



OFFICE OF THE PRESIDENT
BOROUGH OF MANHATTAN
THE CITY OF NEW YORK

1 Centre Street, 19th floor, New York, NY 10007
(212) 669-8300 p (212) 669-4306 f
431 West 125th Street, New York, NY 10027
(212) 531-1609 p (212) 531-4615 f
www.manhattanbp.nyc.gov

Gale A. Brewer, Borough President

**Testimony of Gale A. Brewer, Manhattan Borough President
Regarding the Small Business Jobs Survival Act
New York City Council Committee on Small Business
October 22, 2018**

My name is Gale Brewer, and I am the Manhattan Borough President. I want to thank Chairman Gjonaj for holding this hearing on the Small Business Jobs Survival Act (SBJSA). As many of you know, I worked on this bill during my time as a city council staff member and have continued to fight for small businesses in New York City throughout my career. I am the only elected official that has passed an amendment to the zoning regulations to restrict storefront size. We also published a report with comprehensive recommendations on saving storefronters and walked the entire length of Broadway in Manhattan to identify the massive number of vacancies.

The crisis facing small businesses which inspired the SBJSJA has only grown worse. National chains steadily spread throughout the city, storefronts sit vacant for years, and online shopping is reducing foot traffic to our local shops.

While I agree fully with the goals of the SBJSJA, I have concerns about how effective the current version of the bill will actually be. As it is currently written, the SBJSJA applies to all commercial leases including thousands of white shoe law firms, hedge funds, and other financial institutions which do not need support. The scope of the legislation would first need to be significantly narrowed. Whether it should be narrowed to small businesses, small retail businesses, storefronters, or legacy businesses (long term neighborhood businesses) needs to be studied as does how those terms might be strictly defined in order to withstand a legal challenge.

The Act must not be so cumbersome to implement for both landlords and tenants that unintended consequences arise. For landlords: will the regulatory burdens of the Act encourage them to sign up national chains that will always be able to pay rent increases, resulting in fewer opportunities for storefronters? For existing small commercial tenants who operate without leases or month-to-month, the provisions of the Act must not increase the likelihood that they will be forced out. In addition, I think the arbitration and right of first refusal provisions in the Act could be streamlined. For example, mandatory mediation with a required negotiation period might actually enable significant numbers of financially sound small businesses to stay in place. The Act could also require periodic review to determine if the provisions are working, and how to improve them if necessary.

A carefully tailored bill would likely raise fewer legal issues and reduce costly and lengthy litigation that will only delay urgently needed protections.

Next, I would like to talk about approaches which can be implemented quickly and effectively. I support the creation of a citywide registry law which would require those holding commercial spaces vacant to register them. Last summer, my staff and volunteers walked all of Broadway to count the many vacant commercial storefronts; while this survey provided a snapshot of the vacancy problem, we need to systematically track storefront vacancies. For example, the landlord would report when a new lease is signed for the vacant space or when a new business begins using the space. This information will provide a more complete understanding of the extent of the problem and track the impact of future changes in policy. As the initiator of the city's municipal Open Data Portal, I know a thing or two about the importance of timely, accurate data. A comprehensive, accurate data set about commercial vacancies should be freely available for analysis by academics, civic hackers, advocates, government agencies, and small businesses themselves. Together with Speaker Corey Johnson and Council Member Helen Rosenthal, I hope to introduce this legislation in the near future.

There are other proven methods for helping small businesses which I believe need greater consideration. In 2012, as a council member, I passed zoning protection for small storefront businesses in my Upper West Side district as the expansion of national chains—particularly banks and chain drugstores—came to dominate many blocks along Broadway, Amsterdam Avenue, and Columbus Avenue. One of these protections, developed in collaboration with the CPC, created the Upper West Side Special Enhanced Commercial District. It limited the size of storefronts from West 72 Street to 110 Streets. Banks can be only 25 feet long on the avenues, and new storefronts up to 40 feet long on Amsterdam and Columbus Avenues. It also required new developments to include retail space on the ground floor. In December of 2017, the City Council released a report titled 'Planning for Retail Diversity: Supporting NYC's Neighborhood Businesses' which found these zoning reforms to be very effective. Vacancies on the protected blocks were lower than on streets without protections. We should look to expand these districts to neighborhoods threatened by the spread of banks, large-scale chain retailers, and the loss of small, local businesses.

Additionally, long-established neighborhoods like the East Village have been seeing their character eroded by the spread of national chains and formula retail operators. Part of what makes New York unique, exciting, and competitive is the presence of local specialty shops and independent retailers, not national chains that can be found in every suburb. The Department of City Planning should write zoning text to require a special permit for formula retailers in neighborhoods where this is a major concern.

Existing programs with proven benefits to the community can be expanded and adapted to help solve issues facing small businesses. FRESH, which operates in underserved neighborhoods to provide relief to grocery stores, is one such program. I also believe that a commercial rent tax (CRT) exemption for non-national chain supermarkets is critical to the health of these crucial businesses. I urge the Council to adopt my legislation, Intro 799A, on this matter. This CRT exists for businesses from Murray Street to 96 Street in Manhattan and although it was reduced recently, it is still a major burden and should be discontinued for local supermarkets and other businesses. Expanding FRESH zoning and tax benefits to include vital neighborhood commercial services such as laundromats, dry cleaners, book stores, shoe repair shops, neighborhood drug

stores, and other neighborhood-specific commercial enterprises will help preserve the fabric of our local small business communities.

The City must also take full advantage of its own assets to assist small businesses. There are many kiosks and other city owned street sites that could help support small businesses. The City should not allow kiosks to sit vacant for years and should explore alternative approaches to keep these kiosks occupied in order to provide commercial services to underserved areas, to provide opportunities to small entrepreneurs, and to raise money for City services. The large kiosks by 1 Centre Street, which the Department of Transportation previously rented to a variety of small food businesses, have been vacant for years. This is a disgrace.

Additionally, we must look to support public markets and increase the number of pop-up markets. The administration should look to increase funding for locally managed public markets. These provide a low cost method for entrepreneurs to test their business skill at a small scale and improve survival rates. At present, many vacant or underutilized sites could easily support a pop-up market. If successful, pop-ups could gain greater access to the capital necessary to establish a brick and mortar presence in now vacant storefronts.

Our goal is to protect the small businesses which contribute to the character and identity of local neighborhoods, especially the storefronters which have been around for a long time. To do so, we should identify programs that other cities are instituting and study whether they are applicable to New York City. The Council should look at establishing legacy incentives, as San Francisco has done, to help reduce the tax burden on these key members of the community. London has explored higher taxes on e-commerce to incentivize buying locally and supporting small businesses. Albany could play a role as well by taxing vacant stores and/or giving tax breaks to storefronters. Lastly, there is merit to negotiating for permanent affordable retail space in new developments much as we already do with new affordable housing development.

The challenges facing small businesses today are complex and varied. They have no single cause or solution. But we must immediately reduce their burden with reforms and incentives that are carefully tailored, and help ensure their success through close monitoring and continued adjustments as well as new initiatives when required. We need to pass legislation in the Council, and companion measures in Albany as necessary.