Mission** - Store needs clear mission stating who are target market(s) – what markets you wish to attract - what it is selling – create organization chart and see where there are gaps.
2. Issue: **Too much inventory** – not turning over – paying more rent than necessary for non-profitable selling space. The amount of selling space should be reduced from the current 27,000

sq ft to 10,000 sq ft. This could be accomplished by renegotiating the present lease or terminating the lease and looking for a smaller space nearby.

3. **Hire a “merchandiser”** either full or part time. A person to assist in establishing the store brand identity and implementing strategy to stay on course with merchandising – display – sales – customer service, etc.
4. Issue: **Using technology** - Point of Sale System –store needs to install POS to track inventory and control it and provide data for making decisions on sales and merchandising – customer data – who is shopping – where are they coming from – how much do they spend and on what items.
5. Get additional **training** on using data to keep track of the business such as Gross Margin – Return on Investment – markups – percentage of change – turnover - stock sales ratios - shrinkage

We have many other small businesses I can cite that experience these and other problems.

What these businesses need is a team of experienced small business experts to dig in to their business on a **micro level** and make suggestions for change. This can be provided by the existing organizations, I mentioned earlier, sometimes partnered with each other for expertise and efficiency, including college and university faculty and programs. This is what we have done in MetroTech and it is saving a number of our small businesses from ruin. However, we do not have the resources to fully engage the number of retailers that need this assistance. It costs us about \$10,000 for each business we assist in this intensive way. Thus, I would propose the introduction of a grant program to allow a business assistance organization to expand this model. A \$1 million program would serve about 100 small businesses in this way. The payback would be significant.

A second area that I would highlight is the uncoordinated approach to business regulation and permitting on the part of government. For many small business people understanding and complying with the plethora of regulations from DOB, DEP, Health, Fire, Sanitation, etc., is daunting. And when a small business receives a summons, in many cases, the fine is so punitive as to jeopardize their existence.

In addition, how many of you have tried to go into business or to upgrade your business lately? Not only is there still not “one stop shopping” for the government permitting process but the government approvals in addition to electric, gas, telephone, insurance, and other needs to be satisfied by the private sector is also a nearly impossible labyrinth to navigate. The time and cost of securing these permissions and services needs to be brought down for small business to survive. The entire process needs to be reengineered and government needs to lead the way.

In the short time allotted, I have highlighted two of a number of initiatives that I believe could be extremely helpful in supporting the small retailers that are the backbone of our Borough. There are others. I would be happy to answer your questions and to meet with you to expand further on this important theme.

**Lower East Side
Business Improvement District**

I thank the Committee for choosing this topic, for holding a hearing and inviting me to testify. I am Roberto Ragone, the Executive Director of the Lower East Side Business Improvement District. The Business Improvement District area I represent is one that stands to serve as a pilot area for many ideas out there (and some of which may come out of this committee) for preserving independent small businesses and retail diversity in New York City.

The BID encompasses Orchard Street and the East Side of Allen Street from Houston to Canal Street. Varying portions of the streets between Houston and Canal belong to the BID from Forsyth to Clinton St. Since 1992, property owners in this area have paid a BID assessment tax for our services.

The LES BID has received a placemaking award by the Mayor for its “LES is More. Explore.” marketing and branding campaign, including for events that have brought thousands of people to the Lower East Side. . Still, the Lower East Side lacks daytime foot traffic. Thus, any initiatives that brings a great amount of permanent foot traffic would be visibly demonstrated and have a lot of credibility if then applied elsewhere. Based on the BID’s participation in the debate over the rezoning of the LES and East Village along with my participation as a board member of the Empire Zone and on the Borough President’s Task Force for preserving independent small businesses, I recommend the following:

- 1) **Getting the committee and its staff on the same page about what reports/studies are already out there that offer a frame of reference for decision-making and acting on the many recommendations.** For the Lower East Side and for many areas in and outside the five boroughs of New York City, this includes reviewing
 - a. The Manhattan Borough President’s report
 - b. The Chinatown / Lower East Side Empire Zone Development Plan

c. The Lower East Side Business Improvement District's proposal on how to rezone the LES (even though rezoning has already occurred, there are still many applicable recommendations).

d. The Two Bridges Neighborhood Council report

Some specific issues and recommendations (some of which appear in a subset of the above reports) include"

2) **the need to provide incentives to landlords (such a density bonuses) in exchange for affordable commercial rents for tenants.** No matter what is said today, if small businesses cannot afford rents, retail diversity cannot be preserved. While high rents are often discussed in terms of the profit motive of the property owner, there are a variety of factors including the cost of operating a business per square foot. Government needs to think about win-win incentives for landlords and tenants.

3) **the need to restrict presence of franchises and chains, including banks**--these businesses have economies of scale where, in a world without incentives and regulation, will make New York City no different than a mall, dissipating the soul of the City's unique identity. This would be a particular sad fate for the LES, known for entrepreneurial, cutting edge independent small businesses.

4) **The need to allow for commercial density and financing for boutique office space in order to attract more creative sector businesses, such as engineers, architects, public relations and marketing firms and graphics and fashion** These businesses would help reinforce the branding of the LES as an area for creativity. Just as importantly, these businesses would become a consistent, critical mass of daytime foot traffic to help preserve retail diversity. Owners of these businesses would shop and eat during their lunch hour and afterwork. There are plans for more commercial space in New York City. However, would it not make sense for more offices (even without office towers) in neighborhoods where people want to live, work and recreate?

5) The need to link eco-friendly incentives with preserving independent small businesses and retail diversity. Consider all the construction waste and gut reconstruction when yet another business fails and a new business comes long to take a stab at succeeding. What are the City and States costs of carting away waste.. Aren't we better off preserving businesses and using some of the savings instead to incentivize eco-friendly measures? Also, let's consider what benefit would be derived to cash-flow conscious small businesses if it were made easier for them to take advantage of, say, NYSERDA benefits.

6) The need to ensure that transportation projects are completed in a timely basis given the link between transportation access and economic activity. The Lower East Side is served by several transportation stops, but the public for whatever reason does not view these trains (not to mention buses) as transportation options for coming to the Lower East Side to shop and dine. The 2nd Avenue subway seems to be the crucial link to the Lower East Side. This project must move forward and be completed once and for all despite the recession. Meanwhile funding for Bus Rapid Transit is an important short term solution and funds should be specifically earmarked to ensure the MTA moves forward with Bus Rapid Transit into the Lower East Side and as many parts of the City where transportation access and mobility can be a key catalyst of economic activity.

7) The need for incentives for public / private partnerships with BIDs through the funding of projects where a BID can be a beneficiary on behalf of small businesses, such by letting a BID operate State or City property as a parking lot or satellite office or recreational space. BIDs have played increasingly important role in economic development. They have grown to over 60 in New York City. By helping BID offices carrying out their mission and foster a favorable commercial climate, you assist many businesses at once in an area.

8) The need for a broad marketing campaign involving the City and State tourist offices to promote the uniqueness of New York independent small businesses. If the presence of unique, cutting-edge and interpersonal small businesses is what partly defines not just the backbone, but the soul of New York City, then we should tout it not just to visitors but to our own residents, the way we tout more specific themes like fashion.

The future of the Lower East Side requires reclaiming it as a daytime destination whose commercial spaces would be viable for retail. It appears some landlords look at bars and restaurants as their most viable option for whatever reasons. While this has created an exciting nighttime destination, there is concern that we could reach a saturation point and leave the LES without retail in the long-run. The committee needs to quantify the social costs of the loss of retail diversity to make informed decisions about funding programs that help businesses. While an initiative may sound expensive, the cost of not doing it can be even more costly. These initiatives, in sum, need

- a) to reduce the cost of doing business for both merchants and property owners
- b) drive foot traffic to small, independent business through awareness and accessibility for resident, tourists and employees of non-retail businesses.

I welcome having the Lower East Side serve as a crucible for ideas that will bring success to this legendary neighborhood as well as to other parts of the City and State. Thank you.