



ACRELive!

Local Law 97 and the Wave of Coming Environmental Laws that will Change How Buildings Operate

February 1, 2024

1:00 – 2:00 pm Eastern

Speakers:

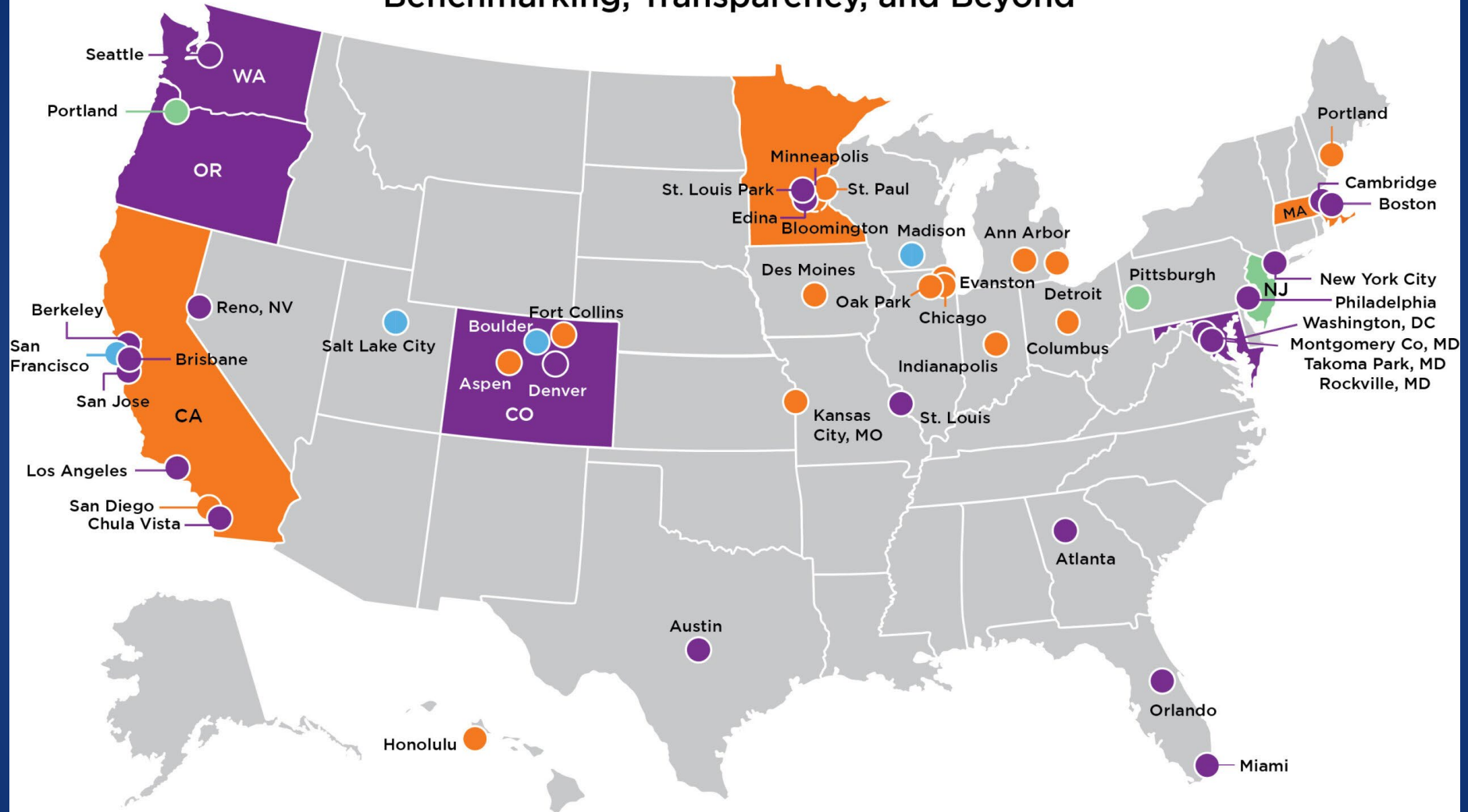
LeeAnne Harvey, Steven Winter Associates, Inc., New York, NY

William D. McCracken, Moritt Hock & Hamroff LLP, New York, NY

Moderator:

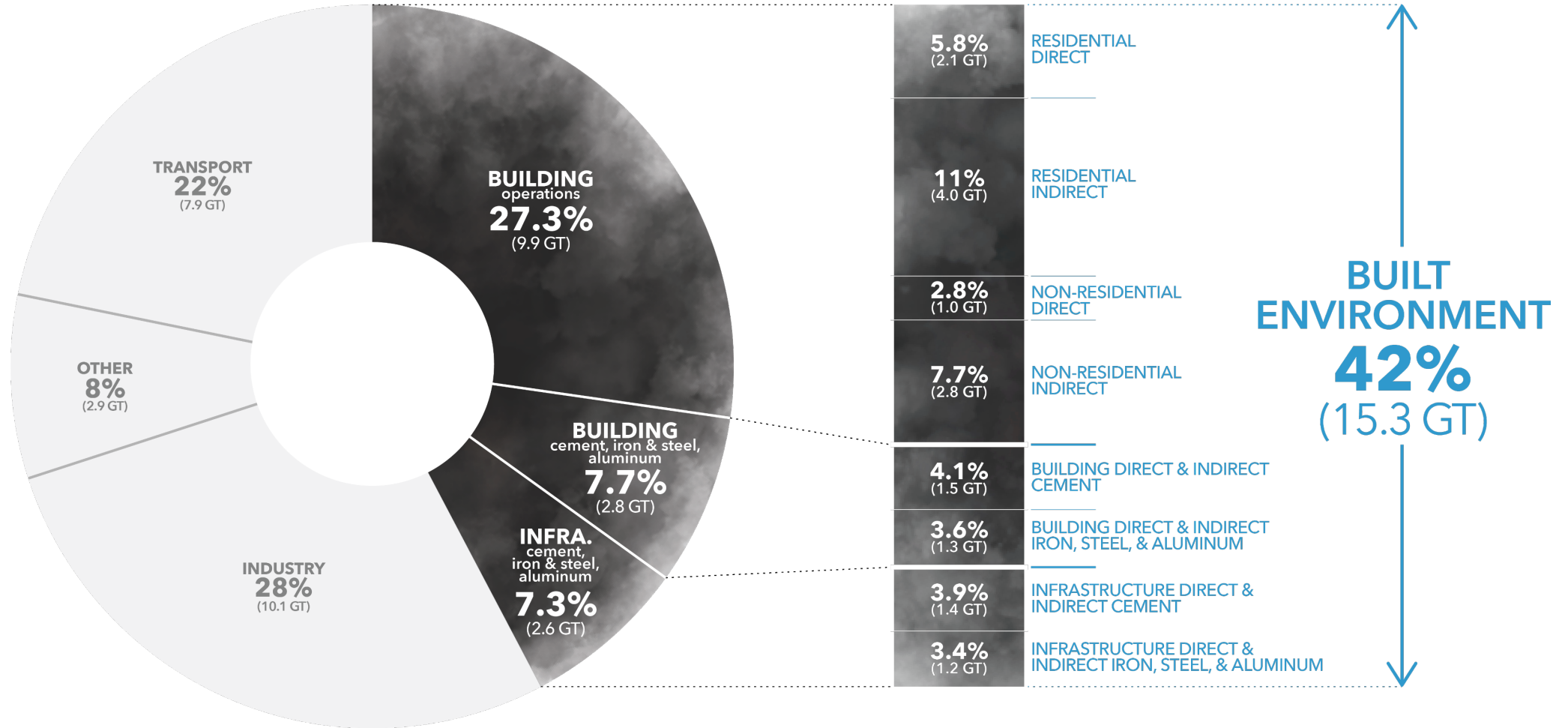
David Camp, Senn Visciano Canges P.C., Denver, CO

U.S. City, County, and State Policies for Existing Buildings: Benchmarking, Transparency, and Beyond

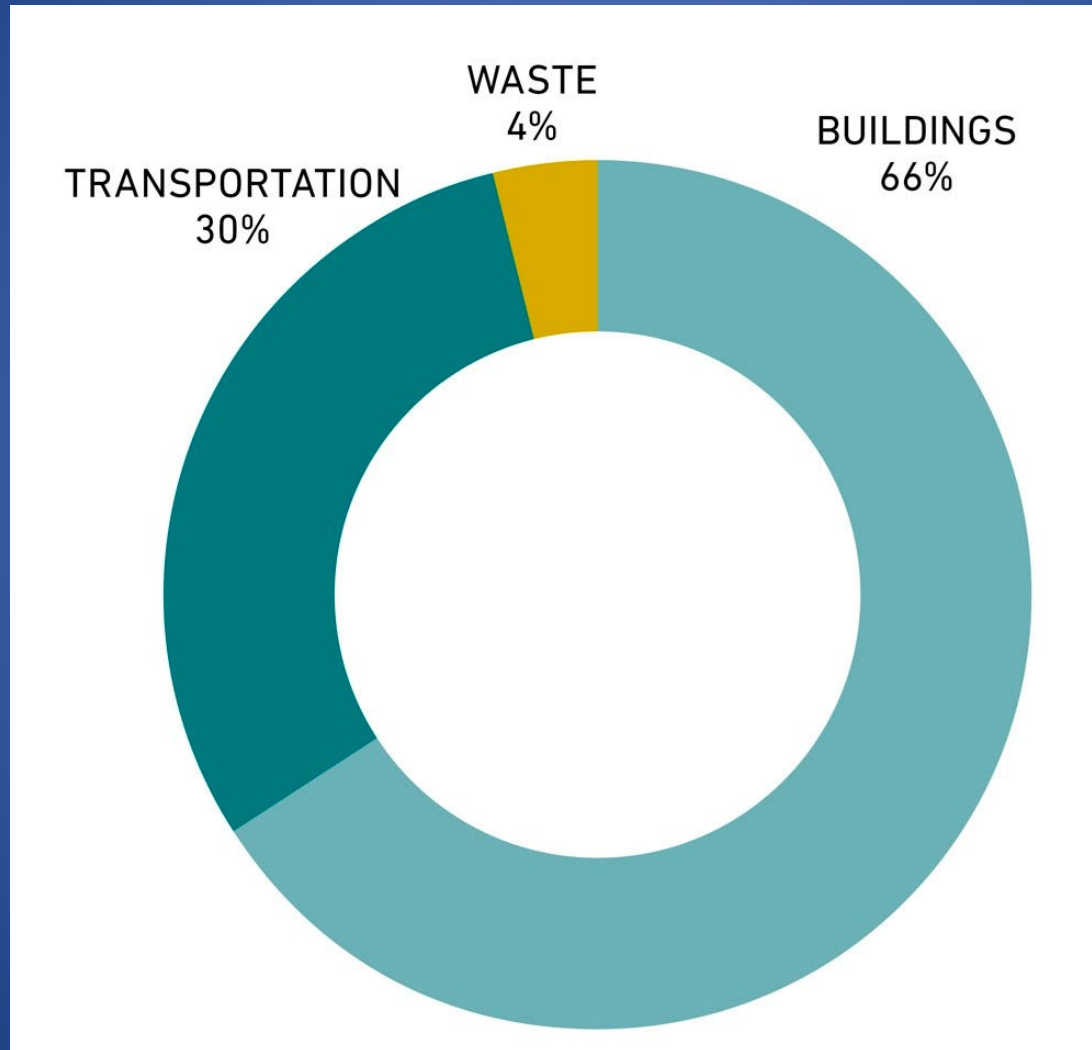


TOTAL ANNUAL GLOBAL CO₂ EMISSIONS

Direct & Indirect Energy & Process Emissions (36.3 GT)



GHG Emissions in NYC



Source: OneNYC 2050; Building Energy Exchange

LL97 covered buildings[†] with rent regulated and/or affordable units must follow one of the pathways below:

Article 321: The Prescriptive Pathway

If building includes any of the following:

- > 35% of units subject to rent regulation (regardless of any income restrictions), OR
- Is an HDFC co-op (not a rental), OR
- Has 1+ units that participate in a federal project-based housing program (e.g., Section 8, Section 202, Section 811, or CoC), OR
- Participates in NYCHA PACT



The building must:

- Demonstrate that emissions are below the applicable 2030 limits, OR
- Show that applicable [Prescriptive Energy Conservation Measures](#) have been fully implemented

And file a one-time report by May 2025*

**Note that new rules may give some buildings additional time to comply if they can demonstrate progress*

***Further information is available here: [§28-321](#)**

Article 320: The 2026 Pathway

If building :

- Has 1+ rent regulated units and no more than 35% of units subject to rent regulation (regardless of any income restrictions)



The building must:

- Meet emission limits starting in 2026, or face penalties of \$268 per ton of carbon for exceeding the limits

And file annual reports starting May 2027*

***Further information is available here: [§28-320.3.10.1](#)**

Article 320: The 2035 Pathway

If building:

- Is a Mitchell-Lama with no units that participate in a federal project-based housing program, OR
- Has no rent regulated units and has 1+ units that are income restricted through certain* loans, grants, real property tax benefits (e.g., 420-c, Article XI, UDAAP), or property disposition programs

Units with an income restriction imposed solely through the Zoning Resolution (e.g., Inclusionary Housing programs) do not count as "income restricted" for the purposes of this path.



The building must:

- Meet emission limits starting in 2035, or face penalties of \$268 per ton of carbon for exceeding the limits

And file annual reports starting May 2036*

***Further information is available here: [§28-320.3.9](#)**

[†]LL97 generally covers, with some exceptions: buildings that exceeds 25,000 gross square feet; two or more buildings on the same tax lot that together exceed 50,000 square feet; two or more condominium buildings governed by the same board of managers and that together exceed 50,000 square feet.

LL97 ARTICLE 320 PENALTY FRAMEWORK

Properties have two main compliance responsibilities

Submit building emissions report

$Penalty = (Floor\ Area \times \$0.50) / month$

Meet emissions limits

$Penalty = ((Emissions - Limit) \times \$268) / yr$

Penalty mitigation opportunities*
(2024-2029)

Unexpected or Unforeseeable Event

Good Faith Efforts

Building Emissions Report and Compliance with Any Adjustment

Benchmarking

Lighting & Sub-metering (LL88 rule)

Complete all of these
AND
one of these

Decarbonization Plan (**see next slide**)

Complete Application for the Work Approved by DOB

Building out electrification readiness

Previous Compliance with Emissions Limits

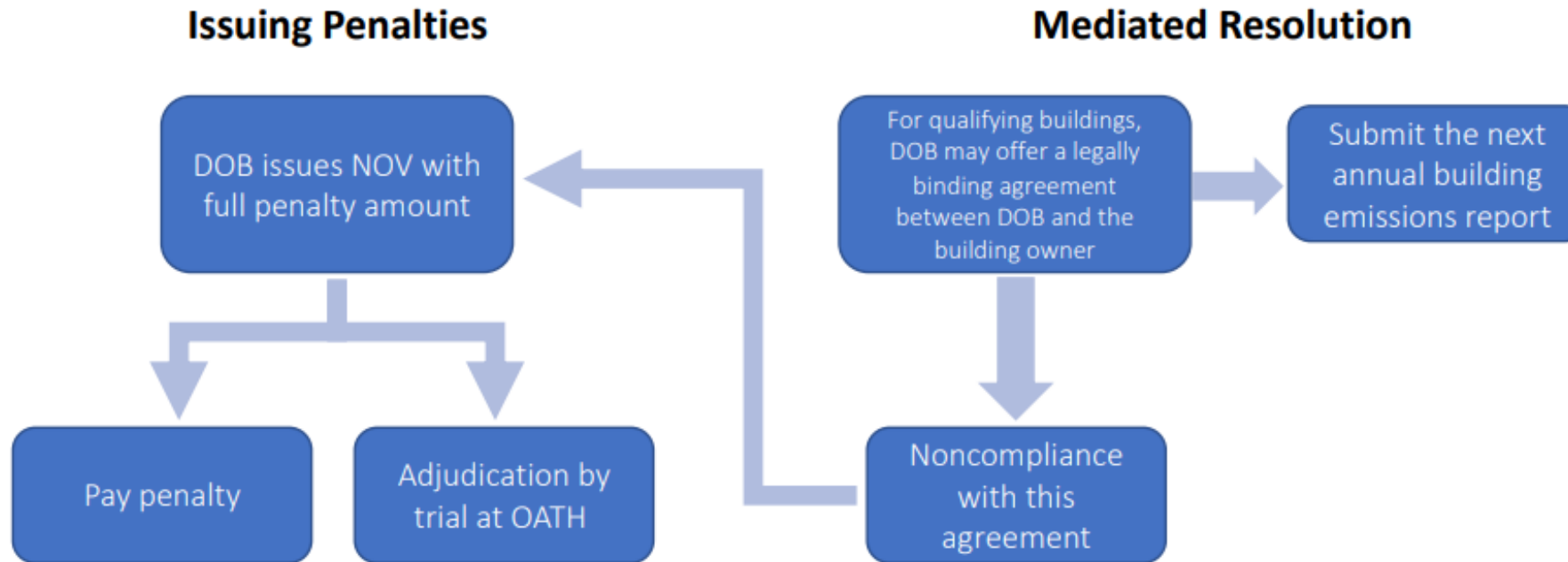
Critical Facility

Financing (28-320.7 (2) Adjustment)

*Adjustments available for hospitals, nonprofits, landmarks and buildings with special circumstances or financial hardship.

ENFORCEMENT FRAMEWORK

If a building is over their emissions limit:



- Penalties will be adjudicated at OATH with a DOB enforcement attorney
- If a building owner does not comply with the terms of the mediated resolution, DOB can issue back penalties

LL97 ARTICLE 321 PENALTY FRAMEWORK

