

REBNY Testimony | January 19, 2023

## The Real Estate Board of New York to The New York State Senate Standing Committees on Finance, Energy and Telecommunications, and Environmental Conservation on the CLCPA Final Scoping Plan

The Real Estate Board of New York (REBNY) is the City's leading real estate trade association representing commercial, residential, and institutional property owners, builders, managers, investors, brokers, salespeople, and other organizations and individuals active in New York City real estate. REBNY thanks the New York State Senate Standing Committees on Finance, Energy and Telecommunications, and Environmental Conservation for the opportunity to testify on the Final Scoping Plan to achieve the goals of the Climate Leadership and Community Protection Act (CLCPA).

In 2019, New York State passed the CLCPA, nation-leading legislation that sets ambitious and necessary mandates to combat climate change, which includes an 85% reduction of greenhouse gas (GHG) emissions by 2050 and 100% zero-emission electricity by 2040. Achieving these bold targets will require constant coordination between the public and private sectors as well as a deployment of policies, programs, and infrastructure capable of meeting the targets. The Final Scoping Plan (the plan), released at the end of 2022, outlines those strategies that will lead New York to a carbon neutral future.

Real estate industry leaders are committed to helping the State achieve these goals. As just one example of this, several REBNY members are actively participating in NYSERDA's Empire Building Challenge, created to encourage the design and construction of high-performing, energy-efficient buildings in New York, as well as to pilot new and advanced ways to dramatically reduce carbon emissions from existing buildings. Buildings participating in the challenge are eligible for financial incentives and recognition for their efforts to reduce energy consumption and improve energy performance. As of October 2022, the program has partnerships with 16 real estate organizations who control over 228 million square feet of New York real estate. NYSERDA is investing \$50 million and the private sector is investing \$250 million to demonstrate that scalable energy efficient buildings in New York City are possible. The industry will continue to actively participate in future rounds of this program.

To achieve its goals, the Scoping Plan includes both building-sector specific strategies as well as economy wide programs that will impact buildings. For buildings specifically, the plan calls for building electrification goals for 2030 and 2050 beginning with new construction, a phased movement to zero-emissions equipment for small and large buildings, development of a building

performance standard, and benchmarking requirements. More broadly, economy wide proposals such as the cap-and-invest program and electric sector reforms will have a significant impact on building owners as they are phased in.

In general, REBNY appreciates that the final scoping plan appropriately considers different standards for different segments of the market and building typologies. The suggested decarbonization strategies demonstrate an understanding that to achieve carbon neutrality, real estate cannot be subject to a one-size fits all model and that different buildings will necessarily work toward their mandates at different timelines. At the same time, it is critical that policymakers prioritize creating a set of achievable, predictable, and efficient standards for the building sector that takes into account existing City mandates. The failure to establish a single, consistent set of regulations at the State and City levels will add unnecessary compliance costs and make it less likely that the State's goals are achieved.

Specific comments about the plan can be found below.

### **Phasing Out Fossil Fuels**

REBNY welcomes the plan's phased approach to transitioning away from on-site fossil fuel combustion. Establishing different time scales and approaches for a diverse and massive building stock is smart and necessary policymaking. Starting with new buildings, where there are less operational constraints, makes sense. And with existing buildings, starting with smaller residential buildings, where heat pump technology and infrastructure is best suited, also makes sense.

With existing buildings, especially residential buildings, it is important to keep in mind that the work required to eliminate fossil fuel use will be expensive, time consuming, and disruptive to residents. Some work will likely require owners to have access to occupied units as completing these projects requires significant changes must be made to building systems. As such, should these policies move forward, it will be critical to recognize the many implementation challenges that will occur in different segments of the building stock and design strategies to ensure that buildings continue to have heat and hot water if existing equipment breaks and cannot be repaired or replaced.

### **Building Performance Standard and LL 97**

The plan also calls for a new energy efficiency performance standard for large buildings. In New York City, buildings 25,000 square feet and larger are currently subject to Local Law 97, which imposes strict carbon caps beginning in 2024 that become more stringent in 2030 and beyond. While the plan states that the energy efficiency performance standard should be consistent with Local Law 97, it is important to note that an energy efficiency performance standard and carbon emissions limit are generally quite different. Specifically, an energy efficiency standard should result in a requirement for building owners to consume less energy, while a carbon emissions limit places much less emphasis on the amount of energy consumed.

REBNY has long believed that building performance standards should focus on energy efficiency rather than carbon emissions. This is the case because complying with energy efficiency standards requires building owners to take actions like reducing energy consumption, retrofitting buildings, or replacing equipment that are firmly under their control. In contrast, carbon-based standards are

heavily influenced by the extent to which electricity and district systems are generated from fossil fuels. For this reason, we look forward to working with policymakers to better understand the details of the proposed energy efficiency performance standard.

Policymakers must keep several factors in mind should an energy efficiency performance standard move forward. First, New York State must ensure consistency between the State framework and New York City, otherwise building owners in New York City may be left with conflicting policies that may well undercut our shared climate goals. A lack of clarity and consistency will create confusion and in some cases inaction.

Second, any building performance standard needs to recognize the diversity of the building stock and its varied energy demands. This means that standards should account for the needs of different occupancies and establish the appropriately tailored requirements for each building, normalizing factors including density, hours of operations, and the specific type of use of the building.

In addition, it is important the State consider different municipalities' varying abilities to implement and enforce a statewide energy standard. Local authorities across the state have divergent government structures as well as different resources available to create an enforcement regime. Whatever performance standard and related reporting requirements the State decides to pursue must be crafted in a way that allows each municipality to adopt and implement the same program.

## **Costs and Funding**

The improvements necessary to achieve decarbonization of the building stock will be expensive and possibly out of reach for many owners. By some estimates, bringing buildings into compliance with these standards will cost as much as \$20 billion in New York City alone. According to estimates from the New York State Energy Research and Development Authority (NYSERDA), the upfront cost to electrify a residential building can exceed \$20,000 per dwelling unit in addition to increasing the annual operating costs of the building. For commercial properties, NYSERDA estimates that costs exceed \$10 per sq/ft while larger commercial building owners have reported that upfront electrification costs can be many multiples higher. Even if the amortized expense of property improvements can be cost-effective over their lifecycles inclusive of energy cost savings, the upfront capital required can still be a significant barrier to many building owners.

Therefore, policymakers must find ways to provide financial support and technical assistance for buildings to come into compliance. This means that the State will need to develop a suite of programs to support capital improvements to existing buildings. The work required to decarbonize these buildings is substantial and will impose significant costs on residents whether they are renters, owners, or shareholders. A wide range of programs – beyond what is offered by existing programs – will be needed to help these buildings make such investments.

The scale of capital needed is significant and will require New York to leverage all its available sources. The plan identifies traditional supply through State tax revenue, ratepayer funds, and federal grants as targeted options. However, given the unprecedented nature of the challenge, New York will have to develop creative financing mechanisms, particularly ones that do not rely on rent or common charge increases. REBNY encourages the State to explore all available options, including

tax incentives and abatements, encouraging private investment, and directing local resources toward interventions that move buildings toward decarbonization.

One way to do so is to create a tax abatement and incentive program for investments in building greenhouse gas emissions reductions. Such a bill has been introduced by State Senator Parker. REBNY strongly supports this proposal as it will help to encourage greater private investment in decarbonizing the building sector.

Beyond looking to private capital, the State should encourage local authorities to designate more funds to achieve the goals set forth in the CLCPA. For example, in New York City penalties resulting from LL97 are currently scheduled to be paid to the City's general fund with no obligation for the funds to be used to support building decarbonization. This is a missed opportunity to drive further investment into buildings and should be corrected. Several proposals have been put forward to do so, including earmarking those penalty funds for specific purposes or allowing owners to make alternative compliance payments that would be used to improve the performance of buildings with below market rate units. These options should be carefully explored to determine how best to ensure that the law results in emission reductions not penalties.

As a final matter, REBNY would encourage the State to act as aggressively as possible to seek new Federal funding. It is critical that the state receive as much Federal money as possible, and to develop clear and efficient mechanisms to get that money to where it is most needed.

Thank you for the opportunity to comment on this important topic.