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Gale A. Brewer, Borough President

Testimony of Manhattan Borough President Gale A. Brewer New York City Council Committee on Land Use Oversight: Privately Owned Public Spaces and Int. 1219-2016 June 29, 2016

My name is Gale Brewer and I am the Manhattan Borough President. Thank you for the opportunity to speak today in favor of Int. No. 1219, to require tracking of the compliance status of all POPS, or Privately Owned Public Spaces.

POPS are the product of one of the city's oldest incentive zoning models. We should not take their availability and their implementation lightly, because the exchange they represent – development rights or additional floor area in exchange for a public good – is the same basic exchange we see in any of our many other incentive zoning models, whether they are intended to benefit landmarks, the transit network, or the creation of affordable housing. Anytime the delivery of promised public benefits is undermined in one of these programs, all these programs are undermined.

In Manhattan, which is home to over 300 such spaces, developers have continually reaped more benefits through POPS programs since 1961, yet many of the original spaces the public received in return have produced fewer actual benefits to the public. Prior reiterations of the POPS regulations held no requirements for a variety of seating, or banal details like sufficiently deep planter beds for trees to grow and flourish. The earliest provisions did not require signs alerting the public to these spaces, though even then it was envisioned that these spaces remain open at all hours, seven days a week. There were no requirements for universal accessibility – earlier options under the plaza regulations permitted sunken or elevated plazas that New Yorkers with disabilities could find it hard or impossible to access.

The patchwork of rules from different programs and eras can make it difficult for the public to ascertain what requirements apply. Given the myriad rules and POPS types, it is important to clarify for the public which spaces are in compliance with the rules that applied at the time of their construction, and which spaces are not. This bill is a good idea.

A common thread throughout the POPS programs over the years was accessibility for the public at all times. So, while the POPS constructed under the earlier provisions may not meet today's exacting standards or match what one may think of as a successful urban space, they must remain open to the public. However, when information is lacking and required signage not posted, many of our residents do not know about these spaces. Even when they do, it is unclear what recourse they may have to bring an inaccessible or misused POPS back into compliance.

Last week my office launched a borough-wide POPS survey to update and build upon the great work Community Boards 1, 5, 6, and 8 have done previously in their neighborhoods.

Attached to my testimony is a status update on a sample of Upper West Side POPS for the Department of City Planning to act on.

Of the 18 Upper West Side POPS in our initial sample area, six have no signs posted to indicate they are open to the public. One POPS had a sign posted that limited the site's accessible hours, a clear violation. Another was dominated by the eyesore of a dead tree, and yet another designed to provide a shady respite was locked and literally inaccessible. To be sure, the patchwork of rules can make it difficult in the field to ascertain what requirements apply, but more worrisome is what happens once it is found that even the most obvious, basic, universal requirements are not being met. That's why tracking compliance is a start, but it is not enough.

To further serve the public, the database envisioned by the legislation under discussion today should clearly denote the access hours for each plaza. In addition to requiring the tracking of compliance status, when compliance reports are required they should be made available electronically as well. However, compliance reports are only required for those plazas that have undergone design changes in the last decade. So this provision of the bill, even if amended, would only capture about two dozen POPS in the Borough of Manhattan. And since so many of the Manhattan POPS have not undertaken design changes, the Department of City Planning and Department of Buildings should work toward digitizing the plans for existing plazas that fall outside of the current compliance reporting requirement.

It's important to note that even when POPS are accessible and comply with the relevant rules, they can wind up underutilized and fail to deliver the public benefits that, in theory, were supposed to justify the additional development rights they conferred. In my previous role as Councilmember for the Upper West Side, I took particular interest in remedying these situations. One example is the David Rubenstein Atrium, formerly known as the Harmony Atrium, located at West 62nd Street and Broadway. This space was underutilized at one point during my tenure in the Council and had become a gathering place for homeless individuals. I suggested that Lincoln Center take over the space and refurbish it, which they did, to their credit. They worked with the co-op that benefited from the additional floor area conferred by the creation of the POPS, and Lincoln Center, with capital funding support from my office, allocated \$22 million to the POPS at that location. It is now a heavily-utilized public space, with free WiFi, regular cultural programming and events free of charge, and an affordable café. This example underscores the need to review each POPS carefully and, when they are underutilized, work diligently to remedy the situation.

Thank you to Chair Greenfield for holding this hearing and introducing this bill with Council Member Kallos. My office is committing to an annual survey of all Manhattan POPS and expects expedient responses to any complaints or violations raised by our office or that of the Community Boards to the Departments of City Planning and Buildings. We continue to have broader policy concerns about how to address spaces that are not well designed or well utilized, but Int. 1219 represents an important first step to ensuring public access and monitoring of these public assets.

MBPO POPS Survey Sample

Upper West Side, Manhattan – Week of June 20, 2016

POPS Address	Signage	Amenities	Compliance Status*
200 West 79th Street	None posted	None required	Appears to comply
75 West End Avenue	Yes	Yes	Appears to comply
201 West 70th Street	Yes	None required	Appears to comply
2025 Broadway	None posted	None required	Appears to comply
145 West 67th Street	Yes	Yes	Appears to comply
1991 Broadway	Yes	Yes	No - dead tree in planter bed
130 West 67th Street	Yes	None required	Appears to comply
200 West 60th Street	None posted	Yes	No - gate locked during public access hours
61 West 62nd Street	Yes	Yes	Appears to comply
44 West 62nd Street	None posted	None required	Appears to comply
30 West 61st Street	Yes	Yes	Appears to comply
45 West 60th Street	Yes	Yes	Appears to comply
80 Central Park West	None posted	None required	Appears to comply
2 Lincoln Square	Yes	Yes	Appears to comply
10 West 66th Street	Yes	None required	No - posted sign states private property not POPS
1 Lincoln Plaza	None posted	None required	Unclear - DCP to confirm whether portion of plaza used as building driveway is permitted.
1886 Broadway	Yes	Yes	Appears to comply
One Central Park West	Yes	Yes	No - sign posted for limited hours from 10 am - 6pm when POPS is required to be open 24 hours.

*Pending analysis of permit history