

RESOLUTION

WHEREAS, the Waterfront Commission of New York Harbor (“Commission”) is empowered by the Waterfront Commission Act to regulate, *inter alia*, stevedoring companies and certain covered warehouses that wish to operate in the Port of New York district; and

WHEREAS, in 2008, the Commission was comprehensively scrutinized for the first time in the Commission’s existence by the New York State Inspector General, with the cooperation of the New Jersey State Attorney General; and

WHEREAS, as a result of that investigation the Commission’s previous administration was criticized for failing to properly license and audit companies operating within its jurisdiction; and

WHEREAS, the Commission commenced the process of licensing and assessing covered entities, including certain warehouses that had never before been regulated by the Commission or even aware of its existence and the scope of its jurisdiction; and

WHEREAS, in 2012, in the action entitled Continental Terminals, Inc. v. Waterfront Commission of New York Harbor, Civ. Action No. 1:11-CV-04869 (S.D.N.Y), a warehouse operator sought a judicial declaration for purposes of limiting the Commission’s jurisdiction as it pertains to warehouses in the Port area; and

WHEREAS, on September 30, 2013, the United States District Court for the Southern District of New York made various findings and rulings in favor of the Commission, specifically, that (1) as a result of modern shipping practices (i.e., containerization), the statutory definition of a “pier” now includes the areas within a marine terminal, such as the container yard, that are used for the placement and handling of containerized freight; and (2) the Commission’s jurisdiction extends to certain warehouses that fall within 1,000 yards of a pier; and

WHEREAS, that warehouse operator has appealed of those findings, and the matter is currently pending before the United States Court of Appeals for the Second Circuit; and

WHEREAS, in the interim, warehouse operators and representatives of the commercial real estate industry have publically expressed their concerns with, and objections to, the scope of the Commission's jurisdiction and the applicability of the Waterfront Commission Act to their members, and with the perceived undue burden imposed by the Commission on the industry; and

WHEREAS, over the past seven years, the Commission's revitalized administration has dedicated its efforts on economic growth in the Port; a diverse workforce that reflects the makeup of the Port communities; a union of waterfront workers that represents its membership rather than a privileged few; a ready supply of qualified labor immediately available to satisfy employers' needs; the ability of employers to select their own workers and, consistent with the collective bargaining agreement, assign their responsibilities and hold them accountable without the threat of disruption; and the removal of organized crime, corruption and other criminal influence; and

WHEREAS, the Commission recognizes that these enumerated issues are largely attendant to the general stevedoring operations and associated maintenance operations in the Port of New York district, rather than to the warehouse operations in the Port, and

WHEREAS, the Commission recognizes that there is a need for clarification as to the exercise of its jurisdiction, and for the adoption and implementation of fair and equitable regulations insofar as warehouses are concerned, to ensure that their operations and that of the commercial real estate industry are not adversely impacted by the Commission's activities; and

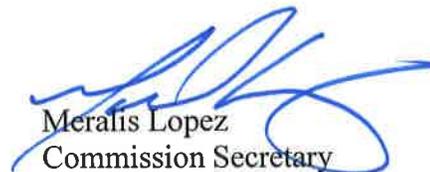
WHEREAS the Commission is empowered by Part I, Article IV of the Waterfront Commission Act to make and enforce such rules and regulations as the Commission may deem necessary to effectuate the purposes of the Waterfront Commission Act or to prevent the circumvention or evasion thereof;

NOW, THEREFORE, be it hereby

RESOLVED, that the Commission staff is hereby directed to review the current regulatory framework for warehouses in the Port of New York district and, no later than ninety (90) days of the date of this Resolution, develop and propose regulatory amendments that will address the concerns of warehouse operators and representatives of the commercial real estate industry regarding the scope of the Commission's jurisdiction and the applicability of the Waterfront Commission Act to their members; and it is further

RESOLVED, that such proposed regulatory amendments will be made available for public review and comment prior to their promulgation.

By the Commission,



Meralis Lopez
Commission Secretary

