

## **TIM TOMPKINS TESTIMONY BEFORE CITY COUNCIL ON INTRO 1109**

Good Afternoon. I am Tim Tompkins, President of the Times Square Alliance. I would like to thank Chairman Rodriguez, and Councilmembers Garodnick and Johnson for introducing the bill under consideration today, Intro 1109-A. I welcome the opportunity to speak today in support of this bill, which authorizes the Department of Transportation to issue regulations related to pedestrian plazas. While this will be beneficial for plazas throughout New York City, I would like to testify today specifically in relation to Times Square.

Times Square is New York's most iconic space, familiar to people throughout the world via movies and television. It is a prime driver of New York's image: it is the #1 most Instagrammed place in the world, with 17,000 Instagram posts a day, 67% of which are taken on the plazas. But it is also a central business district, a transportation hub, a center of entertainment and culture, and a huge economic driver with enormous value to the City as a whole. Though just 0.1% of the City's land, Times Square accounts for approximately \$1 of every \$9 in economic activity and, directly and indirectly, one-tenth of all jobs in the City. Every day, 170,000 New Yorkers commute to work in Times Square. Times Square is the heart of the City's tourism economy, with one-fifth of the City's hotel rooms. Times Square contributes \$5 billion per year in City and State taxes. Times Square is a key City asset that we all benefit from and that needs proactive management to maintain its value.

Prior to the creation of the pedestrian plazas, Times Square faced a crisis of overcrowding. In 2004, we counted 6,000 pedestrians spilling into the busy Broadway roadway during a single weekday afternoon. Times Square was clean, friendly and safe, except for people walking in the street. The Times Square Alliance has spent the last decade collecting data and studying options for how we might create a better pedestrian space that works optimally for all of our diverse users – visitors, employees, theatergoers and those passing through.

The pedestrian plazas introduced in 2009 have been phenomenally successful at both creating a safe space for pedestrians and a defined place where they can enjoy the experience of being in Times Square. Immediately following the closure of Broadway, surveys of Alliance employees and businesses reported significant increases in satisfaction with Times Square, jumping from 43% in 2007 to 74% in 2009, as the congestion they were dealing with every day eased considerably and walking to work became easier. The plazas transformed Times Square from a primarily vehicular thoroughfare to a place where tourists, employees and residents can sit at a table and relax, enjoy public programming, and take in the spectacle of the lights and signs. The Broadway plazas have created in essence, an urban park.

Further, the plazas have proven to be a boon to the spectacular sign industry as the plazas created space for visitors to stop and look. Sign companies have also benefitted from the additional dwell time in the plaza, and after initial skepticism, the Times Square Advertising Coalition vigorously supports the plazas. A 2013 intercept study of plaza visitors found that 60% of visitors reported spending at least five minutes looking at the signs, with 30% reporting spending greater than 10 minutes. Fifty-percent of respondents reported coming to Times Square to look around. The plazas have made this kind of experience possible by providing the "pause" space that did not exist previously.

However, as a result of the plazas' success in Times Square, over the last several years, and increasingly in the last 18 months, there has been a spike in unregulated commercial activity, including by those offering entertainment in exchange for a fee or tip. Further, predatory and aggressive behavior, and random violence involving various solicitors for tips in Times Square's pedestrian plazas has become endemic.

The press coverage that preceded the Mayor convening the Task Force on Times Square focused on *desnudas*, but that mischaracterizes the actual problem, which has little to do with the *desnudas per se*. The commercial activity and solicitation will be familiar to anyone who has walked through Times Square recently: hawkers of tickets (to shows such as Broadway/Off Broadway, comedy, bus tours, other entertainment events); costumed characters, *desnudas* and living statues; CD sellers and other hawkers of expressive material.

In short, the problem is a dramatic rise in street-based commercial activity in a finite space that was already balancing multiple competing uses, including both active and passive uses. Some basic statistics illustrate the problem. On an average Saturday night in Times Square we have counted in our five plazas alone 181 Ticket sellers, 61 CD sellers and 139 costume characters.

As has been reported extensively in the press, costumed characters and other commercial solicitors are often aggressive to tourists and pedestrians, resulting in an environment that residents, employees and visitors alike find less pleasant and less safe. A survey of area employees and New York residents on general satisfaction with Times Square revealed that the percentage of people reporting satisfaction with Times Square as a place to live or work had fallen by almost half since a peak in 2009 after the plazas were installed, from 74% satisfied with their experience in 2009 down to 39% in 2015. Among New Yorkers in general, that number fell from 89% in 2009 to 46% in 2015. Over 60% of all people surveyed cited characters and solicitors as a contributing factor towards their dissatisfaction. Further, 61% of Times Square employees in an October 2015 survey reported having a negative interaction with a costumed character or solicitor. Most disturbingly, these interactions are resulting in a sense that Times Square is less safe. Nearly 51% of those employees who work (and thus are regularly) in Times Square who reported having these negative interactions said that those incidents made them feel less safe in Times Square.

The Alliance has received extensive complaints about these experiences and has closely tracked press coverage describing widespread and increasing dissatisfaction with Times Square that is tied directly to these new quality of life issues. A recent Alliance call for testimonials on these issues yielded 211 responses in one week. In addition, since 2013, the Alliance has received at least 100 unsolicited letters and emails and has documented hundreds of social media posts that detail negative personal experiences with these issues. Finally, thirteen New Yorkers have written relevant letters to the editors of local newspapers since the announcement of the Mayor's Times Square Task Force in August 2015 – the volume indicates there have likely been more submitted that went unpublished. Hundreds of unsolicited online and social media testimonials being included with this statement document the scope and frequency of this problem.

And we have reason to be concerned that the value of Times Square is suffering as the public space has degraded. Our commercial space has lost value and is taking longer to lease. Our average asking rate for space has fallen from \$68 per square feet, where it has been for the last

two years, to \$61 per square foot. Last year, the ratio of available space to leased space was the lowest it has been since 2012, and only two spaces greater than 100,000 square feet were successfully leased. During our peak December period, hotel occupancy and asking rate trailed the previous year. This is very troubling, as the volume of available rooms continues to rise. It is of serious consequence for the City and its tax base that Times Square might have empty buildings and empty hotel rooms.

It is difficult for police to address the problem simply by enforcing existing laws. Much of the behavior does not cross the line to being illegal, but nevertheless significantly degrades the experience of being in Times Square. And even where behavior does cross over to illegal aggressive solicitation, these laws are often difficult to enforce as a practical matter, particularly when the perpetrators of crimes are wearing masks and costumes identical to half a dozen other people in the vicinity (we have counted 12 Elmos on one Saturday night). It will be easier to enforce existing laws if those offering goods or entertainment are in designated areas rather than disbursed throughout the Times Square plazas and adjacent areas.

When the Times Square plazas were created, we saw peak pedestrian counts increase from 350,000 persons per day up to as high as 480,000 persons per day. Heavy construction contributed to further congestion, but blocked plazas reduced overall pedestrian numbers. When construction ceased for the holiday moratorium this past December, peak counts once again reached in excess of 450,000, leading us to believe that once construction is complete, Times Square will see record numbers of visitors. The plazas will need to accommodate people passing through, people stopping to look around and other public space activities such as food service, sitting at tables and enjoying music and entertainment.

Pedestrian congestion has long been a central municipal concern and is all the more so in today's new reality where the threat of terrorism, particularly in high profile locations, requires realistic means of egress. With the competing uses overwhelming the limited space available in Times Square, a pedestrian traffic flow zone has become vitally necessary to allow people who merely want to pass through the space to get from point A to point B quickly and safely.

Times Square has always been a crowded place, but the unregulated commercial activity has made the problem worse. Costumed characters and other commercial solicitors take up more space than ordinary pedestrians by stationing themselves (often in groups) right in the middle of sidewalks used primarily as thoroughfares (in order to intercept potential "customers") and often create additional congestion by attracting crowds or stopping to pose for photos in groups.

To address these problems, the Times Square Alliance has worked with law enforcement, community leaders, businesses (including hotels, retail and theater), city agencies and members of this Council to develop a new approach to Times Square. The centerpiece is the designation of a public space called a "pedestrian plaza," where the Department of Transportation would be empowered to implement regulations to help manage the competing demands for use of these unique spaces. In an urban park—as in a traditional park—regulations may be necessary to ensure the ability of New Yorkers and visitors to enjoy the benefits that the space has to offer.

The regulations that we have encouraged the DOT to implement in the Times Square plaza include three key provisions:

- 1) The creation of pedestrian traffic flow zones, which would be essentially treated like streets, but for pedestrians—in other words, a lane solely for walking where people would travel through the Square unimpeded by congestion.
- 2) Restrictions on the locations where commercial solicitation activity could take place, including tickets sellers, street performers, costume characters or anyone else seeking a tip for their services.
- 3) Regulations specifically focused on the issuance of permits for larger scale public performances and other events in pedestrian plazas, including consultation with neighborhood BIDs.

In a 2015 survey, a significant majority of participants expressed support for designating areas where characters and solicitors are permitted. By restricting the location where these activities may take place, a pedestrian—whether tourist, employee or resident—could choose to spend time in Times Square and simply enjoy the space without being accosted by a costumed character or solicitor. And if someone wishes to pose for pictures with a costumed character or view a street performance, they would be able to do so.

We have also been sensitive throughout this process to concerns about impeding First Amendment expression. The Alliance acknowledges that a vibrant culture of street performance and free and open community interaction helps make Times Square the special place that it is. We do not advocate a ban on any First Amendment-protected conduct in Times Square for those without tables or stands. Rather, we are simply proposing that the City create an allocation of different spaces in the Times Square pedestrian plazas for different uses. It is our hope that by better regulating the area to manage the competing uses, Times Square can better function as a space that serves all interests.

In sum, the proposed bill will permit the DOT to issue regulations that will reduce pedestrian congestion, advance safety, create an ambiance that will promote tourism and commercial retail development, foster public performances and other public events, and ensure that this iconic location with limited space can be enjoyed for multiple competing uses, including active and passive recreation.

Two additional points: if the legislation is passed, the Alliance does want to note that it is very important to it and to other plaza partners throughout the city, as well as Manhattan Community Board Five, that the new rules regarding special events be introduced within the next 3-6 months, following appropriate consultation with the affected communities and partners prior to rulemaking. Second, we feel that it is essential that DOT monitor and study in the coming 3-6 months conditions on 42<sup>nd</sup> Street – a vital part of Times Square – to address any potential problems related to commercial activities or hazardous pedestrian conditions at peak times.