

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

In the Matter of the Application of,

STANDARD CARBON TECHNOLOGY,
INC.,

Petitioner,

For Judgment Pursuant to CPLR Article 78

v.

LOUISE YOUNG, IN HER OFFICIAL
CAPACITY AS THE COMMISSIONER OF
THE MAYOR'S OFFICE OF CLIMATE
AND ENVIRONMENTAL JUSTICE; THE
MAYOR'S OFFICE OF CLIMATE AND
ENVIRONMENTAL JUSTICE; NYC
ACCELERATOR; and THE CITY OF NEW
YORK,

Respondents.

Index No. _____

**MEMORANDUM OF LAW IN SUPPORT OF THE PETITIONER'S MOTION FOR A
PRELIMINARY INJUNCTION AND TEMPORARY RESTRAINING ORDER, AND IN
SUPPORT OF ITS VERIFIED ARTICLE 78 PETITION**

Date: October 13, 2026

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PRELIMINARY STATEMENT

This Article 78 proceeding and accompanying emergency application challenge (1) Respondents’ sudden and unjustified removal of Petitioner Standard Carbon Technology, Inc. (“Standard Carbon”) from the NYC Accelerator Service Provider Program (the “Service Provider Program”), and (2) Respondents’ consequent exclusion of Standard Carbon from the 2026 NYC Accelerator Expo (the “Expo”), scheduled for Wednesday, October 14, 2026.

Standard Carbon markets technologies that recycle and convert carbon dioxide and other greenhouse gas emissions (together, “Emissions”) so as to reduce Emissions by commercial and residential buildings and other large-scale energy consumers. Standard Carbon offers those technologies to New York property building owners and managers to assist them in reducing Emissions as mandated by Local Law 97 (“LL97”).

The NYC Accelerator is a program run by Respondent, the Mayor’s Office of Climate & Environmental Justice (“MOCEJ”) that connects building owners and managers with qualified service providers to complete energy efficiency projects. Standard Carbon was accepted as one such provider in June 2025, and participated in the 2025 NYC Accelerator Expo, where providers showcase their services. It had been invited to do so again this year when, on October 6, 2026—eight days before the Expo, which will be held October 14—Standard Carbon was removed from the Service Provider Program. Respondents’ notice stated in substance that, in breach of the Service Provider Program terms, Standard Carbon had “material[ly] misrepresent[ed]” that its technology “facilitates compliance with Local Law 97” when, in fact, the Department of Buildings (“DOB”) “has not approved Standard Carbon’s technology for compliance credit under Local Law 97.” *Lauter Aff.* ¶¶49-50 & Ex. 5.¹

¹ “Lauter Aff.” refers to the accompanying Affirmation of Andrew Lauter. “Ex. ___” refers to the exhibits appended thereto.

As discussed below, that determination is fundamentally flawed in these respects: (1) DOB simply does not “approve” or “disapprove” technologies, so Standard Carbon could not have made such a misrepresentation; and (2) regardless, DOB has not substantively reviewed Standard Carbon’s technological claims, and has never made any determination that contradicts Standard Carbon’s representations about how its own technology functions to reduce Emissions in the manner required by Local Law 97.

Further, Respondents provided Petitioner Standard Carbon no notice and an opportunity to be heard and correct Respondents’ misimpressions, let alone attempt to cure any statement deemed objectionable. Accordingly, the determination should be annulled under any or all of the traditional Article 78 grounds—*i.e.* error of law, abuse of discretion, or arbitrary and capricious.

The Petition should thus be granted. While the Petition is pending, Standard Carbon respectfully seeks (1) a preliminary injunction enjoining and restraining its removal from the Service Provider Program to preserve the *status quo ante* pending determination of the Petition; and (2) an emergency temporary restraining order to permit Standard Carbon’s participation in the Expo.

As shown below, the application for interim relief satisfies the relevant standards, *i.e.*, Standard Carbon is likely to succeed on the merits, it will suffer irreparable harm absent the requested relief, and the balance of equities tips in Standard Carbon’s favor.

FACTUAL BACKGROUND

The relevant facts can be found in the accompanying Verified Petition and Affirmation of Andrew Lauter, dated October 13, 2026. In brief, a summary of the relevant facts is below.

A. Local Law 97

Enacted in 2019, LL97 is an ambitious building-decarbonization law that requires most buildings larger than 25,000 square feet in New York City to significantly reduce their Emissions.

LL97 Article 320 provides the main statutory text governing private buildings, and 1 RCNY §103-14 provides the main corresponding rule promulgated by DOB.

LL97 is a performance-based, Emissions-focused statute. It regulates the Emissions attributable to a building's energy consumption, not the means by which a building achieves compliance. Affected buildings have an "annual emissions limit" that is a product of gross square footage multiplied by a "building emissions intensity limit" that varies with the occupancy classification(s) assigned to the building. Buildings that exceed their applicable emissions limits are subject to substantial financial penalties, calculated at \$268 per metric ton of carbon dioxide equivalent ("tCO₂e") in excess of the limit. New York City, N.Y., Code §§ 28-320.5, 28-320.6.

Critically, LL97 does not prescribe or mandate the adoption of any particular technology, fuel, or compliance pathway. Building owners retain the discretion to select the most appropriate compliance strategy for their buildings, including the use of alternative fuels, energy-efficiency measures, on-site renewable generation, or other lawful means of reducing reported emissions.

Thus, "facilitating compliance" with LL97 has a clear meaning: providing assistance in reducing tCO₂e emissions, which in turn reduces or eliminates the penalty, facilitates compliance.

B. The DOB's Role Under LL97

DOB requires covered building owners to submit annual emissions reports regarding their annual carbon dioxide equivalent emissions. 1 RCNY § 103-14(b). A building's emissions output is calculated as the product of the energy consumed multiplied by an "energy coefficient" (the "Coefficient") that represents the GHG emissions per square foot associated with that energy source. 1 RCNY § 103-14(d).

LL97 assigns a Coefficient to various familiar types of energy sources, such as "[u]tility electricity," "[n]atural gas combusted on the premises of a covered building," and #2 or #4 fuel

oil. However, this is a non-exclusive list. The statute specifically provides that buildings can use other sources as well. N.Y.C. Admin. Code § 28-320.3.1.1(7).

For such other energy sources, the Coefficient must be assigned. To obtain one, building owners submit a CCD1 form directly to DOB to have a custom Coefficient formally reviewed. (Lauter Aff. ¶18.) The CCD1 is a formal petition submitted by a registered design professional—a licensed engineer—that provides a proposed Coefficient based upon supporting documentation. DOB may agree with the proposed Coefficient, or assign a different one.

As the governing regulation explains:

For any fuel type that is combusted or consumed on site, not listed in this subparagraph or section 28-320.3.1.1 of the Administrative Code and not prohibited by applicable rule or law, the owner must propose a carbon coefficient, in tCO₂e per kBtu, that serves the public interest of reducing GHG emissions, to be used for calculating greenhouse gas emissions for such fuel type. Such proposed coefficient and documentation supporting such proposed coefficient shall be provided to the Department, in a form and manner determined by the Department. *Such proposed carbon coefficient is subject to approval by the Department, which may alternatively assign a different coefficient for such fuel type.*

1 RCNY §103-14(d)(3)(i)(c) (emphasis added).

The correct Coefficient to assign to such energy sources is, at bottom, a matter of science. The Coefficient, and therefore the Emissions associated with a particular energy source for purposes of LL97 compliance, does not depend on departmental policy, or whether the department itself favors one type of energy source over another. The DOB publishes a guide that effectively adopts well-recognized standards that are also employed, for example, by federal agencies and the state of California to quantify Emissions.²

² See NYC Buildings, Local Law 97, *REQUIREMENTS FOR REPORTING ANNUAL GREENHOUSE GAS (GHG) EMISSIONS IN COVERED BUILDINGS*, *Biofuels Info Guide* (February 18, 2025), available at: https://www.nyc.gov/assets/buildings/pdf/biofuels_info_guide.pdf#page=14.

Simply put: although DOB approval of a proposed Coefficient is required, the DOB neither “approves” nor “disapproves” any emission-reducing *technology*. The DOB’s remit is to review a proposed Coefficient and the underlying documentation and calculations and either agree or—using commonly accepted empirical techniques—assign a different Coefficient.

C. Standard Carbon’s Technology

Standard Carbon sells technologies that convert carbon dioxide into low-carbon fuels. (Lauter Aff. ¶21.) It offers two means to reduce Emissions.

First, Standard Carbon offers a machine that converts carbon dioxide into an alternative fuel known as e-NG (electric natural gas), by combining it with green hydrogen produced through electrolysis powered by renewable electricity. (*Id.* ¶22.) The resulting e-NG molecule is chemically interchangeable with conventional natural gas and can be combusted in the same equipment, but with a materially lower lifecycle carbon intensity. Use of e-NG in turn substantially lowers Emissions relative to other fossil fuel sources, such as oil, and the recycling facet of the machine provides an even greater reduction over time because it is able to recycle and convert the e-NG’s own Emissions.

Second, and alternatively, Standard Carbon offers delivery of a low-carbon fuel that it produces offsite by converting emissions arising from other sources (such as cow-manure or other forms of biodegradable waste), and delivers through existing pipelines. (*Id.* ¶23.)

Standard Carbon’s technology enables building owners to reduce reported Emissions under LL97 by substituting a lower-carbon fuel for fossil natural gas, without requiring capital-intensive retrofits or changes to existing heating systems. (*Id.* ¶25.) Despite its significantly lower Emissions, the fuel Standard Carbon produces is chemically equivalent to natural gas, and can be used by existing building equipment that otherwise would burn a fossil fuel. (*Id.* ¶25.)

Standard Carbon’s technology has been reviewed and accepted in multiple other jurisdictions, including the European Union under RED II/RFNBO frameworks, the U.S. EPA, the California Air Resources Board (LCFS), and Québec (Énergir). (*Id.* ¶27.) The Life Cycle Assessment (“LCA”) tool used by Standard Carbon to measure the total environmental impact of its e-NG, including associated emissions, has been reviewed and accepted by these regulatory bodies, demonstrating that the underlying methodology is sound and has been validated in multiple domestic and international regulatory contexts. (*Id.*)

Standard Carbon’s technology is being successfully deployed in, for example, Nebraska, Japan, Spain, England and Quebec. (*Id.* ¶29.) In New York City, Standard Carbon’s technology is currently operational at a pilot deployment at the City College of New York (“CCNY”), located at 160 Convent Avenue, where it converts CO2 emitted by a hot water heater into pipeline-quality e-NG; CCNY is also scheduled to receive low-carbon fuel produced off-site. (*Id.*) Standard Carbon invested approximately \$1.5 million in equipment and installation to bring this technology to New York City for this specific use case. (*Id.* ¶31.)

D. Standard Carbon’s Admission to the NYC Accelerator

The NYC Accelerator operates the Service Provider Program through which qualified providers are listed on a public Resource List and Lookup Tool. (Lauter Aff. ¶32.) Service providers serve as an extension of the program’s outreach, helping transition NYC buildings to a low-carbon future, and gain exposure to Participant referrals. (*Id.* ¶32.)

In 2025, Standard Carbon applied for acceptance into the Service Provider Program. Standard Carbon’s application in response to the NYC Accelerator’s RFQ represented:

We’ve pioneered an innovative technology that directly reduce on-site emissions in residential and commercial buildings. By participating in the service provider program, we aim to provide building owners, property managers, and compliance professionals with practical, cost-effective solutions that drive real emissions

reductions, without requiring any invasive and destructive retrofits or other major capital upgrades.

Coming from the world of utility-scale projects, we were humbled when several RDPs here in NYC had reached out inquiring about our solution's effectiveness for LL97 compliance. As it turns out, it's a perfect application and through the Accelerator network, we'll be able to better inform the community that this solution exists and that LL97 has a practical and cost effective path forward for those of us who feel there's nowhere to turn.

Our goal is to be a trusted partner in helping the city reach carbon neutrality while delivering economic and operational value to building owners. This partnership represents an opportunity to scale our impact, reach more stakeholders, and accelerate New York's transition to a more sustainable and equitable environment.

(Lauter Aff. Ex. 2).

As relevant here, NYC Accelerator's Provider Agreement states: "Any material misrepresentation made by a Service Provider or any failure to disclose any material information in connection with its response to the RFQ may result in disqualification from consideration for participation in the Program, or the removal of the Service Provider from the NYC Accelerator materials. Approved verbiage is NYC Accelerator-approved." (Lauter Aff. ¶54).

On June 6, 2025, Standard Carbon was formally accepted via email into the NYC Accelerator Service Provider Program. (Lauter Aff. Ex.3.) Upon acceptance, Standard Carbon was added to the NYC Accelerator Service Provider Resource List and Lookup Tool, granted access to the Program marketing toolkit and program manual, and assigned an account manager. (Lauter Aff. ¶35.).

Prior to acceptance, on or about May 2, 2025, Joseph Staluppi, an NYC Accelerator Account Manager, emailed Standard Carbon following an introductory meeting and stated: "Our goal is to get your technology and approach in front of more buildings facing cost-prohibitive compliance pathways." (Lauter Aff. Ex.4) Standard Carbon has remained in good standing in the Service Provider Program since its acceptance and has fulfilled all reporting and engagement

requirements applicable to Service Providers, including monthly project-status reporting and maintaining active enrollment in a Con Edison, National Grid, or New York State Research and Development Authority (“NYSERDA”) incentive program. (Lauter Aff. ¶37.)

E. The Importance of the NYC Accelerator and the 2026 Expo and the Respondents’ Invitation to Petitioner to Attend

Standard Carbon’s inclusion in the NYC Accelerator Service Provider Program has been central to its business development in New York City. (Lauter Aff. ¶39.) Such inclusion has served as a critical credibility marker for prospective clients evaluating compliance pathways under LL97. (*Id.* ¶39.) The Service Provider Program has provided Standard Carbon with access to building decision-makers, technical resources, and a network of industry professionals that would otherwise be difficult to reach. (*Id.*)

Of great importance is participation in the NYC Accelerator Expo. (Lauter Aff. ¶41.) In 2025, NYC Accelerator held an inaugural NYC Accelerator Expo. (*Id.* ¶42.) Standard Carbon participated in the 2025 NYC Accelerator Expo, which proved to be a critical business-development opportunity. (*Id.*) The Expo generated over 100 leads for Standard Carbon across various project scopes and sizes, several of which converted into active proposals and engagements. (*Id.*)

The 2026 NYC Accelerator Expo is scheduled for Wednesday, October 14, 2026, at the Metropolitan Pavilion in New York City. (*Id.* ¶44.) Standard Carbon was invited to, and was making plans to participate in, the Expo. (Lauter Aff. Ex. 1.) Standard Carbon has been preparing for its anticipated participation in the 2026 Expo. (Lauter Aff. ¶44.) In reliance on its expected participation, Standard Carbon engaged in booth design, developed marketing materials, and organized staffing and travel. (*Id.*)

F. Respondents' October 6, 2026, Removal Decision

On or about October 6, 2026, Respondents abruptly removed Standard Carbon from the NYC Accelerator Service Provider Program and notified Standard Carbon that it would not be permitted to participate in the 2026 NYC Accelerator Expo. This action was taken without prior notice, and without an opportunity for Standard Carbon to be heard. (Lauter Aff. ¶48.)

The NYC Accelerator Service Provider Program terms provide that any material misrepresentation by a Service Provider may result in disqualification and removal from the program. On its listing on the NYC Accelerator website, Standard Carbon stated that its technology facilitates compliance with Local Law 97.

The Department of Buildings has not approved Standard Carbon's technology for compliance credit under Local Law 97. Because Standard Carbon's statement could lead building owners to believe they will receive compliance credit they will not receive, it is a material misrepresentation.

As a result, Standard Carbon has been removed from the Accelerator Service Provider Program and is not eligible to participate in the Expo.

(Lauter Aff. Ex.5)

The notice came as a complete surprise to Standard Carbon, which had been in good standing in the Service Provider Program and had fulfilled all applicable requirements. (Lauter Aff. ¶52.) Standard Carbon was not informed of any alleged violation of the Service Provider Agreement that Standard Carbon signed upon joining the NYC Accelerator Program, any misrepresentation in its marketing materials, or any deficiency in its performance as a Service Provider. (*Id.*) The timing of the removal, just eight days before the scheduled Expo on October 14, 2026, is certain to maximize the harm to Standard Carbon and to prevent it from participating in the most important business-development event of the year. (*Id.* ¶53.)

G. Standard Carbon’s Ongoing Discussions with DOB

Standard Carbon is engaged in ongoing discussions with DOB regarding its technology. But Respondents’ agency determination, and its notice, misconstrue and misrepresent the state of those discussions, particularly against the governing statutory and regulatory background.

A pre-CCD1 relating to use of Standard Carbon’s e-NG as an energy source is under review. (Lauter Aff. ¶67.)³ DOB has not, as of this date, stated that it substantively disagreed with the calculations and the Coefficient presented by Standard Carbon. And DOB has never stated, or suggested, that Standard Carbon’s technology fails to deliver lower emissions than fossil fuels, and therefore that its technology fails to facilitate LL97 compliance in that respect. (*Id.*)

Similarly, while DOB previously denied some applications for “good faith extensions” of compliance deadlines that themselves referenced a proposed decarbonization plan involving Standard Carbon technology, *none* of those denials challenged Standard Carbon’s representations about what its technology accomplishes. (*Id.* ¶68.)

Instead, DOB’s position at its core, was that it would not provide a “preemptive” approval or assignment of a Coefficient, and that a building that is subject to LL97 must install the technology and then report the resultant emission computations before the DOB would undertake any such “technological” review. The DOB has declined to consider the technology’s implementation in buildings that are not subject to LL97 (such as City College) for the purposes of approving or assigning a Coefficient. (*Id.*)

³ See NYC Buildings, *Determination Requests*, available at: <https://www.nyc.gov/site/buildings/industry/determinations.page> and NYC Buildings, *Industry Step-by-Step Guide, How to File a Pre-Determination Request*, available at: <https://www.nyc.gov/assets/buildings/pdf/pre-detreq.pdf>, which describe such pre-determination requests.

To date, DOB has not undertaken the process described by N.Y.C. Admin. Code § 28-320.3.1.1(7) and 1 RCNY §103-14(d)(3)(i)(c), *i.e.*, determining the Coefficient for e-NG (or for fuel delivered from off-site sources by Standard Carbon). (*Id.* ¶69). It follows that there has been no DOB determination whatsoever that Standard Carbon’s technology fails to reduce Emissions as required by LL97 that would render Standard Carbon’s representations false.

Simply put: no actual review or substantive analysis by DOB of Standard Carbon’s technology has ever occurred, let alone rejection of its technological claims. For that reason, Respondents’ position—that DOB has made an actual adverse determination about Standard Carbon’s technology that renders Standard Carbon’s representations false—is completely baseless. (*Id.* ¶70.)

ARGUMENT

A well-known standard governs the motion for a TRO and preliminary injunction: Standard Carbon must show (1) likelihood of success on the merits, (2) irreparable injury or harm, and (3) the balance of equities tips in its favor. *Concourse Rehab. & Nursing Ctr., Inc. v. Gracon Assocs.*, 64 A.D.3d 405, 405 (1st Dep’t 2009).

I. Petitioner Is Likely to Succeed on the Merits and the Petition Should be Granted

Petitioner seeks annulment of the agency determination and reinstatement in the NYC Accelerator Service Provider Program. Petitioner respectfully submits that the Petition should be granted, and for the purposes of the motion for a TRO and preliminary injunction, Petitioner is likely to succeed.

Article 78 of the New York Civil Practice Law and Rules provides a mechanism for judicial review of administrative agency determinations. CPLR 7801. A petitioner may obtain relief under Article 78 where the agency determination was “affected by an error of law,” or the determination

was “an abuse of discretion,” or “arbitrary and capricious.” CPLR 7803(3). Respondents’ agency determination warrants annulment under any or all of these tests.

The determination at issue is that Petitioner made a “material misrepresentation” warranting removal from the NYC Accelerator Service Provider Program. Standard Carbon represents that “we aim to provide building owners, property managers, and compliance professionals with practical, cost-effective solutions that drive real emissions reductions, without requiring any invasive and destructive retrofits or other major capital upgrades.” (Lauter Aff. Ex.2). Respondents’ shorthand version of this claim is that Standard Carbon “facilitates Local Law 97 Compliance.”

Respondents’ conclusion, that Standard Carbon made a material misrepresentation, rests on the premise that “the DOB has not approved Standard Carbon’s technology for compliance credit under Local Law 97.” But the premise itself is legally and logically flawed, as is the leap from the premise to the conclusion.

As a threshold matter, Standard Carbon is aware of nothing in the requirements for being accepted into, or remaining a part of, the NYC Accelerator Service Provider Program acceptance process that requires that the DOB “approve” the technology. No such requirement appears, for example, in the Service Provider Agreement.

Beyond that, the notion that the DOB “approves” or “disapproves” *technology* of any kind has no basis in the statutory or regulatory regime. In its role as an administrator and enforcer of LL97, the DOB determines whether buildings comply with their Emissions limits and addresses non-compliance. For example, a building whose Emissions currently exceed LL97-mandated levels may seek to avoid a fine by submitting a “decarbonization plan” for good-faith compliance under LL97 that includes an equipment inventory with installation dates, documentation of prior

emission-reducing measures, and planned alterations or equipment changes. *See* 1 RCNY §103-14(i)(2)(iv)(a).

In these roles, the DOB does not “approve” or “disapprove” technology. Under the CCD1 process, for example, which relates to use of energy sources whose Coefficient has not already been determined by regulation, the DOB reviews a proposed Coefficient and either approves it or, based upon commonly accepted testing standards, arrives at a different Coefficient. *See* 1 RCNY §103-14(d)(3)(i)(c).

In the context of the governing statutes and regulations, Respondents’ agency determination that DOB “has not approved the technology” falsely suggests that the DOB has in fact reviewed Standard Carbon’s proposed Coefficient; has found that it is plain wrong; and has found that if the correct Coefficient were applied, Standard Carbon’s technology would not assist buildings in complying with LL97. But no such thing has happened. (Lauter Aff. ¶65.)

Indeed, to date, the DOB has not actually “reviewed” Standard Carbon’s technology, nor its proposed Coefficient. (*Id.* ¶¶67-70). While the DOB has denied certain “good faith extension” requests that propose using Standard Carbon’s technology in their “decarbonization” plan, DOB’s denial of those applications did not rest upon any rejection of Standard Carbon’s technological claims. Instead, as best as Standard Carbon can determine, DOB claims to have agency discretion to avoid reviewing any proposed Coefficient until the technology is actually installed by a building that is subject to LL97 requirements. (*Id.* ¶68 n. 10.) But that falls far short of, and is not equivalent to, Respondents’ position that the DOB does not approve the technology, full stop, in a manner that would falsify Standard Carbon’s representations about what the technology does and how it may facilitate LL97 compliance.

Respondents' determination is particularly troubling because Standard Carbon received no notice or opportunity to be heard. Had that occurred, the parties could have discussed what the DOB has in fact done or not done, and how, if at all, that might affect the representations that Standard Carbon should make going forward. But the accusation that Standard Carbon makes "material misrepresentations" about the potential of its technology is inflammatory and should not rest on so flimsy a basis.

For the foregoing reasons, the agency action is arbitrary and capricious, i.e., "taken without sound basis in reason or regard to the facts." *Ward v. City of Long Beach*, 20 N.Y. 3d 1042, 1043 (2013). The same flaws constitute an abuse of discretion. *Wright v. New York City Transit Auth.*, 61 Misc. 3d 797, 805 (Sup. Ct. N.Y. Cnty.2018) ("An action is arbitrary and capricious, or an abuse of discretion when the action is taken 'without sound basis in reason and ... without regard to the facts'").

Nor may Respondents claim agency discretion to evade Article 78 review: "[s]imply because a challenged act is discretionary does not mean it is unreviewable under CPLR 7803(3)." *Anonymous v. Comm'r of Health*, 21 A. D. 3d 841, 843 (1st Dep't 2005) (citations omitted).

The lack of notice and opportunity to be heard compounds the abuse of discretion, or to discuss some alternative "listing" on the NYC Accelerator website that was mutually satisfactory, further compounds the problem. *See Ward*, 20 N.Y. 3d at 1044 (agency determination lacks rational basis when it was based on unfounded statements and where "Petitioner was given no notice [of the statements] nor an opportunity to respond to [those statements], despite the substantial contrary record evidence."); *In re Powis v. Giuliani*, 1995 WL 17961771 (Sup. Ct. N.Y. Cnty. Feb. 22, 1995) (agency action was arbitrary and capricious where it "has not been able to consider fully various alternatives," but rather was made in a "hasty" "rush to judgment").

Similarly, for the above-stated reasons, Respondents also committed an error of law by misinterpreting or misapplying the applicable statute or regulation. Where “the question is one of pure legal interpretation of statutory terms, deference [to the agency’s interpretation] is not required.” *Toys R Us v. Silva*, 89 N.Y.2d 411, 419 (1996). An “interpretation that ‘runs counter to the clear wording of a [code] provision is given little weight.’” *Emmerling v. Town of Richmond Zoning Bd. of Appeals*, 67 A. D. 3d 1467, 1468 (4th Dep’t. 2009) (internal quotation marks and citations omitted).

Respondents’ characterization of DOB’s actions fundamentally misinterprets LL97 and the implementing regulation. *See* N.Y.C. Admin. Code § 28-320.3.1.1(7); 1 RCNY §103-14(b) & (d). As discussed, DOB’s role under LL97 is not to “approve” or “disapprove” technology. When an alternative energy source like Standard Carbon’s is presented, DOB’s role is to review the proposed Coefficient based on the supporting documentation, and either approve it or propose a different Coefficient for the technology.

The leap from “DOB has not approved the technology” to “Standard Carbon makes material misrepresentations” reflects similar illogic. Respondents do not attribute to Standard Carbon any representations whatsoever about what the DOB has or has not done, or will or will not do. Standard Carbon makes representations about what its own technology does to reduce Emissions, which is what LL97 mandates, and in that sense Standard Carbon’s technology “facilitates compliance.” And the DOB has made no determination that the technology fails to facilitate compliance in this respect, nor otherwise challenged the calculations and documentation that Standard Carbon has submitted.

II. Petitioner Will Suffer Irreparable Harm Absent Relief

“Irreparable injury, for purposes of equity, has been held to mean any injury for which money damages are insufficient.” *McLaughlin, Piven, Vogel, Inc. v. W. J. Nolan & Co.*, 114

A.D.2d 165, 174 (2d Dep’t 1986). If the requested relief is not granted, exclusion from the Expo and the NYC Accelerator Program would cause irreparable harm to Standard Carbon’s pipeline of future business, its reputation, and its existing customer relationships, none of which can be quantified by monetary damages.

First, harm to future business opportunities and market share is imminent and irreparable. The Expo is scheduled for Wednesday, October 14, 2026. (Lauter Aff. ¶44.) Standard Carbon was invited to the Expo, has been preparing for its anticipated participation in the 2026 Expo and, in reliance on its expected participation, engaged in booth design, developed marketing materials, and organized staffing and travel. (*Id.*) The 2025 Expo generated over 100 leads for Standard Carbon across various project scopes and sizes, several of which converted into active proposals and engagements. (*Id.* ¶42.) If Standard Carbon is excluded from the 2026 Expo, it will lose this critical business-development opportunity, competitors participating in the program will capture market share that Standard Carbon would otherwise have secured, and that lost share cannot be recovered once the opportunity has passed. *See N. Fork Distribution, Inc. v. New York State Cannabis Control Bd.*, 81 Misc. 3d 952, 964 (Sup. Ct. Albany Cnty. 2023) (“loss of current or future market share constitutes irreparable harm”).

Second, exclusion would damage Standard Carbon’s goodwill with existing customer relationships. Standard Carbon’s current customers and counterparties will likely perceive its exclusion from the NYC Accelerator Program as a public repudiation by the City, undermining the goodwill and trust Standard Carbon has developed with those relationships. Once that goodwill is lost, it cannot be restored through a later award of money damages. *See Asprea v. Whitehall Interiors NYC, LLC*, 206 A. D. 3d 402, 403 (1st Dep’t 2022) (holding that the “loss of goodwill of a viable, ongoing business may constitute irreparable harm warranting the grant of preliminary

injunctive relief”); *Willis of New York, Inc. v. DeFelice*, 299 A. D. 2d 240, 750 (1st Dep’t 2002) (finding that the loss of existing business was irreparable damage).

Third, exclusion would also cause irreparable harm to Standard Carbon’s reputation. Standard Carbon has cultivated a reputation as a trusted sustainability partner, and its participation in the Expo and the NYC Accelerator Service Provider Program is a central component of that reputation. A public exclusion from a City-sponsored program would signal to the market that Standard Carbon is not a viable counterparty, stigmatizing it in a way that monetary damages cannot remedy. *See Jacob H. Rottkamp & Son, Inc. v. Wulforst Farms, LLC*, 17 Misc. 3d 382, 388 (Sup. Ct. Suffolk Cnty. 2007) (“Evidence of potential damage to a business reputation is a sufficient basis to establish irreparable injury justifying the grant of preliminary injunctive relief.”); *CanWest Glob. Commc’ns Corp. v. Mirkaei Tikshoret Ltd.*, 9 Misc. 3d 845, 860 (Sup. Ct. N.Y. Cnty. 2005) (“[t]he resulting erosion of the [business’s] good will and reputation also constitutes irreparable harm as a matter of law”).

III. The Balance of Equities Tips Strongly in Petitioner’s Favor

The balance of equities tips strongly in Petitioner’s favor. “Where the movant, as petitioners have done here, satisfies both the merits and irreparable injury prongs, the balance of the equities always tips in the movant’s favor absent some greater hardship that the nonmovant would suffer should the injunction issue.” *N. Fork Distribution, Inc.*, 81 Misc. 3d at 964.

As discussed immediately above, Respondents’ agency action poses grave harm to Standard Carbon. By contrast, permitting its participation in the Expo and the NYC Accelerator Service Provider Program poses no harm whatsoever to Respondents or the public. As Respondents’ own agreement states: “Inclusion of any Service Provider information on NYC Accelerator materials is not an endorsement by the NYC Accelerator of the Service Provider or services offered by the Service Provider. Participants must make their own determination as to

whether to seek and obtain services from Service Providers or other entities.” (Lauter Aff. ¶72.) Because the program itself disclaims any endorsement of participating Service Providers, Standard Carbon’s inclusion cannot harm Respondents’ interests or mislead the public.

Further, the public interest favors the requested relief. As discussed above, Standard Carbon’s technology has passed multiple scientific tests to date. Standard Carbon offers a form of clean energy that does not require expensive retrofitting or replacement of building energy systems. (Lauter Aff. ¶73.) That is a significant benefit to thousands of buildings across the City and to the public. Building owners and managers, and the public, only gain by having access to information about Standard Carbon as one of many options to facilitate LL97 compliance.

CONCLUSION

For the foregoing reasons, Petitioner Standard Carbon respectfully requests that the Court issue the relief requested in the accompanying order to show cause, including to (1) issue a preliminary injunction enjoining Respondents from enforcing or effectuating Standard Carbon’s removal from the NYC Accelerator Service Provider Program pending the hearing and determination of the underlying Article 78 Petition, (2) issue a temporary restraining order to restore the *status quo ante* prior to October 6, 2026 by permitting Standard Carbon to participate in the 2026 NYC Accelerator Expo, and (3) grant Petitioner such other and further relief as the Court deems just and proper. Petitioner Standard Carbon also respectfully requests that the Petition and the relief it seeks be granted.

Dated: New York, NY
October 13, 2026

Respectfully submitted,

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WORD COUNT CERTIFICATION

I, Adam Cohen, an attorney admitted to practice law before the courts of the State of New York, hereby certify that this memorandum of law complies with the word count limit set forth in 22 N.Y.C.R.R. §§ 202. 8-b(a) and (b) because it contains 5,237 words, excluding the parts of the memorandum of law exempted by the rule. In preparing this certification, I have relied on the word count feature of the word processing system used to prepare this memorandum.

Dated: New York, NY
October 13, 2026

Respectfully submitted,



Adam Cohen