

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON ENVIRONMENTAL PROTECTION

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December 09, 2013
Start: 10:39 a.m.
Recess: 12:01 p.m.

HELD AT: 250 Broadway - Committee Rm,
16th Fl.

B E F O R E:
JAMES F. GENNARO
Chairperson

COUNCIL MEMBERS:

ELIZABETH S. CROWLEY
G. OLIVER KOPPELL
BRAD S. LANDER
STEPHEN T. LEVIN
DONOVAN J. RICHARDS
PETER F. VALLONE, JR.

2 [gavel]

3 CHAIRPERSON GENNARO: ..Gennaro, Chair of
4 the Committee on Environmental Protection for a
5 couple days longer anyway. Little humor you know.
6 And today the committee will hear on proposed Intro
7 867-A which will among other things create a
8 voluntary master environmental hazard remediation
9 technician restoration program. You know if that
10 doesn't sound impressive I don't know what does.
11 Okay voluntary master environmental hazard
12 remediation technician registration program now
13 we're talking. This is government at its best.
14 Hazardous substances and waste have been heavily
15 regulated since the risk posed to public health and
16 environment from these substances was documented
17 during the love canal disaster which resulted as
18 you all remember in the federal enactment of the
19 comprehensive environmental response compensation
20 and liability act in 1980. However some pollutants
21 and contaminants have escape regulations over the
22 years due to the nature of the substances and the
23 slow developments in remediation standards and
24 methodologies. As a result remediation in the areas
25 of mold, infection, risk, and sewage among other

2 areas has been spotty, somewhat ineffective and
3 lacking an informed and appropriate procedures due
4 to the lack of remediation standardization. This
5 legislation is intended to address this issue by,
6 by providing standards requiring, I think it's
7 supposed to say, training materials and regulation
8 procedures for, for parties who are already engaged
9 in this field who want to assure that a high level
10 of performance is maintained and rewarded. Flooding
11 from hurricane Sandy highlighted the urgent need to
12 address other forms in environmental pollution not
13 regulated such as mold and bacteria. It is
14 impossible to eliminate all mold and mold spores in
15 the indoor environment. However mold growth and
16 sewage impacts can be controlled indoors by proper
17 remediation measures. All molds and bacteria have
18 the potential to cause, cause adverse health
19 effects. Molds can produce allergens that can
20 trigger reactions or even asthma attacks in people
21 that have an allergy to mold. Other hazardous
22 substances are known to produce potent toxins or
23 irritants. This legislation will increase public
24 health protection by, by providing standards,
25 training materials, and regulation procedures for,

2 for parties already engaged in this field as well
3 as new entrants to this field. This local law would
4 also make it unlawful for any person to all himself
5 or herself out as a master environmental hazard
6 remediation technician without a department issued
7 master environmental hazard remediation technician
8 registration demonstrating that the individually
9 has successfully been trained in a department
10 approved program. And so that's the, that, that's
11 the statement but you know the backstory is this is
12 something that I've been working on for quite a
13 while with the Environmental Contractors
14 Association. And, and you know with others who are
15 in the field you know trying to do good things for
16 good people and you know of course when you don't
17 have the standards when you don't have the proper
18 training there are people who can you know bill
19 themselves as having you know this kind of
20 expertise. They go out there and rather than clean
21 things up you know they make a mess and you know
22 can even make things worse. And you know we think
23 that the citizens of, of the City of New York you
24 know really deserve better than that. And you know
25 by starting out with a program that's voluntary I

1
2 mean I, this doesn't seem to me you know to be a
3 particular heavy lift. Of course we'll hear from
4 the administration and, and, and, and, and, and
5 hear what they have to say. And so from where I sit
6 you know after all the years I put in on this you
7 know the, the, the benefits from this so that
8 people who are you know savvy consumers you know
9 can know that they have an entity that's trained in
10 what they want done and also would prevent others
11 who don't have this training from going out there
12 and, and, and posing as someone that you know has
13 his training. You know we think as a, a, a you know
14 win for the industry the people who, who, who are
15 properly trained and you know give their time and
16 talent and who are you know undercut in a business
17 sense by those that are not trained and even more
18 important a, a, a win for the people who procure
19 these services. You know we, they deserve to have
20 their messes cleaned up and have their mold dealt
21 with in a way that, using best available training
22 and methodology. So this is what this is all about.
23 Voluntary program and with that said I, I, I, I'd
24 like to recognize that we're joined by Council
25 Member, Council Members Koppell and Crowley and

2 Lander other council members will be joining us. I,
3 counsel to, to the committee Samara Swanston is
4 here. Council Member Elect the, Costa
5 Constantinides. Get a good look Costa this could be
6 yours.

7 [laughter]

8 CHAIRPERSON GENNARO: And so you know.
9 Anybody? And with that said we're, we're, we're
10 grateful to have you know Rick here from the
11 administration... DP we understand we have people
12 from the Health Department who are, who are, who
13 are in the audience. You Health Department people
14 raise their hands. Okay good we got a nice
15 contingent there so that's great. So with that said
16 we'll, we'll have Samara swear in the witness and
17 Rick if you could if you could just ID not only
18 yourself but the people from the Health Department
19 who are here if you know their names okay. And I'll
20 take a pen if anyone has one.

21 SAMARA SWANSTON: Do you swear affirm to
22 tell the truth, the whole truth, and nothing but
23 the truth today?

24 CHAIRPERSON GENNARO: Rick. Appreciate
25 you being here. It's been wonderful working with

1
2 you throughout the years. Bill's going to tell me
3 that he found my phone right?

4 BILL: Yeah.

5 CHAIRPERSON GENNARO: Did good. Good
6 job. We like that. What happened? What just went
7 on? What was that? I hope that vent was serviced by
8 someone who has specialized training in making sure
9 that there's nothing in that that we don't want in
10 there. Morris could you check on that please?

11 [laughter]

12 CHAIRPERSON GENNARO: Okay, thank you.
13 Alber[phonetic] no you don't have to check it.

14 ALBER: I'm coming back.

15 CHAIRPERSON GENNARO: Oh I thought you
16 were checking the thing.

17 [laughter]

18 ALBER: No, no, no.

19 CHAIRPERSON GENNARO: I was going to
20 say.

21 ALBER: I'm coming right back.

22 [laughter]

23 CHAIRPERSON GENNARO: Okay. Okay and
24 now, we got to get down to business now. Rick
25 please?

2 RICK MUELLER: Good morning Chair

3 Gennaro and members and staff of the committee. And
4 congratulations to Costa. I'm here and my name is
5 Rick Mueller and I'm here on behalf of Angela
6 Licata Deputy Commissioner for Sustainability at
7 the New York City Department of Environmental
8 Protection. Angela was called away on an emergency
9 and so I am delivering her testimony on my, her
10 testimony on her behalf. And I'm joined today by
11 Nancy Clark and Eric Culturmiro[phonetic] of the
12 New York City Department of Health and Mental
13 Hygiene. Thank you for the opportunity to testify
14 on Intro 867 which would create a voluntary master
15 environmental hazard remediation technician
16 registration program. Super storm Sandy was the
17 most recent event that brought home how daunting
18 and undertaking environmental cleanup can be. Many
19 New Yorkers are still dealing with its damage. And
20 that is not to discount the devastating effects of
21 more mundane yet disruptive events as a house fire,
22 sewer back up or major water leak. Self-help in
23 such instances goes only so far at which point home
24 and property owners will turn to professionals to
25 perform the cleanup properly so they can feel sure

2 that their health will not be compromised by
3 lingering problem, problems. Intro 867 proposes to
4 enhance the trust and confidence homeowners feel in
5 a contractor they hire after such events. This bill
6 would put a program in place that will assure that
7 a remediation technician's training in cleanup and
8 management of the range of pollutants,
9 contaminates, and materials has been comprehensive
10 and is up to date. The bill sets forth the minimum
11 course requirements for certification and specifies
12 that DEP will approve and possibly audit the
13 various courses offered, promulgate rules for
14 application and certification as a master
15 environmental hazard remediation technician, amend
16 the list of training programs as needed by rule,
17 and provide notice and the opportunity to comment
18 in the case of revocation of a practitioner
19 certification. The certification fees are to be set
20 at a level adequate to cover the costs of
21 administering the program. While we support the
22 intent of this bill we would point out that
23 environmental remediation technicians already have
24 the option of pursuing training and certification
25 programs offered by the New York State Department

2 of Labor and the US Environmental Protection
3 Agency. There are also a number of qualified
4 environmental firms with certified industrial
5 hygienists a professional designation that
6 encompasses the range of environmental assessment
7 and remediation activities. These professionals
8 provide important services to the public during
9 cleanup and remediation following environmental
10 releases. Second we have difficulty envisioning how
11 the fee set for the individual certifications will
12 offset all the costs of establishing and
13 administering the program from promulgating rules,
14 devising and processing applications, monitoring
15 and maintaining the rigor of the requirements, and
16 handling the procedural and legal costs of rule
17 changes and revocations. Finally even recognizing
18 that the program is voluntary it would create
19 jurisdictional issues for contractors and workers
20 from other states and localities who might be
21 equally qualified but have not sought this
22 practical certification and who would thereby
23 suffer a competitive disadvantage. That is the
24 advantage of relying instead on certification as an
25 industrial hygienist, hygienist or on training

2 offered by DOL or EPA. We hope going forward to
3 work with committee to address these concerns and
4 craft a bill that would fulfill the intent to
5 ensure that environmental cleanups are done at a
6 uniformly high level of professionalism by
7 qualified contractors. Thank you for the
8 opportunity to testify.

9 CHAIRPERSON GENNARO: Sure. Sure. Okay
10 if we could just read that last sentence again for
11 the record. I was, I was distracted.

12 RICK MUELLER: Okay. I'll just do the
13 last paragraph. We hoped going forward to work with
14 this committee to address these concerns and craft
15 a bill that would fulfill the intent to ensure that
16 environmental cleanups are done at a uniformly high
17 level of professionalism by qualified contractors.
18 Thank you.

19 CHAIRPERSON GENNARO: Okay. Thank you
20 Rick. Also if I can ask the sergeant I, I don't
21 think we need the air conditioning on it's like 30
22 something degrees.

23 [background comments]

24 CHAIRPERSON GENNARO: Oh.

25 [background comments]

2 CHAIRPERSON GENNARO: Oh okay. Yeah,
3 seems like it's kicking on kicking off or whatever.
4 And we're also joined by my good friend...

5 [background comments]

6 CHAIRPERSON GENNARO: I'm going to say
7 yeah yeah. Yeah I, I, and we're joined by my good
8 friend Peter Vallone, happy to have him. Also a
9 note to staff Council Member Koppell indicated that
10 he wishes to be a cosponsor of this bill. Okay,
11 I'm, I'm just going to walk through your, your in
12 your statement a little bit. And now with regard to
13 the various training programs that you mentioned
14 from the New York State Department of Labor, the
15 USEPA, and firms that have the CIH, that, that have
16 individual at the CIH designation certified
17 industrial hygienists. Do these training programs
18 take in the same contaminants that would be dealt
19 with in this, in, in this bill?

20 RICK MUELLER: Mr. Chairman I'll call on
21 Nancy Clark to come up... [interpose]

22 CHAIRPERSON GENNARO: Right

23 RICK MUELLER: ...and... [interpose]

24 CHAIRPERSON GENNARO: Okay.
25

2 RICK MUELLER: ...and speak to the
3 programs.

4 CHAIRPERSON GENNARO: Okay.

5 RICK MUELLER: She's much more familiar
6 with it. Thank you.

7 CHAIRPERSON GENNARO: It's kind of a
8 trick question by the way. Just letting you know
9 that okay?

10 NANCY CLARK: Well I'll do my best.

11 CHAIRPERSON GENNARO: And so if we
12 could, what would do if, if we could just swear the
13 witness and then you can state your name for the
14 record.

15 SAMARA SWANSTON: Do you swear affirm to
16 tell the truth, the whole truth, and nothing but
17 the truth?

18 NANCY CLARK: Hi. Thank you. My name is
19 Nancy Clark assistant commissioner for
20 environmental disease and injury prevention for the
21 New York City Department of Health and Mental
22 Hygiene. And I believe Jimmy your question was Do
23 these trainings... [interpose]

24 CHAIRPERSON GENNARO: Right.
25

2 NANCY CLARK: ...and certification program
3 offered by both New York State and EPA and the
4 Industrial hygiene Community covered those range
5 issues that you, that are described in the bill.

6 CHAIRPERSON GENNARO: Right.

7 NANCY CLARK: Certainly the industrial
8 hygienist qualifications do range a full, full
9 battery of environmental releases, toxins,
10 contaminants, at both an assessment point of view,
11 that's the skill that's embedded in that profession
12 as well as being able to recommend most, the most
13 up to date remediation processes... [interpose]

14 CHAIRPERSON GENNARO: Right.

15 NANCY CLARK: Those individuals work for
16 a variety of environmental firm. Then many of those
17 firm hold the certification that a variety of
18 certification as well as higher education and
19 experience.

20 CHAIRPERSON GENNARO: Right, but I, that
21 didn't, I... That, that's, that's good information.
22 It doesn't speak directly to my question though.

23 NANCY CLARK: Tell me.

24 CHAIRPERSON GENNARO: My question of you
25 know the, the, the, the types of contaminants that

1
2 are, that, that are in Intro 867. The, the, the
3 training programs that have been mentioned you were
4 CPA state Department of Labor you know people when
5 they you know CIH community or whatever. Do they,
6 do they deal with those substances?

7 NANCY CLARK: Yes, I said yes and to the
8 affirmative.

9 CHAIRPERSON GENNARO: Okay.

10 NANCY CLARK: I did.

11 CHAIRPERSON GENNARO: Okay.

12 NANCY CLARK: I thought I did understand
13 you question. I said that absolutely the case for
14 the industrial hygiene community. They do cover
15 that full range of experience qualification in the
16 broadest range of environmental contaminants every
17 remediation. On the, as many of you must know that
18 both the, the, the state and the federal government
19 regulate asbestos and lead remediation.

20 CHAIRPERSON GENNARO: Yeah we got that.
21 We got that.

22 NANCY CLARK: So those are more limited
23 but the industrial hygiene is a much broader and
24 all inclusive environmental qualification.
25

2 CHAIRPERSON GENNARO: Hang on. Just, I
3 just want to have, going to get a note from counsel
4 for a second.

5 [pause]

6 CHAIRPERSON GENNARO: What I'm hearing
7 is that, that, that there's not a lot of, that
8 there are not a lot of individuals who all this
9 certified industrial hygienist that you know have
10 that certification and therefore... [interpose]

11 NANCY CLARK: We could certainly, we can
12 get back to you on, I mean that's... [interpose]

13 CHAIRPERSON GENNARO: Yeah.

14 NANCY CLARK: ...pretty public knowledge.
15 They're published off hand I don't... [interpose]

16 CHAIRPERSON GENNARO: Yeah.

17 NANCY CLARK: ...know. But I do know that
18 there's a, many [crosstalk, interpose]

19 CHAIRPERSON GENNARO: I think, I think
20 this is part of the reason why we wanted to kind of
21 you know open this up and, and, and, and, and, and
22 provide you know the opportunity for you know other
23 individuals to have the benefit of this without you
24 know recreating. I, I, I just think that was, that
25 was one of the, one of the, one of the things that

1
2 led us to do this. There are, we wanted this kind
3 of training to be more widespread and if we could
4 do it here in the city and kind of control it to
5 some degree then we would have you know more, we
6 would have better trained people going out doing
7 these things and also to you know kind of give them
8 sort of like the New York City brand you know sort
9 of speak that this is something that, that we
10 control for our own residents and they'd be able
11 to. So I mean this was you know, this was the
12 impetus. And so let me move on to, with regard to
13 the jurisdictional issues it's probably more of a
14 question for, for Rick. And you, we're not, you
15 know we're not limiting in any way someone from,
16 from some other jurisdiction, from you know coming
17 in and, and we're not telling people they can't,
18 you know they can't practice here. They can say
19 they have a certified industrial hygienists they
20 can you know if they you know see New York City as
21 a real marketplace you know for them. They don't
22 have to be, they don't have to operate within, they
23 don't have to be based within the five boroughs in
24 order to participate you know in this.

2 RICK MUELLER: Agreed. Yes, that's,
3 yeah.

4 CHAIRPERSON GENNARO: And so I, I, I
5 don't so much, I don't, you know people are
6 business savvy and if they want to you know market
7 themselves in New York City and they think that
8 this would be a benefit to you know have this
9 particular certification they could, they could
10 pursue it you know. And so that, that's why I
11 don't, I don't, I don't see so I just want to put
12 on the record that I don't you know I don't think
13 it's a negative jurisdictional issue. This is an
14 opportunity for firms that are based here in New
15 York City or outside New York City who want to do
16 work in New York City to have sort of like the New
17 York City Brand and like New York City training on
18 what they do and it gives them the ability to you
19 know to do that and you know.

20 RICK MUELLER: Understood. Yeah, just
21 the notion that it would, that's a question of, of
22 folks coming in from wherever and I guess...

23 [interpose]

24 CHAIRPERSON GENNARO: Right.
25

2 RICK MUELLER: But, but, but you know I
3 can't, I can't argue that, that if they want that
4 expense and you know the travelling and the back
5 and forth and going... [interpose]

6 CHAIRPERSON GENNARO: Right.

7 RICK MUELLER: Going through all these
8 courses and so on and so forth and... [interpose]

9 CHAIRPERSON GENNARO: Yeah.

10 RICK MUELLER: ...that would be something
11 that they would have to deal with and that I would
12 have to be, that would be within the program so.

13 CHAIRPERSON GENNARO: Right. And so just
14 to, just to sort of summarize, you talk about the
15 fees that would be set at a level adequate to cover
16 the cost of administering the program but you
17 wouldn't really know how to do that. Alright? It
18 would be, it would be hard to figure that out.
19 That, that's what you're saying right?

20 RICK MUELLER: Yeah, I, we need, need
21 to... [interpose]

22 CHAIRPERSON GENNARO: Yeah I'm not
23 criticizing.

24 RICK MUELLER: Yeah. Yeah.
25

2 CHAIRPERSON GENNARO: I'm just saying
3 that's... [interpose]

4 RICK MUELLER: And I just have an idea
5 of... [interpose]

6 CHAIRPERSON GENNARO: Right.

7 RICK MUELLER: ...how many, how many
8 individuals would be applying... [interpose]

9 CHAIRPERSON GENNARO: Right.

10 RICK MUELLER: ...and, and would, would
11 you know for the, for the cost of the, of the
12 staffing... [interpose]

13 CHAIRPERSON GENNARO: Yeah.

14 RICK MUELLER: ...and the establishing of
15 the program yeah it just... [crosstalk, interpose]

16 CHAIRPERSON GENNARO: Right. But I think
17 that's part of, I think that's part of you know why
18 bills when they're signed like don't take effect
19 immediately. You know we, we, we could certainly
20 get a sense from the industry as to what that's
21 going to be and so we would, who'd get a handle on
22 that before it was actually implemented. So, that,
23 that's how I, those are my beliefs on, on that and...
24 [interpose]

2 RICK MUELLER: Sure and just and, but,
3 excuse me Chairman but... [interpose]

4 CHAIRPERSON GENNARO: Yeah.

5 RICK MUELLER: ...you know just in the
6 wider context that we're always looking to trim,
7 cut back... [interpose]

8 CHAIRPERSON GENNARO: Yeah.

9 RICK MUELLER: We, you know we don't
10 know what's happening this next budget but it
11 doesn't look great and you know... [interpose]

12 CHAIRPERSON GENNARO: Yeah.

13 RICK MUELLER: ...that kind of thing.

14 CHAIRPERSON GENNARO: Sure.

15 RICK MUELLER: And we'd have to be real
16 careful about.

17 CHAIRPERSON GENNARO: Sure, but we're
18 giving you the, we're writing right in that you set
19 the fees at a level to, adequate to cover the
20 costs. So, you know, and it, so it was certainly
21 not our intent to give DEP a budgetary haircut you
22 know by, by, by you know doing this which is why we
23 you know did it that way. And, but you know I, I, I
24 hear you. I, I, I hear you. --any questions please?
25 Oh Steve! We're, we're, we're, we're joined by

1
2 Steve Levin. Steve and I were just chatting last
3 night and so any questions Steve?

4 COUNCIL MEMBER LEVIN: No. I'm all good.

5 CHAIRPERSON GENNARO: Okay, well thanks
6 very much. I, I would appreciate if people could
7 hang back to hear the testimony of others. I don't
8 think it's going to be a particularly long hearing
9 and, and I think some of the testimony put forward
10 by DEP and DOH is going to be people who are going
11 to come subsequently to testify and I would like
12 you to be around to hear that. It's not going to be
13 a long hearing.

14 RICK MUELLER: Well Nancy has...

15 [interpose]

16 CHAIRPERSON GENNARO: Okay.

17 RICK MUELLER: ...to run but I'll, I'll...

18 [interpose]

19 CHAIRPERSON GENNARO: Okay.

20 RICK MUELLER: ...certainly be here
21 chairman.

22 CHAIRPERSON GENNARO: Well, we have a
23 gentleman, this other gentleman from the Health
24 Department can stay. Can you stay? Okay. Great. And
25 so okay yeah thank you Rick and Nancy thanks for

1
2 being here. Okay we going to do a panel or what are
3 we doing? Hang on.

4 [pause]

5 CHAIRPERSON GENNARO: Okay so we have
6 four witnesses left. We have two witnesses who will
7 speak in favor, two witnesses that will speak in
8 opposition. We just heard from the administration.
9 They were in opposition so it's time for the people
10 who are in favor to speak. We got two and so I'd
11 like to call Robert Albatron he's an advisor to the
12 Metal Contractors Association of New York I like to
13 call Bob. And the other witness who will testify in
14 favor of the bill, Mike McGuire representing the
15 Mason Tenders and I, I see Joyce Nestaci[phonetic]
16 I just want to say hi for the record. And she won't
17 be testifying but she's here and she's been lovely
18 to work with over the last few years in, in, in,
19 in, in trying to move this forward. And so yeah if
20 you guys could take your positions, if you have
21 written statements we'll take them, if now I'm, I'm
22 all ears. The council will, the council will swear
23 in the panel and then we can proceed.

24

25

2 SAMARA SWANSTON: Please raise, raise
3 your right hand. Do you swear affirm to tell the
4 truth, the whole truth, and nothing but the truth?

5 CHAIRPERSON GENNARO: Okay. I can vouch
6 for these guys too. So you know, no, no worries
7 there. So whichever one would, would, would, would,
8 would, would, would care to go first..

9 [clears throat]

10 MIKE MCGUIRE: I'll start.

11 [crosstalk]

12 MIKE MCGUIRE: And I don't, I don't
13 have..

14 [crosstalk]

15 CHAIRPERSON GENNARO: to take my glasses
16 off..

17 [crosstalk]

18 MIKE MCGUIRE: Unfortunately because of
19 the weather

20 CHAIRPERSON GENNARO: that's fine

21 MIKE MCGUIRE: This morning I didn't get
22 a chance to get to the office to print it.

23 CHAIRPERSON GENNARO: Okay.

24 MIKE MCGUIRE: I emailed it to Costa and
25 to Bill.

2 CHAIRPERSON GENNARO: Okay. You know
3 we're getting some, we're getting some Jimmy
4 Hendricks feedback on that microphone there and so...

5 MIKE MCGUIRE: I don't know where it's
6 feeding back from.

7 CHAIRPERSON GENNARO: Whoa, whoa, hang
8 on. Someone is...

9 MIKE MCGUIRE: Or maybe it's my phone
10 that's too close to it. Could that be? Now is that
11 better? It is wow. Feeding through my phone
12 somehow.

13 [background comments]

14 CHAIRPERSON GENNARO: We forgot. We got
15 a little theatrics here. We have, we have a third
16 witness who is going to be speaking in favor of the
17 bill. I'd like to call Angela Pinsky of the Real
18 Estate Board of New York to come and, and join the,
19 and join the panel. So this is the panel in favor.
20 Okay Mike you were saying. Welcome Angela pleasure
21 to have you.

22 MIKE MCGUIRE: Good morning Chairman
23 Gennaro Mike McGuire Mason Tenders district
24 council. You know I want to begin my testimony
25 today by reading a passage from an article by Greg

1 Smith in the February 10th, 2013 edition of the New
2 York Daily News entitled Mold Plagues Homes Flooded
3 During Hurricane Sandy; Deadly Spores Cause
4 Breathing and Other Health Related Problems. The
5 passage reads quote one contractor George
6 Guglielimi said he had ripped out all the walls
7 where mold was going at a Beach 1031st Street home
8 and sprayed the wood studs beneath with anti-mold
9 chemicals. He admittedly had never done mold
10 abatement before hurricane Sandy and learned how to
11 do it quote from my son who went on the internet.
12 The owner of the home's daughter however said the
13 workers failed. Quote the stuff is in the closets,
14 it's still there, he's supposed to get it out
15 before the walls go up said Rochelle Burg who says
16 the contractor had already charged the family 35
17 thousand dollars and wants another 35 thousand
18 dollars to finish the work. I think you'd be hard-
19 pressed to find anything that speaks stronger for
20 the need for Intro 867 than that passage but at the
21 same time we shouldn't forget that homeowners,
22 landlords, and the real estate industry faced these
23 issues on a daily basis not just in times of
24 crisis. This bill mandates that the New York City
25

2 Department of Environmental Protection create a
3 registry of master environmental hazard remediation
4 technicians. To be included in the registry the
5 technicians will have to be licensed to remediate
6 asbestos conditions and certified or trained to
7 remediate a number of other toxins or carcinogens
8 included but not limited to lead paint, PCBs which
9 we now know are contaminating as many as 700 of our
10 public school buildings and putting our children at
11 risk, toxic mold, and H1N1 about which the World
12 Health Organization stated that the 2009 outbreak
13 spread to 213 countries and killed at least 16,931
14 people. Including in the registry, inclusion in the
15 registry would actually require completion in, of
16 training in 11 environmental hazard remediation
17 disciplines. All of these trainings are currently
18 available to various sources including trade
19 schools and apprenticeship programs. One amendment
20 that has been suggested that we would support is to
21 allow the commissioner of DEP to authorize
22 curriculum and programs that are not necessarily
23 certified by New York State as currently specified
24 in the bill. The bill also allows the commissioner
25 to remove certifications that become outmoded and

2 to include new certifications for the beggaring
3 list of toxins and carcinogens that are being
4 discovered at a rapid pace through modern science.
5 This flexibility next to registry a program that
6 will always stay current with the needs of New York
7 City. While no consumers would be mandated to use
8 master technicians from the registry the choice and
9 the ability to do so would be in their hands. Had
10 the Burg family that I sited above had the ability
11 to hire contractor that they knew employs only
12 master environmental hazard remediation technicians
13 they would have had the choice to not deal with
14 paying 70 thousand dollars to remediate the mold in
15 their relatively small family home and they would
16 have had the choice to hire a contractor, to not
17 hire a contractor who learned how to do a dangerous
18 job that puts the health of lives, the health and
19 lives of workers, residents, and homeowners at, at
20 risk quote from my son who went on the internet. I
21 urge this committee to pass Intro 867 with all due
22 haste. Thank you.

23 CHAIRPERSON GENNARO: Thank you. Thank,
24 thank you Mike. I got, Bob I got your statement
25 here.

ROBERT ALBATRON: I think Jim I'm going to have Angela speak first.

CHAIRPERSON GENNARO: Oh. Fine.

ROBERT ALBATRON: Okay.

CHAIRPERSON GENNARO: I'll, I'll take Angela's statement before I...

[pause]

ANGELA PINSKY: Good morning Chairman Gennaro and members of the committee on the environment. The Real Estate Board of New York representing over 14 thousand owners, developers, managers, and brokers real property in New York City thanks you for the opportunity to testify about Intro 867 and the creation of the DEP Manage Registry of Master Environmental Hazard Remediation Technicians. REBNY acknowledges and appreciates the substantial amendments made to the A version of this bill. The original bill which, which proposed a mandatory city licensing program in dealing with 11 substances was a dramatic departure from today's practices and would have severely limited qualified work force within the city causing serious disruption to construction, dramatic increase in cost for building operations and most importantly

2 slow down the rebuilding efforts after Sandy. The
3 new bill however calls for DEP to create a registry
4 of individuals who have completed to the
5 satisfaction of the department any approved
6 training programs in 11 potentially hazardous
7 circumstances. Participation in the registry is
8 entirely voluntary and it contains no restrictions
9 on the current workforce and no mandates on those
10 seeking to employ these services. We believe this
11 will provide home and business owners with valuable
12 information about the credentials of contractors
13 that the market currently lacks and is an important
14 step in the right direction. However the bill
15 contains two provisions that we have serious
16 concerns with, with as they artificially limit the
17 universe of qualified training programs from
18 participating in the program and subsequently shuts
19 out qualified workers from all over New York City
20 from obtaining what would be a valuable [crosstalk]
21 from the city.

22 CHAIRPERSON GENNARO: Just hold on a
23 second. Let me just catch up with you there was it.

24 ANGELA POLINSKY: Sure.
25

2 CHAIRPERSON GENNARO: I just want to
3 read that paragraph again to myself.

4 [pause]

5 CHAIRPERSON GENNARO: Okay go ahead.

6 ANGELA POLINSKY: REBNY objects to the
7 definition department approved training provider.
8 This is the same comment that Mr. McGuire had had
9 previously in that it only allows DEP to approve
10 programs that are registered with the New York
11 State Department of Labor Apprenticeship Program or
12 by an educational institution school or school
13 chartered license were registered by the New York
14 State Department of Education or via an institute
15 of inspection cleaning and restoration
16 certification approved provider. Limiting the
17 training to these three categories would be
18 essentially limiting the program, limiting access
19 to the program only to union trading providers due
20 to the fact that almost all state apprenticeship
21 programs in New York City versus the state are
22 union and there are virtually no active state ed.
23 and IRR, IICRC courses available in this city at
24 this time. This limitation would be
25 disproportionately disadvantaging employees of

2 smaller contracting firms and MWBE organizations.
3 More over the, the ultimate victim of this
4 provision would be the homeowners who would be
5 forced to either take risks of hiring among
6 contractors with reduced education and training and
7 no city certification or to pay higher costs
8 associated with choosing from a limited pool of
9 providers. As a reminder these services are sought
10 after when there is devastation; a fire in the
11 home, a flood, a burst septic tank, or a health
12 threatening exposure. For an average homeowner
13 earning the median salary of 63 thousand dollars
14 per year the last thing they need when looking for
15 a qualified contractor if that, after that type of
16 devastation is a cleanup bill that was supposed to
17 5,000 dollars but is now 8,000 dollars.
18 Additionally that definition would not only exclude
19 nationally recognized and certified organizations
20 to provide these training courses including the
21 American Red Cross and the American Society for
22 Healthcare Engineering. The definition would also
23 require the department to forfeit any ability to
24 approve the coursework provided by the state
25 apprenticeship program or state education

1 organization. That would mean that in the category
2 of handling biologics an organization recognized by
3 the American Medical Association would never be
4 able to participate in the DEP program while any,
5 while any four hour course on blood pathogens
6 dreamed up by an organization such as the Apex Tool
7 Group, a tool and die maker from the Cortland, New
8 York would have to be accepted by DEP without any
9 review of the coursework materials or substances.
10 Therefore we all...

12 CHAIRPERSON GENNARO: Excuse me
13 whoever's beeping could you stop beeping? Okay. And
14 speaking of beeping Billy have my phone because my,
15 my, my, my phone's on.

16 [background comments]

17 CHAIRPERSON GENNARO: ...Let, let me just
18 see the phone I ain't going to... My wife's at the
19 doctor and if she calls I got to get it. Just make
20 sure she hasn't done that. Sorry. Okay I'm on
21 vibrate. I'm good. Okay please continue sorry.

22 ANGELA POLINSKY: Therefore we also
23 propose that the definition of certification of
24 completion include the term department approved
25 trainings to ensure quality control of these

2 programs. Additionally we suggest that all
3 timeframes around the registration of the
4 certification be removed as long as the
5 certificates are valid and that the following
6 language be amended. It's a small amendment that
7 the language is there.

8 CHAIRPERSON GENNARO: Right.

9 ANGELA POLINSKY: Should this, should
10 these changes be adopted the Real Estate Board of
11 New York strongly supports the bill. I appreciate
12 the ability to testify and would happy to answer
13 any, would be happy -- you had.

14 CHAIRPERSON GENNARO: Thank you. Thank
15 you. I, I, I, I certainly appreciate that. Thanks
16 for being here. Thank you Angela. We'll hear from,
17 from Bob and then I'll talk to the whole panel.

18 ROBERT ALBATRON: Good morning Chairman
19 Gennaro and members of the Environmental Committee.
20 Peter Vallone good to see you again Councilman and
21 Costa we congratulate you again on your, your
22 victory in historia. I'm Bob Albatron the Advisor
23 Consultant to the Environmental Contractors
24 Association of New York. Chairman Gennaro you also
25 know me as former Deputy Commissioner of New York

1
2 City Department of Environmental Protection your
3 former colleague in government as the greatest
4 chairman in the history of this committee. I say
5 that as fact.

6 CHAIRPERSON GENNARO: Bob, I, I, I just
7 want to remind you that you're under oath.
8 [crosstalk] So...

9 ROBERT ALBATRON: Yes I am. And that's,
10 that's why I feel comfortable in saying it.

11 CHAIRPERSON GENNARO: Okay you're fine.

12 ROBERT ALBATRON: We worked closely for
13 many years to pass responsible and meaningful
14 legislation together and this likely marks our last
15 endeavor in that regard. My professional and
16 personal respect for you is immense and goes beyond
17 the boundaries of these council walls. As I'm sure
18 you know the Environmental Contractors Association
19 New York advances the needs of professional
20 environmental contractors by adhering to the
21 highest professional safety and integrity
22 standards. In 1996 a small group of contractors led
23 by Frank Garito established the ECA with a goal to
24 make a positive impact on the industry that served
25 the city and region. Frank Garito is a man I came

1 to know and admire during my tenor in government.
2 Frank's passing this past year was felt by many and
3 we at the ECA dedicate this hearing and Intro 867
4 to his memory. Frank's ECA has grown to include
5 over 50 members that are committed to raise the
6 industry standards. Karen Grando our current
7 president carries on Frank's legacy to ensure we
8 make the industry better and responsive during
9 these challenging times. The ECA contractors
10 specialize in the areas of hazardous materials,
11 removal, emergency response, asbestos removal,
12 infectious oil, sewage, chemical spills,
13 brownfield, mold, contaminated water, and re-
14 insulation. We're especially proud to be here as a
15 management leak in solidarity with our partners in
16 business and labor. We're here to identify the
17 importance of having people protected in any
18 situation. I will be happy to speak to our outreach
19 to REBNY and their genuine support of Intro 867-A
20 that protects individuals and businesses alike. I
21 will be happy to give personal experience of
22 reference my role as Deputy Commissioner of DEP. I
23 will spell out the need to pass Intro 867 based on
24 my real life experiences and the impacts it has on
25

1 the citizens of our great city. I will feel
2 comfortable in explaining that most instances have
3 unfortunate environmental, environmental
4 consequence. I will explain how the increase of
5 environmental illnesses right now threatens society
6 and any status quo is unacceptable and
7 irresponsible! I will explain that, that any
8 participator's successful mold treating program
9 addressed over 2,000 homes was a joint effort
10 between the ECA and City Hall. I will discuss how
11 the bill is not relegated alone with the disasters
12 and how comprehensive remediation is required in
13 any situation. I will speak about the Grand Central
14 Terminal area steam pipe explosion 2007, building
15 collapses, super storm Sandy, and of course manmade
16 disasters like the 9/11 catastrophe by cowards.
17 Chairman Gennaro and members of this good committee
18 I will speak of how virtually every inch of the
19 magnitude has an environmental footprint and must
20 now take this first bold step to further protect
21 people through progressive change. We are all
22 protectors of the environment and must, and mustn't
23 shirk our respected responsibilities by not passing
24 Intro 867. Intro 867 does not give the ECA Mason
25

1
2 Tenders or REBNY any advantage regarding the needs
3 highlighted in either piece of legislation. In fact
4 this legislative seeks to have many more truly
5 skilled remediation experts by raising the bar and
6 posing a more stringent expectations on our
7 industry to protect people, on our industry.

8 Knowing Chairman Gennaro and this distinguished
9 committee I trust we'll embark on an in due day of
10 environmental protection with the passage of 867.

11 Let me now dialogue with you speaking from personal
12 experience. I just want to make a comment to that
13 many of the comments made today with regard to cost
14 and expense are not accurate. This is a cost
15 neutral bill at best. There's a certification and
16 the key word here is voluntary. We feel that this
17 is imperative that we pass this legislation. It's
18 the right thing to do, very much similar to what we
19 did with CDA. We - construction demolition
20 abatement law passed because we wanted to ensure
21 the people were safe in the city. WE did that as a
22 result of an accident. We now had incidents that I
23 resided here before you with regard, whether it be
24 a steam pipe explosion, whether it be Sandy,

2 whether it be a terrorist attack. If we don't act
3 now we're irresponsible.

4 CHAIRPERSON GENNARO: Well, thank you
5 very much I, I, I, I thank this panel for being
6 here and you know thank for all, thank you for all
7 the hard work and meetings and the back and forth
8 that, that we've had to, to get to this day. Let
9 me... Bill whoever this is they really want to talk
10 to me and they keep calling so just take it outside
11 and find out who it is. And, yeah. Before I go
12 through your statements let, let, let, let's go
13 through some of the things that were, that were set
14 by the administration. Now Bob you worked at the
15 EP, you know how government works. You were there
16 for many years. You headed the, you know division
17 that ultimately would be, would be responsible for
18 enacting this bill and doing all this. It was, it
19 was positive by the administration that it would be
20 you know hard to kind of get a hand on how they
21 should set the fees and how to make it cost neutral
22 and how to set the fee so that it would, it would
23 cover the cost of administering it. Oh, I have to
24 take this. I'm sorry I'll be right back.

25 [pause]

2 [background comments]

3 CHAIRPERSON GENNARO: I know that people
4 are you know, some people know my circumstances and
5 when I have to take a call people get a little
6 nervous but it's going to be okay, okay.

7 ROBERT ALBATRON: That's good.

8 CHAIRPERSON GENNARO: So, so thank
9 goodness right.

10 ROBERT ALBATRON: Absolutely.

11 CHAIRPERSON GENNARO: Let's all thank
12 God.

13 ROBERT ALBATRON: Yes.

14 CHAIRPERSON GENNARO: So, Bob so I was
15 just saying that the, that the, the administration
16 testified that it's going to be hard to set up this
17 program and, and set the fees that it'll, it'll
18 cover the cost of the program. I like your comment
19 on that.

20 ROBERT ALBATRON: Yeah I, I have several
21 comments. First of all I respect the people that
22 came before you.

23 CHAIRPERSON GENNARO: They're great
24 people.

2 ROBERT ALBATRON: They're great people
3 there no question about it and I understand the
4 reluctance because as I said before we've been down
5 that road before when we had to heighten safety
6 with regard the issue obviously after the Deutsche
7 Bank collapse. We wrote new legislation CDA and
8 signed into law by the mayor, CDA prizes it. It
9 protected people, made people safer. And no one was
10 reluctant to do that and what we did is we took the
11 department of buildings and brought them into DEP
12 so that's a matter of transferring resources so I
13 understand the concerns like, it's sort of like
14 kick the can down the road. Who's going to do this?
15 And this administration's not done that you know
16 and to be fair... [interpose]

17 CHAIRPERSON GENNARO: Right.

18 ROBERT ALBATRON: ...and I would rather be
19 part of that administration. So I think it's more
20 of how to do it but, but I think there's a
21 misconception, there's a misconception first of all
22 how it would be funded I think you, you know
23 touched upon that in your statement. This is at the
24 very least cost neutral. The cost would really be
25 borne by the contractor because if we have a fee

1
2 the fee is going to come out of the contractor's
3 pocket. So you know then I think as a misnomer I
4 think that could be worked out. I think there's 22
5 days left in the administration. It doesn't seem
6 like a lot of time but I think the people there at
7 City Hall understand the, the need for this I
8 believe... [interpose]

9 CHAIRPERSON GENNARO: Yeah.

10 ROBERT ALBATRON: ...and I think...

11 [interpose]

12 CHAIRPERSON GENNARO: Right.

13 ROBERT ALBATRON: ...that could be done...

14 CHAIRPERSON GENNARO: But that, but also
15 that wouldn't have to be done right away. I mean...

16 [interpose]

17 ROBERT ALBATRON: No, it, it, yeah.

18 CHAIRPERSON GENNARO: ...any, any time one
19 passes a bill.

20 ROBERT ALBATRON: Yeah.

21 CHAIRPERSON GENNARO: I mean they would
22 have an opportunity to sort of figure out how it's
23 going to be implemented. They could get a sense
24 from the industry and, and that would be the, and,

25

2 and based on that. They could, you know they could
3 set up, they could set a fee for, for,...

4 ROBERT ALBATRON: Yes.

5 CHAIRPERSON GENNARO: ...for the program.

6 ROBERT ALBATRON: Yes.

7 CHAIRPERSON GENNARO: Now if it, if it
8 turns out that they, that they guess wrong I mean
9 there's nothing stopping them from setting a fee as
10 per the law that would you know make the fee pay
11 for the cost of the program. And so if they were to
12 guess wrong then next year the fee could be a
13 little higher or whatever. Wouldn't that be how it
14 would work?

15 ROBERT ALBATRON: Yes, that's exactly
16 how it would work. It also, just to, to further
17 articulate on that point is that you have a
18 situation where I can understand the reluctance
19 with you getting something new. We went through
20 this process with the CDA and CDA wound up being a
21 major success.

22 CHAIRPERSON GENNARO: Right.

23 ROBERT ALBATRON: And also I think we
24 have to look as you said if the, the legislation's
25 in place signed into law we have a mayor elect who

2 sat on the Environmental Committee as you know and,
3 and Bill de Blasio was very progressive in his
4 thought process and, and we signed many pieces of
5 meaningful legislation that made a difference in
6 peoples' lives. I find it hard to believe that his
7 administration will not follow up with this
8 legislation and put it in place because it's about
9 protecting people. It's about protecting all people
10 in case emergencies or everyday life.

11 CHAIRPERSON GENNARO: Okay, let, let,
12 let me, yeah, okay. Mike wants to speak to that
13 and... [interpose]

14 MIKE MCGUIRE: Yeah I'd just like to
15 point out currently the fees for asbestos handler
16 in New York State, New York City depending on which
17 combination of licenses you get range between 100
18 and 400 dollars to do that application process. And
19 our members who do this kind of work and who are
20 our environmental remediation professionals they
21 understand that's the cost of doing business. You
22 know when a over the road truck driver needs to
23 renew a commercial driver's license and has to pay
24 an extra fee for that they understand that comes
25 out... [interpose]

2 CHAIRPERSON GENNARO: Right.

3 MIKE MCGUIRE: of their pockets as part
4 of the deal. And so... [interpose]

5 CHAIRPERSON GENNARO: Sure. like we say
6 it's completely voluntary nobody's forced to do
7 this, nobody's going to be forced to pay the fee
8 but you know if they want to really hold themselves
9 up as a professional it's, it's the cost of doing
10 business and, and again costs the city nothing.

11 CHAIRPERSON GENNARO: Okay let, let me
12 get to - remind me I want to talk to you about,
13 about your amendment and what you had mentioned,
14 make sure everybody's on the same page here.

15 ROBERT ALBERTRON: I can tell you we
16 are.

17 CHAIRPERSON GENNARO: Oh, okay. Yeah but
18 we're going to more formally do that. One second.

19 [pause]

20 CHAIRPERSON GENNARO: Now one thing that
21 the administration said was that there is, there
22 are certification programs by the New York State
23 Department of Labor, USEPA and also firms that have
24 certified industrial hygienists. And you know
25 those, those training programs and that

1 professional designation you know makes this, makes
2 this not necessary. If you could, if you could
3 speak to that.
4

5 ROBERT ALBATRON: Yeah.

6 CHAIRPERSON GENNARO: I just need to get
7 this on the record.

8 ROBERT ALBATRON: Yeah. I, I again I'm
9 not here to debate... [interpose]

10 CHAIRPERSON GENNARO: And this, this is
11 to everybody.

12 ROBERT ALBATRON: Yeah. I'm not down
13 here to debate with either Nancy or... [crosstalk,
14 interpose]

15 CHAIRPERSON GENNARO: No it's not a
16 debate. I just want to you know put this on record.

17 ROBERT ALBATRON: ...but, but what I will
18 point out is what we're trying to achieve here is
19 that the state Department of Labor has a
20 responsibility and the EPA has a responsibility
21 that was cited in testimony. But it doesn't take it
22 to the level we're trying to do here because a new
23 day dawning setting a higher standard and we're
24 referring to a specific title that we'd like to
25 have in a voluntary capacity get off the ground.

1
2 That's the master environmental hazards remediation
3 technician.

4 CHAIRPERSON GENNARO: But, but getting
5 to the point which I think... [interpose]

6 ROBERT ALBATRON: Yes.

7 CHAIRPERSON GENNARO: ...essential to
8 this, the, the, the bill as it's written talks
9 about 11 different substances or categories or
10 whatever. So my question is whether or not the
11 state Department of Labor, USEPA, or certified
12 industrial hygienists you know are, are certified
13 in all those areas like, like, like do they cover
14 the same stuff? That's what I want to get at.

15 ROBERT ALBATRON: They, they don't cover
16 all of that and that's why we've run into problems.
17 For instance in, in getting proper assistance in a
18 time of crisis.

19 CHAIRPERSON GENNARO: Okay.

20 ROBERT ALBATRON: Alright.

21 CHAIRPERSON GENNARO: And that, that's
22 what I really wanted to... [interpose]

23 ROBERT ALBATRON: And, and what we're
24 doing is we are going on front as you rightfully
25 said before as a city with all due respect to the

2 state because I think they've been a good partner
3 to us in the past to heighten awareness, to, to
4 increase the bag of tools every technician has in
5 their bags to, to, to properly serve people.

6 CHAIRPERSON GENNARO: Okay so that's a,
7 so that is you know just relying on the Department
8 of Labor, USEPA, certified industrial hygienists
9 that doesn't you know get us the, the, the, the
10 value added of all these categories. Right? This
11 is, this is, this is the consensus of the panel is
12 that, is that what I... [interpose]

13 NANCY CLARK: I, I think that the value
14 of this is to create a registry of where you have
15 somebody who has certifications in all 11 of those.

16 CHAIRPERSON GENNARO: Right.

17 NANCY CLARK: So the one person has 11
18 certifications and then I can go as a New Yorker, I
19 can go to one place on the DEP website and say okay
20 I'm looking to hire this contractor is he any good
21 using this as a proxy for some level of training.
22 And right now even if they have the certification
23 in all level, in all eleven there's no place to
24 find that information in a central location.

25 CHAIRPERSON GENNARO: Right.

2 NANCY CLARK: And that's the benefit of
3 the... [interpose]

4 CHAIRPERSON GENNARO: Okay.

5 NANCY CLARK: ...the bill.

6 CHAIRPERSON GENNARO: Okay. That, that,
7 that's a, that's a good way to put it. Thank you.
8 And, the administration brought up these so called
9 jurisdictional issues from other localities of the
10 states who may want to see New York City as a
11 marketplace and they're free to participate in this
12 right? This is... [interpose]

13 ROBERT ALBATRON: Absolutely. We
14 encourage it.

15 CHAIRPERSON GENNARO: Right.

16 ROBERT ALBATRON: More boots on the
17 ground we have that qualify the better off the city
18 is.

19 CHAIRPERSON GENNARO: Mike did you have
20 something to say to that.

21 MIKE MCGUIRE: Yeah, I mean on this you
22 know the great analogy on that is the New York City
23 building code is pretty much stricter than building
24 codes around the rest of the country. If a
25 contractor wants to come here and build buildings

1
2 he has to adhere to our code. You know if it's a
3 stricter code it's better for the folks in New York
4 and if somebody wants to come from another state
5 and operate here they should have to step up to our
6 standards. With, with that said again this is a
7 completely voluntary program... [interpose]

8 CHAIRPERSON GENNARO: Right.

9 MIKE MCGUIRE: ...nobody actually has to
10 come in and register in the program. We just want
11 to instill a certain confidence in, in New York
12 Consumers that if they're going to hire somebody to
13 come do their house they're not going to spend 70
14 thousand dollars and still have the house full of
15 mold.

16 CHAIRPERSON GENNARO: Right. And, and,
17 and, and I think my last question before I
18 recognize Council Member Vallone is that there was
19 a, a discussion... Mike put forward an amendment you
20 know concept and, and Angela did as well and you
21 guys talking about the same thing right?

22 MIKE MCGUIRE: Absolutely [crosstalk]
23 Angela articulated in, in much greater depth than I
24 did but we're 100 percent on board with that
25 amendment and also Angela mentioned I was remiss in

2 not including my testimony there is one clause that
3 has a time frame attached for renewals; 30 and 60
4 days that a holdover from an earlier version of the
5 bill it... [interpose]

6 CHAIRPERSON GENNARO: Right.

7 MIKE MCGUIRE: ...no longer really applies
8 to this voluntary program so we're fine with that
9 being stricken as well.

10 CHAIRPERSON GENNARO: Fine. Okay so, so
11 this panel's in total agreement as to the, the, the
12 type of amendment to be made to the, to the bill
13 right? And, and this is, and this is known to the
14 counsel of committee right. You have all that
15 information in chapter in verse right? The record
16 ruled full act of the counsel of the committee
17 since she [crosstalk]

18 MIKE MCGUIRE: [crosstalk] accurate.
19 Yes... [crosstalk]

20 CHAIRPERSON GENNARO: and chapter, and
21 chapter... Well you got to, you got to speak in the
22 mic.

23 MIKE MCGUIRE: This may be the only time
24 you'll ever see Labor Management and the Real
25 Estate Board all agree... [interpose]

2 CHAIRPERSON GENNARO: I'm saying.

3 MIKE MCGUIRE: ...on the same point.

4 [laughter]

5 CHAIRPERSON GENNARO: Talk about my last
6 hearing being like a whole kumbaya thing. You know
7 what I mean? I, you know this is, this is, this is,
8 this is, this is pretty good and, and, and I guess
9 a good way to go out. I recognize my good friend
10 Peter Vallone.

11 COUNCIL MEMBER VALLONE: Further clarify
12 what that amendment is for people just learning
13 about this bill right now. REBNY raised some
14 interesting objections saying that the, the
15 definition of department approved training only
16 allows DEP to approve certain programs which limit
17 training and limit access to the program so only
18 union trading providers and also that they exclude
19 nationally recognized and certified organizations
20 like the Red Cross. This amendment takes care of
21 that?

22 NANCY CLARK: Yeah. So the amendment
23 which is not proposed in the legislation would add
24 any other, or any other providers which would allow
25 DEP to approve providers and then approve their

2 courses. There's two places where we need to add
3 the term department approved. Right now it just
4 says if you are of these three categories then you
5 automatically get approved and then whatever
6 coursework you want to put in to qualify for these
7 courses is automatically deemed to be appropriate.
8 And we want to make sure that DEP which you know
9 they, they will I think will comment on how much
10 work that might be. But they have an active role in
11 approving the different providers and approving the
12 course works to make it, to make sure it's
13 appropriate. But there are a number of courses out
14 there right now that a lot of vendors and
15 organizations like the American Red Cross already
16 provide that should qualify for this program.

17 COUNCIL MEMBER VALLONE: But if we allow
18 them to approve those it doesn't mean they will.

19 NANCY CLARK: No they would, I would
20 assume, I mean this is, this is DEP's answer more
21 than mine but I would assume that the... [interpose]

22 COUNCIL MEMBER VALLONE: Got a whole new
23 administration coming in.

24 NANCY CLARK: Right. The organizations
25 would have to apply in some way. But I would

2 imagine that every organization and the Department
3 of Buildings does this all the time any
4 organization that currently provides this course
5 would be incented to apply with the DEP.

6 COUNCIL MEMBER VALLONE: Well I would
7 want to make sure there's some subjective standards
8 that DEP would have to adhere to so it wasn't
9 completely up to their discretion as to whether or
10 not they recognize groups like the Red Cross before
11 I would vote for this but that's something you can
12 work out in your amendment. Okay thank you.

13 [interpose]

14 CHAIRPERSON GENNARO: Yeah and we also
15 have, we also have... [interpose]

16 MIKE MCGUIRE: Sorry just... [interpose]

17 CHAIRPERSON GENNARO: We also have Costa
18 who can take care of that in the next
19 administration and make sure...

20 [laughter]

21 CHAIRPERSON GENNARO: and know nonsense
22 goes on DEP is... [interpose]

23 MIKE MCGUIRE: You know if I could...

24 [interpose]

2 CHAIRPERSON GENNARO: DEP are good
3 people. DEP, you know like they're not going to
4 schlock it. You know they're not?

5 MIKE MCGUIRE: We, we like, we like
6 Costa.

7 CHAIRPERSON GENNARO: Yeah.

8 MIKE MCGUIRE: Good.

9 CHAIRPERSON GENNARO: Yeah.

10 MIKE MCGUIRE: Peter if I could just
11 yeah.

12 CHAIRPERSON GENNARO: I'm, I'm, I'm
13 [crosstalk, interpose]

14 MIKE MCGUIRE: If I could address that,
15 that issue you know we had a lot of discussions
16 with REBNY about this because we originally wanted,
17 wanted to hold strong on just a New York State,
18 certified by the State Department of Education or
19 certified by the State Department of Labor because
20 we were worried about a lessening of standards for
21 the training and which would undermine the whole
22 concept of the bill. But you know what REBNY
23 suggested in that the department has to approve not
24 just the training provider but also the curriculum
25 goes a really long way towards resolving that

1
2 issue. And the second part of it is in talking to
3 my training provider, the head of my training fund
4 and, and other folks they tell me that DEP and DOB
5 you know for... You know whatever other faults they
6 may have they're very stringent about making sure
7 that the straining that they approve always go up
8 to the highest standards. So you know I think it'll
9 be pretty, it'll be fine.

10 CHAIRPERSON GENNARO: Thank you.

11 [pause]

12 CHAIRPERSON GENNARO: Okay with that
13 said I, I'd like to thank this panel for the long
14 amount of work that we put into this you know to
15 get to this kind of like unprecedented agreement
16 between you know all the parties represented on
17 this panel. If you could hang back it would be good
18 to you know hear the testimony of, of the, of the
19 last panel.

20 ROBERT ALBATRON: We will and we thank
21 you and your... [interpose]

22 CHAIRPERSON GENNARO: Okay.

23 ROBERT ALBATRON: ...staff for your
24 diligence.

2 CHAIRPERSON GENNARO: Thank you back,
3 you back. Okay and... Oh okay alright I'm, I'm
4 reminded that we have a hearing in this room at 12
5 but we have, we have only two witnesses left and
6 that should be fine. And so this is the panel who
7 was signed up in opposition to the bill. Mary Ann
8 Rothman of the Council of Cooperatives and
9 Condominiums if you could step forward and
10 Alexandra Hanson of NYSFAFH could, could come
11 forward.

12 [pause]

13 SAMARA SWANSTON: Do you swear affirm to
14 tell the truth, the whole truth, and nothing but
15 the truth today?

16 Yes.

17 CHAIRPERSON GENNARO: Okay nice to see
18 Ms. Rothman. Nice to Ms. Hanson. Mary Ann would you
19 like to go first?

20 MARY ANN ROTHMAN: Sure.

21 CHAIRPERSON GENNARO: Okay.

22 MARY ANN ROTHMAN: I'd be happy to. Good
23 morning and it's...

24

25

2 CHAIRPERSON GENNARO: Yeah just, yep
3 just right into the microphone would be the best
4 way to go.

5 MARY ANN ROTHMAN: Do I surely have it
6 on? Yes.

7 CHAIRPERSON GENNARO: I think you do.
8 Yeah.

9 MARY ANN ROTHMAN: Good. My name is Mary
10 Ann Rothman and I'm the Executive Director of the
11 Council of New York Cooperatives and Condominiums
12 which is a membership organization comprised of
13 housing cooperatives and condominiums located
14 throughout the five boroughs of New York City. More
15 than 170 thousand New York families make their
16 homes in our member buildings. Like all New Yorkers
17 we want clean air to breathe both inside and
18 outside our homes but we're also mindful of the
19 cost in time and stress and dollars that
20 legislation and regulations can impose on our
21 members. Intro 867 is clearly well intentioned but
22 we're uncertain as to its purpose and concerned
23 about the very broad reach of some of its
24 provisions. There may indeed be a need to create
25 uniform standards of education and training for

1 those who remediate hazardous environmental
2 conditions but we've not seen that need
3 demonstrated and would urge the council to proceed
4 cautiously. It's our impression that only a very
5 few large restoration and remediation firms would
6 have the financial resources to comply with the
7 standards that are proposed here. Their monopoly on
8 the certificate would greatly increase costs to
9 buildings. And the master environmental hazard
10 remediation technician described here is a
11 generalist, a jack of all trades. We believe that
12 our member buildings are better served by retaining
13 true experts and specialists whose areas of
14 knowledge and in depth expertise is in the one
15 specific area where they face an issue such as lead
16 remediation or mold or asbestos. We respectfully
17 request that the committee continue its
18 investigation of this issue and not move this
19 legislation until it has had an opportunity to
20 address the levels of seriousness of potential
21 hazards. The ramifications of consolidating all
22 environmental issues in this way and should it then
23 choose to proceed to identify the specific types of
24 conditions who have the services of a Master
25

1 Environmental Hazard Remediation Technician would
2 be appropriate. Notwithstanding our desire for
3 further study we do have a few comments on the
4 specifics of this bill. The requirements; the
5 introductory paragraph of this legislation contains
6 an exhaustive list of irritants including bird
7 droppings and construction dust the building staff
8 regularly clean up. CNYC cannot support legislation
9 that would suggest to litigious tenants or others
10 that routine maintenance must be performed by
11 someone educated and certified to deal with
12 environmental hazards. Buildings cannot be asked to
13 obtain a costly report from a Master Environmental
14 Hazard, Hazard Remediation Technician excuse me for
15 every small event or risk the accusation that an in
16 house cleanup was haphazard, incomplete,
17 insufficient, and unsafe. As far as education is
18 concerned the training requirements are very
19 comprehensive. Are all the, are all these classes
20 presently available in New York City with the focus
21 on New York City law that the legislation properly
22 requires. If this is not the case will six months
23 be sufficient time for DEP to ensure their
24 establishment and to approve their content. And
25

1
2 with so comprehensive a curriculum is this a worker
3 certification or a semi-professional one? Would the
4 Master Environmental Hazard Remediation Technician
5 be authorized for any filing or certification with
6 any agency? If a registry is created where will
7 this registry be housed? Will it be available to
8 the public? If a registration is suspended or
9 revoked what disclosure will the public receive?
10 Then there's the danger that options can become
11 mandates. We're also concerned about the very
12 realistic possibility of a slippery slope where
13 this voluntary opportunity to be certified evolves
14 into a mandate for certification paralleled by a
15 change from where it's, it's voluntary for our
16 members to hire Master Environment Hazard
17 Remediation Technicians to becoming a requirement
18 to hire them to perform periodic inspections or
19 tasks. Finally these and many other details are
20 left to the commissioner of the environmental
21 protection in establishing the rule to implement to
22 Intro 867-A. This is also a cause for concern as we
23 have frequently found rules to be far more
24 stringent than the legislation that led to them.
25 And organizations such as ours are rarely able to

2 have input once rules are proposed. We prefer the
3 legislative process because we find it far more
4 democratic where hearings such as this one offer
5 genuine opportunities to make suggestions that
6 improve a proposed law. And I thank you for this
7 opportunity to comment.

8 CHAIRPERSON GENNARO: Thank you. Thank
9 you. I'll get back to you once we hear from
10 NYSFAFH.

11 ALEXANDRA HANSON: Good morning. My name
12 is Alexandra Hanson and I'm here representing the
13 New York State Association for Affordable Housing
14 or NYSFAFH, the trade association for New York's
15 affordable housing industry state wide. Our 300
16 members include for profit and nonprofit
17 developers, lenders, investors, attorneys,
18 architects, and others active in the financing,
19 construction, and operation of affordable housing.
20 Together NYSFAFH's members are responsible for most
21 of the housing built in New York State with
22 federal, state, and local subsidies. I would like
23 to thank Chair Gennaro and the members of the
24 Committee on Environmental Protection for the
25 opportunity to testify today on Intro 867-A.

2 NYSFAFAH recognizes the council's efforts to develop
3 a voluntary Master Environmental Hazard Remediation
4 Technician Registration which will recognize
5 individuals who have completed the outline training
6 related to environmental hazard remediation.

7 However we are concerned that the definition of
8 department approved training provider outlined in
9 the bill is overly narrow and will exclude
10 qualified individuals from registering. Intro 867-A
11 defines approved training providers as training
12 programs or courses that are conducted by a
13 registered New York State Department of Labor
14 Apprenticeship program by an educational
15 institution recognized by the New York State
16 Education Department or by an institute of, or by
17 an institute of inspection cleaning and restoration
18 certification approved provider. This definition
19 excludes many programs run or recognized by
20 qualified organizations such as the Red Cross, the
21 American Society for Healthcare Engineering and the
22 American Medical Association. Upon review of the
23 IICRC courses it appears that many of the courses
24 required by Intro 867-A for registration as a
25 Master Environmental Hazard Remediation Technician

1
2 are not currently offered in New York. Additionally
3 there are only 87 active DOL approved apprentice
4 programs in New York City none of which are
5 specifically focused on the type of environmental
6 hazard remediation training outlined in 867-A. By
7 definition DOL apprenticeships are exclusive to
8 employees of companies that have approved programs
9 and are not open to the general public. These DOL
10 apprenticeship programs are also largely run by
11 unions in New York City excluding many smaller
12 contractors and MWBEs from being eligible to be
13 recognized through the registration program. As
14 such we are concerned that the, the current
15 criteria for department approved programs will
16 exclude qualified individuals who will, who have
17 received the necessary training to be considered a
18 Master Environmental Hazard Remediation Technician
19 simply because their training program fell outside
20 of the narrow definition outlined in the bill.
21 Additionally under the current language in Intro
22 867-A DEP would be required to accept training from
23 DOL apprenticeship programs without oversight into
24 the substance of the training despite the fact that
25 none of the active programs in New York City

2 specialize in environmental hazard remediation.
3 Intro 867-A should be amended to allow for any
4 provider of the required courses the DEP deems to
5 be satisfactory to count towards the registration
6 criteria. Finally the phrase properly trained in
7 section 24-1001 regarding master environmental
8 hazard remediation technician identification should
9 be replaced with has completed the, the training
10 outlined in this legislation relating to performing
11 in order to clarify the definition as properly
12 trained as insufficiently clear. I'd like to thank
13 Chair Gennaro and the Committee on Environmental
14 Protection for the opportunity to testify today and
15 your consideration for NYSFAH's concerns. Thank
16 you.

17 CHAIRPERSON GENNARO: Thank you. Thank
18 you. Yeah these are my, first of all let me, let me
19 start with NYSFAH. I, I think the second side of
20 your, the, the second page of your testimony has
21 some helpful suggestions that could help, that can
22 help clarify things. And, and I think what we're
23 going to do because you know time is short. I, I
24 think it'd be a good idea for, you know we'll have
25 to leave this, this, this, this room at, at 12 but

1
2 I, I think there should be a little kind of lobby
3 session by the elevator, lobby meeting an actual
4 lobby where there's like chairs and we can stand
5 around...

6 [laughter]

7 CHAIRPERSON GENNARO: ...with you know
8 some of the advocates for this bill. And you know,
9 and, and, and my staff that, that, that, that your
10 recommendation sounds you know pretty good to me.
11 Earlier in, in your statement the, the, the... Your
12 third paragraph you know speaks to the amendment
13 that was, that was you know discussed by the
14 previous panel and I think we kind of got that.
15 Right?

16 ALEXANDRA HANSON: Yeah and so I think
17 that, that, that... [interpose]

18
19 CHAIRPERSON GENNARO: Yeah.

20 ALEXANDRA HANSON: ...the, the testimony
21 that I prepared today actually speaks more towards...
22 [interpose]

23 CHAIRPERSON GENNARO: Yes.

24 ALEXANDRA HANSON: ...the amendment so...
25 [crosstalk, interpose]

2 CHAIRPERSON GENNARO: Right. So that, so
3 we... [interpose]

4 ALEXANDRA HANSON: ...and those remain
5 our, our main concerns.

6 CHAIRPERSON GENNARO: ...we're, we're,
7 we're you know, it, it's you know great to have the
8 reinforcement. Your fourth paragraph is, is kind of
9 like an argument for the bill you know in my you
10 know, in my opinion. That I think as like a like I
11 think there's a you now, your, your, your fourth
12 paragraph basically is why are we doing the bill.
13 Like we need, you know we, like you know we need
14 more of this and we have to figure out a way to
15 make it happen.

16 ALEXANDRA HANSON: Sure and..

17 CHAIRPERSON GENNARO: And so, I, I take
18 that as, as something which, which, which
19 buttresses you know the case for the bill so..

20 ALEXANDRA HANSON: Sure and just to
21 clarify our, our concerns and our opposition are as
22 written. Obviously if the definition were to be
23 expanded... [interpose]

24 CHAIRPERSON GENNARO: Right.
25

1
2 ALEXANDRA HANSON: ...based on the
3 amendment that was discussed on the... [interpose]

4 CHAIRPERSON GENNARO: Yeah.

5 ALEXANDRA HANSON: ...previous panel and
6 as we see just in our testimony I think we would
7 not really have concerns about it going forward.

8 CHAIRPERSON GENNARO: Okay you're more
9 than happy to amend your sheet from in opposition
10 to in favor you know.

11 [laughter]

12 CHAIRPERSON GENNARO: If you wanting...
13 They're open to amendment.

14 ALEXANDRA HANSON: Yeah.

15 CHAIRPERSON GENNARO: You can do that
16 you know? It's legal.

17 [laughter]

18 ALEXANDRA HANSON: Okay.

19 CHAIRPERSON GENNARO: You know legal
20 yeah. And, and with regard to Ms. Rothman I mean as
21 always you're a passionate advocate you know for
22 but you know I, I, I, I, I think some of the you
23 know concerns here are a little bit of a bridge too
24 far. This is voluntary and you know you have
25 worries about litigious members of you know these

1
2 cooperatives and, and, and you know I'm not you
3 know exactly saying that that's you know the
4 boogeyman but it's, it's close to it you know. And
5 I, I just don't, I don't see it. And, and, and,
6 and, and any, any you know time we do, any time we
7 do a law there, there, there's always you know rule
8 making that, that you know necessarily has to
9 happen. You know, you know sometimes when you know
10 there, there, there's always a bounce between how
11 much actual you know, how much, one can write a
12 bill in such a way that they you know give the
13 administration very little latitude you know with
14 regard to rule making. But for me as, as you author
15 the bill I, I think it you know strikes the right
16 balance and, and, and, and, and again democracy
17 goes forward. And so you know to the extent that if
18 this were to be registered that, that, that this,
19 that, that, that this bill you know were to happen
20 and there were impacts on, on your members this is,
21 I, I would, I don't think would be the case. It's
22 all voluntary. You know there would be an, an
23 opportunity through the democratic process you know
24 through the city council for, for redress and no
25 one should think for a minute that you know anyone

2 on this council all like a future council is, you
3 going to take the council of New York Cooperatives
4 and Condominiums you know their position lightly.
5 And so you, you represent like I said 170 thousand
6 New York families times the number of people per
7 family, that's a big number. And, and, and so I, I,
8 I you know I, I, I, I, you know don't think this is
9 going to down the slippery slope of, of members,
10 your member families suing and, and, and, and, and,
11 and, and dollars... [interpose]

12 MARY ANN ROTHMAN: The slippery slope is
13 a voluntary program becoming a mandate.

14 CHAIRPERSON GENNARO: Yeah but we, we,
15 but, but that doesn't happen by, by dent of someone
16 you know waving a wand. I mean that's, that's,
17 that's something that the commissioner wouldn't
18 have the authority to do. It is like by definition
19 set in law a voluntary program and, and you know,
20 you know or the next council or, or the next
21 administration. Well it'll have to be the next
22 council because it has to be done by law you know
23 were they to make a, were they to make a move you
24 know to make it you know mandatory. Then you know
25

1
2 you'd be able to come here and say I warned you on
3 December... [interpose]

4 MARY ANN ROTHMAN: 9th.

5 CHAIRPERSON GENNARO: ...9th that there was
6 going to be a you know slippery slope and you could
7 produce the copy of your testimony and, and, I, I,
8 I, I, I just don't think that's going to be the
9 case. And so, but I, I think it'd be a good idea
10 again because we're, you know I'm, I'm more than
11 happy for and everyone who was here with... Is mike
12 still here? Yeah, yeah. So, so, so you know I, I
13 think we should you know you continued to have a
14 little chat outside like by the elevator because we
15 have to surrender this room. You, you know because
16 we're, we're not you know dealing with a lot of
17 time here I want to make sure that everyone is, is
18 good and, and Rick you're more than welcome. You
19 know I'll have some, some more... I, I just want to
20 you know take the opportunity of we being all here
21 you know just kind of like you know chat as a group
22 off the record make sure everyone is as comfy as
23 they're going to be because I, you know I would
24 like to move on this. Again I'm the Chairman, I'm
25 not the institution, not you know entirely up to me

1 but this is going to be my recommendation and, and
2 so I, I would ask that we, that we, that we, that
3 we do that and you know you folks are more than
4 welcome to do that. It's, we have comfortable
5 chairs up by the elevator and imagine all the good
6 work we get done right just out there. And, you
7 know this is, you know this is my last full-fledged
8 hearing. I mean I guess I'll be back if, if, if, if
9 God willing this is going to go forward. I'll be
10 holding a vote of the committee. But this is my
11 last as far as I know you know sort of full hearing
12 that I'll chair. I've been here for 12 years this
13 Chair and 12 years before that as you know the
14 environmental policy advisor to the council so I've
15 seen a lot of Environmental Protection Committee
16 you know hearings over the last 24 years. I don't
17 want to count the number but I'm sure it's some,
18 some big number. And so this is you know my last
19 time on this side of the table. Perhaps I'll
20 reappear on the other side of the table to you know
21 testify before this good committee. But you know
22 it's been, it, it's been a pleasure to be involved
23 with this committee on the staff level, be involved
24 as a, as a member, and Chair of the committee you
25

1
2 know to work with Samara and all the good people
3 that have served this committee and Dan who I see
4 in the background. And, and I dedicated my last
5 hearing that I had the other day to my dad and I
6 also let it slip out that my last meeting would be
7 dedicated to my dear mother. And so my dear mother
8 Audrey this is for you. Thanks for being my mom you
9 know. So is that, how was that? Is that for you? Is
10 that good? Okay good, good.

11 [applause]

12 CHAIRPERSON GENNARO: Hearing adjourned.
13 Had to make sure with my lawyer that it was okay
14 that, that was a statement was okay. And so she's,
15 she said it was fine. Let's go to work.

16 [gavel]

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date December 27, 2013