

**Testimony of Acting Buildings Commissioner Robert LiMandri
Before the Committee on Education and Labor
U.S. House of Representatives
June 24, 2008**

Good morning Chairman Miller, Ranking Member McKeon, Congresswoman Clarke and members of the Education and Labor Committee. Thank you for this opportunity to discuss construction safety regulation and enforcement.

Like yourselves and like many Americans, I am deeply troubled by recent construction accidents in New York City and across the nation. While we all know construction is inherently dangerous, there is no excuse for failing to minimize that risk. The Department of Buildings recognizes this, and we are working hard to advance construction safety in New York City.

Since Mayor Bloomberg took office in 2002, the Department has set high expectations for integrity and accountability, raised construction safety standards for the industry and improved our own enforcement of existing regulations.

Advancing construction safety demands attention from all levels of government and requires a steadfast commitment from industry. The New York City Buildings Department has 975,000 buildings under its jurisdiction and issues approximately 170,000 permits each year. We have undertaken an aggressive effort to promote worker safety, but it is simply impossible for our Inspectors to be at every site at all times. Construction safety requires dedication from *all* responsible parties – government, contractors, architects, engineers, developers, owners and workers. Everyone has a responsibility.

In order to meet the challenge of enhancing construction safety, the Department of Buildings has undertaken a seven-pronged approach – (1) we nearly doubled the size of the agency and focused more resources to construction safety; (2) we sought new and improved regulatory oversight and enforcement tools; (3) we created a new enforcement program to stop problems before they become serious; (4) we supported aggressive criminal prosecution of bad actors and repeat offenders; (5) we are currently conducting a top to bottom review of high risk construction areas to further enhance safety; (6) we are holding all parties accountable; and (7) we are focusing on education for construction workers and requiring site safety managers in order to have a constant safety presence.

In terms of resources, we are now better able to target high-risk areas of construction, thanks to increased staffing under Mayor Bloomberg and City Council. In our new Special Enforcement Plan alone, we have 144 dedicated staffers working to raise construction safety standards and to aggressively enforce them.

Expanding our regulatory and enforcement tools has also been a crucial component to advancing construction safety. On July 1st the New NYC Construction Codes go into effect. They put construction safety front and center and replace the City's outdated 1968 Building Code. We are also launching our Construction Analysis and Oversight Plan, an unprecedented top-to-bottom examination of crane, concrete and excavation operations to improve industry practices and government oversight to minimize risk. On the enforcement front,

we are actively issuing Stop Work Orders – a particularly effective tool we have in our arsenal that allows us to immediately halt unsafe construction. Finally, earlier this month, Mayor Bloomberg and members of City Council announced an aggressive legislative package that would enable the Department to track various types of contractors by their safety records. Overall, it has been an enormous – but necessary – ongoing effort. However, improving construction site safety also requires the federal government to take an active and aggressive role.

I am proud of our partnership with OSHA, as much of our progress would not have been possible without their dedicated staff. Yet it is clear that if OSHA had more resources and staff, our achievements would be far greater. I urge Congress to follow New York City's lead in allocating increased funding to construction safety and provide additional resources to OSHA so they can deploy the construction safety inspectors they desperately need.

New York City has nearly 7,500 active, new building construction sites, plus nearly 8,000 major alterations and demolition sites under the Buildings Department's jurisdiction. OSHA has approximately 15 compliance officers for Manhattan, Brooklyn and Queens to enforce construction worker safety – including bridges, tunnels and other areas not under our Department's purview. Additionally, OSHA officers must also respond to incidents in parts of northern New Jersey and upstate New York. They simply cannot cover enough ground to show a meaningful enforcement presence.

While OSHA's inspectors do their best to respond to emergencies and complaints, they lack the critical enforcement tool I mentioned earlier - the Stop

Work Order. Without authority to halt unsafe work when they find it, OSHA inspectors can only issue fines. While fines can be a disincentive, they do not carry the same immediacy as a Stop Work Order.

Recently, national attention has focused on crane safety after two crane collapses in New York City, as well as other crane problems across the country. This is a call to action for all of us. In New York, we have implemented new protocols and procedures, conducted inspection sweeps of cranes and are stepping up enforcement. But, we cannot do this alone.

The tower cranes that build our skyscrapers are like airplanes. They cross state lines, demand regular maintenance, need skilled operators, have important interchangeable parts – and bring catastrophic results when they fail. In New York City, we have been working closely over the past three weeks with industry, developers and labor to improve crane safety and to implement a set of safety proposals I announced yesterday. Of the new safety requirements we are pursuing, four necessitate strong Federal and OSHA oversight and involvement:

First, we support the proposed modernization to OSHA's crane rules. Countless American cities and states depend upon these antiquated regulations because they have no localized crane oversight of their own. Because tower cranes are transitory, it's imperative a better federal standard is established. The nation cannot wait another moment until the outdated OSHA tower crane regulations are revised to meet the demands of modern construction. Even though we are past the June 1 deadline in which no new Federal standards can

be enacted, the Administration should make a special exception and pass these important crane standards now.

Second, the invaluable “black box” technology must be required in every tower crane across the country. This is the same technology used in airplane accident investigations.

Third, cranes have many interchangeable, structural components. These crucial parts must be clearly labeled to track them over their lifetimes.

Fourth, we are strengthening and expanding tracking and testing requirements for tower crane components. We are acting now, but this should fall under Federal requirements because these cranes follow construction sites across state lines.

We can do a lot in New York City – but the entire nation deserves better crane regulations. Only the federal government can guarantee that.

The time is now to make meaningful and lasting changes to minimize construction risk in New York City and across the country. Together, we can push all the responsible parties on the job site, from the workers to the managers and equipment users and most importantly, the contractors who supervise them, to make safety their top priority. It’s going to take all of us to meet this challenge. Facilitating development does not require turning a blind eye to safety, and in New York City we won’t.

Thank you.