

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CONSUMER AFFAIRS

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September 18, 2014

Start: 1:09 p.m.

Recess: 2:21 p.m.

HELD AT: 250 Broadway - Committee Room
16th Floor

B E F O R E: RAFAEL L. ESPINAL, JR.
Chairperson

COUNCIL MEMBERS:

Vincent J. Gentile

Julissa Ferreras

Karen Koslowitz

Rory I. Lancman

A P P E A R A N C E S (CONTINUED)

Amit S. Bagga
Deputy Commissioner of External Affairs
Department of Consumer Affairs

Marla Tepper
Deputy Commissioner and General Counsel
Department of Consumer Affairs

Eric Paladnick
Attorney for Bill Wolf Petroleum

Adam Wolf, COO
Jericho Wholesale

Ralph Bombardier
Executive Director
Gasoline and Service Dealers Association,

2 [sound check]

3 CHAIRPERSON ESPINAL: [gavel] Good
4 afternoon and welcome to today's Consumer Affairs
5 Committee hearing. Today--

6 [Pause]

7 CHAIRPERSON ESPINAL: [gavel] Good
8 afternoon and welcome today's Consumer Affairs
9 Committee hearing. Today, we will be discussing a
10 topic on the minds and wallets of every New Yorker
11 who owns a car, gas prices. Everyday drivers in the
12 city are reminded of how expensive it can be to fill
13 up a tank with gas. Luckily, for you and me we have
14 a city agency, the Department of Consumer Affairs who
15 protects consumer's interest by regulating gas
16 stations. It has been important for the city agency
17 to closely monitor gas prices since gas stations have
18 been known to price gouge in the past. Both DCA and
19 the Attorney General, an important partner in this
20 endeavor, have held gas stations accountable. The
21 City Council has historically taken an active role in
22 overseeing this industry. Just last year though
23 legislation, the Council addressed an issue whereby
24 gas stations were no clearly disclosing to the
25 consumers the difference in cash versus credit

2 pricing. The bill also required that every gas
3 station have a road sign displaying the price in a
4 way that it is visible to oncoming traffic, and makes
5 clear when there is a difference in the cash versus
6 credit price.

7 DCA promulgated rules pertaining to that
8 law, and we would like answers on how these rules are
9 being implemented and enforced. In addition to
10 exercising our oversight powers, today we will also
11 be discussing a bill, Intro No. 287 sponsored by
12 Council Member Arroyo, which would amend the
13 Administrative Code Section relating to gas station
14 road signs. The bill seeks two very important
15 changes. First, the bill will allow the owner or
16 operator of a gas station to apply to DCA for a
17 waiver from the requirement that there be a sign,
18 poster, or placard displaying the price of gasoline
19 at such station erecting such a sign, poster, or
20 placard would interfere with compliance to otherwise
21 applicable Zoning Regulations.

22 Second Intro No. 287 would provide an
23 exception to the requirement that road signs must
24 exclusively have black lettering over a white
25 background where the gas station erects a sign that

2 contains light emitting diodes or other words LED
3 illuminators.

4 At this time, we would like to hear from
5 the lead sponsor of the bill, Council Member Arroyo.
6 I will now turn it over to Council Member Arroyo.

7 COUNCIL MEMBER ARROYO: Thank you, Mr.
8 Chair, and thank you for convening the hearing on
9 this issue, and this legislation. I want to thank
10 those who I have had the opportunity to discuss these
11 challenges within the past. And I'm very gratified
12 that we're here as quickly as we are having this
13 conversation regarding this law. And I thank the
14 Committee staff Rachel Cordero, the attorney for this
15 Committee who has been so diligent in helping us
16 draft the legislation. We're going to hear testimony
17 from the Department of Consumer Affairs, and we're
18 going to hear testimony from the industry partners,
19 and advocates. This is a multi-layered issue as it
20 relates to how this sign requirement and how it's
21 interpreted by the Department of Consumer Affairs.
22 This piece of legislation seeks to clarify certain
23 things, and also fix some things that put our
24 businesses in conflict with Local Zoning Laws.

2 So I'm looking forward to the testimony.
3 Any piece of legislation when first introduced is
4 always subject to and open to modifications as we
5 work with all sides to hear their concerns and make
6 the legislation, better, stronger, and more
7 importantly clearer for everyone who has to deal with
8 it to comply with. So, thank you, Mr. Chairman and
9 with that, I look forward to your testimony.

10 CHAIRPERSON ESPINAL: Thank you, Council
11 Member, and with that being said, I would like to
12 call up the first panelists. From DCA we have Marla
13 Tupper and Amit Bagga.

14 [Pause]

15 CHAIRPERSON ESPINAL: Just before you
16 state your testimony, just state your name on the
17 mic.

18 AMIT BAGGA: Amit S. Bagga, Deputy
19 Commissioner of External Affairs for the Department
20 of Consumer Affairs.

21 MARLA TEPPER: And I'm Marla Tepper,
22 Deputy Commissioner and General Counsel for the
23 Department of Consumer Affairs. Thank you.

24 CHAIRPERSON ESPINAL: Before we begin, we
25 have to swear you in.

2 CLERK: Do you both agree that your
3 testimony that you are about to give will be to the
4 best of your knowledge truthful?

5 AMIT BAGGA: Yes.

6 MARLA TEPPER: Yes.

7 CLERK: Thank you.

8 CHAIRPERSON ESPINAL: Thank you.

9 AMIT BAGGA: Good afternoon, Chairman
10 Espinal, Council Member Arroyo, and other members of
11 the Counsumer Affairs Committee. I am Amit S. Bagga,
12 Deputy Commissioner of External Affairs at the
13 Department of Consumer Affairs. I'm joined, as you
14 know, by Marla Tepper, General Counsel of the agency.
15 I'm here today representing Commissioner Julie Menin,
16 who looked forward to testifying for you, but is
17 currently in Washington, D.C. for pre-scheduled
18 meetings. We greatly appreciate the opportunity to
19 speak with you today about DCA's work regarding price
20 displays at gas stations in New York City, and about
21 introduction 287, a Local Law to amend the
22 Administrative Code related to gas station road
23 signs.

24 DCA is proud to be implementing Mayor de
25 Blasio's vision for New York City by continuing to

2 empower and protect consumers while also reducing
3 onerous fines on small businesses. The agency's top
4 priorities are to both educate business owners about
5 the law, and to facilitate compliance. Since May
6 2014, we have undertaken many steps to achieve these
7 goals. For the first time, all 41 of DCA's most
8 commonly used plain language checklists are now
9 easily accessible to business owners through the
10 agency's website. And DCA has made many of its
11 resources available in several languages beyond those
12 mandated by executive order such as Bengali and
13 Arabic.

14 Small business owners now also request an
15 inspection in the language of their choice, as our
16 inspectors can now conduct an inspection utilizing
17 Language Line over a cell phone. DCA has also
18 implemented a 24-point plan to reduce fines for minor
19 violations from reducing the number of counts for
20 certain violations to issuing warnings instead of
21 violations for small infractions. DCA has expanded
22 its assistance to businesses by providing an
23 inspector in our Licensing Center at 42 Broadway to
24 guide all new applicants. And we also offer business
25 owners additional DCA services, most notably

2 financial counseling through our Office of Financial
3 Empowerment. Additionally, the agency recently hired
4 a new legal ombudsman, whose primary role will be to
5 provide information to, and answer questions from
6 business owners regarding DCA's laws, rules, and
7 eventually hearing procedures.

8 It is the pursuit of effective,
9 efficient, and fair compliance that the Department of
10 Consumer Affairs offers its position on the proposed
11 legislation being addressed today. DCA plays a key
12 role in regulating New York City's gas station. We
13 inspect the city's approximately 10,000 pumps across
14 800 gas stations for accuracy at least once each
15 year. We are able to condemn pumps on the spot if
16 they fail to meet accuracy standards, and we re-
17 inspect condemned devices that must be fixed before
18 we authorize them to be put back into service.

19 DCA also deploys inspectors to respond to
20 consumer complaints received through 3-1-1 and
21 through our website. In addition to ensuring
22 accuracy at the pump, the agency inspects gas
23 stations for compliance with a number of other
24 consumer protection laws and rules, including the
25 posting of price signs, the marking of fill ports,

2 consistency of a unit price box on the pump and
3 signage, and having a working air pump.

4 In fiscal year 2014, DCA conducted 1,511
5 inspections and issued 243 violations to gas
6 stations. Since July 1st of this year, the start of
7 fiscal year 2015, we have conducted 315 inspections
8 and issued 40 violations through September 12th of
9 2014.

10 In 2013, the City Council enacted Local
11 Law 9 of 2013, amending Section 20-672 of the
12 Administrative Code of the City of New York to
13 require that all gas stations post road signs
14 displaying the total selling price of gasoline or
15 diesel motor fuel. The law also requires that where
16 the total selling price for purchases made with cash
17 is less than for purchases made with another form of
18 payment such as a debit or a credit card, that the
19 road signs disclose the total selling price for cash,
20 debit, and credit card purchases.

21 In October, 2013, in order to implement
22 Local Law 9 of 2013, DCA issued rules, which became
23 effective on November 12th of 2013. They establish
24 the size requirements of the sign and require
25 stations to display the road sign whether or not they

2 charge one price for gas irrespective of the payment
3 type. This size requirement is a minimum of 60
4 inches wide and 36 inches high. The rules also
5 require that where the total selling price for
6 purchases made with cash is less than for purchases
7 made with another form of payment that the signs
8 disclose the total selling price for cash, debit, and
9 credit card purchases. The rules also prescribe a
10 minimum type size of 430 points.

11 The previous rule did not require such a
12 sign, but only had set forth the required content of
13 a sign if the gas station had chosen to advertise the
14 petroleum product for sale. Based on concerns by the
15 industry regarding the ability to posted the
16 prescribed road signs in compliance with Zoning
17 Regulations, and that the cost of the signs were
18 burdensome, DCA under the direction of the Office of
19 Deputy Mayor Alicia Glen decided to stay enforcement
20 of the rule on January 24th of 2014.

21 Introduction 287 would allow for gas
22 station owners to apply for a waiver from DCA in
23 instances where the prescribed size of the mandated
24 road sign is deemed impermissible based on Zoning
25 Regulations. We understand that business owners

2 cannot be expected to comply both with sign size
3 requirements that contravene Zoning Regulations and,
4 therefore, support the intent of this provision in
5 this legislation. We appreciate that the Council
6 through Intro 287 has made efforts to address the
7 challenges in enabling businesses to comply with
8 existing law, and also the challenges faced by the
9 agency in enforcing the law.

10 We must recognize that at the outset that
11 helping businesses comply with the existing law is a
12 multi-faceted, multi-agency process. We look forward
13 to working closely with the Department of City
14 Planning, the Department of Buildings, and the
15 Mayor's Office to consider the most effective way to
16 respect the City's Zoning Resolution while ensuring
17 as many businesses are in compliance as possible.

18 The installation of exterior roadside
19 signage is regulated by the Sign Enforcement Unit
20 with the Department of Buildings. Signs must comply
21 with regulations outlined in the New York City
22 Construction Codes and the New York City Zoning
23 Resolution. One potential solution could require
24 business owners, who are currently required by DOB
25 regulation to obtain permission from the Sign

2 Enforcement Unit in order to erect a roadside sign,
3 to first seek by written approval or denial from DOB
4 before a waiver determination can be rendered by DCA.
5 If the Department of Buildings does not approve the
6 installation of the sign that is of the currently
7 required size, and the denial of this permit is based
8 on Zoning Regulations- Excuse me, Zoning
9 requirements, then DCA could issue a waiver to the
10 applicant establishing the applicant need not comply
11 with the requirement for that particular gas station
12 to feature a roadside sign.

13 Our agency does not take the position
14 that signage laws can supersede Zoning Regulations,
15 and we do not recommend allowing additional signs on
16 lots where such signs would violate Zoning Rules.
17 The proposed provision would streamline the waiver
18 process for the applicant for City agencies and also
19 and importantly, render the law enforceable. As
20 DCA's patrol inspectors in observing the lack of a
21 roadside signal at a gas station, could simply ask
22 for an owner to produce proof of DCA's waiver. This
23 process by which the appropriate city agencies are
24 rendering relevant decisions, would ensure
25 transparency and consistency in the zoning

2 determination process, reduce burdens on small
3 business owners, and facilitate compliance.

4 It should be noted that pursuant to Local
5 Law 9 of 2013, there are significant costs associated
6 with business owners complying with signage
7 requirements. We have been advised by both Department
8 of City Planning, and the Department of Buildings
9 that ensuring compliance with Zoning can be an
10 intensive process, which requires both City and
11 business owner resources. Business owners would need
12 to hire an architect to submit plans to DOB and pay
13 filing fees even to receive an objection, which would
14 then be used to ascertain a DCA waiver. The total
15 cost to a business owner, we have been advised by
16 other agencies, could be in the thousands of dollars.

17 With respect to the bill's current
18 language regarding implementation, the proposed 120-
19 day window after passage is unfortunately
20 insufficient for DCA to engage in rulemaking, and for
21 businesses to go through the permitting process and
22 obtain the signs or waivers. We recommend extending
23 the time to add an additional 80 days.

24 Lastly, we do not take the position on
25 the bills- We do not take a position. Excuse me.

2 Lastly, we do not take a position on the bill's
3 provision to allow gas station owners to utilize LED
4 lights to illuminate roadside signs, as jurisdiction
5 regarding such usage lies with the Department of City
6 Planning.

7 The Mayor's Office is currently reviewing
8 the proposed bill to determine whether or not there
9 would be conflicts with the Zoning Resolution. We
10 seek to work with you, Chairman Espinal, Council
11 Member Arroyo, and your colleagues to consider a bill
12 that is both equitable and enforceable. Thank you
13 for the opportunity to testify before you and the
14 Committee today. Ms. Tepper or I will be happy to
15 answer any questions you might have.

16 CHAIRPERSON ESPINAL: I'm going to start
17 off with-- Thank you for your testimony. I'm going
18 to start off with a few questions and then I'll pass
19 it over to my colleague, Arroyo. So how did DCA
20 determine what size the road sign should be?

21 AMIT BAGGA: I'm going to allow Ms.
22 Tepper to answer that question.

23 MARLA TEPPER: Local Law 9 of 2013
24 requires road signs to be clearly visible to drivers
25 of approaching motor vehicles. In our rulemaking to

2 implement the law, the Department deemed 3x5 to be
3 the appropriate size to fit all the required
4 information in a way that was sufficiently visible
5 from a roadway. The Department is open to
6 reconsidering the size through the rulemaking
7 process. We look forward to testimony, and comments
8 that might inform the size regulation. That's
9 particularly important given the proposed allowance
10 of LED signs, which may have greater visibility than
11 traditional signs, and reconsideration may be
12 warranted.

13 CHAIRPERSON ESPINAL: Okay, well does
14 that size comport with the size of most gas station
15 road signs that existed before the law was passed?

16 MARLA TEPPER: Prior to enactment of this
17 law, it was optional for gas stations to have signs.
18 They could have them if they wanted to. So we don't
19 really have that much information on what the prior
20 history was.

21 CHAIRPERSON ESPINAL: So, has DCA been
22 enforcing the law since it was passed? And if not
23 entirely, has there been a portion of the law that
24 has been enforced since it was enacted?

2 MARLA TEPPER: We ceased enforcing the
3 law, as my colleague's testimony state, in--

4 AMIT BAGGA: January 24th of this year.

5 MARLA TEPPER: And that was in response
6 to concerns by the industry. So we have not been
7 enforcing the law with regard to signage. We also
8 withdrew any violations that we issued pursuant to
9 the law and rules.

10 CHAIRPERSON ESPINAL: Okay. So just to
11 be clear, so no part of the law has been enforced by
12 DCA?

13 MARLA TEPPER: That's correct.

14 AMIT BAGGA: Since January 24th.

15 MARLA TEPPER: Yes.

16 CHAIRPERSON ESPINAL: Okay. Has DCA
17 amended the rules promulgated pursuant to Local 9?
18 If not, when will this happen, and will amendments
19 would you make?

20 MARLA TEPPER: It's a good question. We
21 will amend the Rules and possibly repeal parts of
22 them depending on what the outcome of this proposed
23 bill is. We want to make the Rules consistent with
24 what the Council just directs us to do. So we
25 haven't done so yet. Our response to the rulemaking

2 that we had engaged in, and implementation of that
3 rules was to stop enforcement. And that was because
4 the rules that we promulgated were consistent with
5 the law as it was enacted. So we needed a change in
6 the law to enable us to repeal or amend the Rules.

7 CHAIRPERSON ESPINAL: Okay, great. With
8 that said, I'm going to pass it over to my colleague,
9 Arroyo.

10 COUNCIL MEMBER ARROYO: Thank you, Mr.
11 Chair. Thank you for your testimony and welcome.
12 It's always a pleasure to hear our agency's opinion
13 on the things that we do here in the Council. Was
14 there any public testimony elicited by the Agency
15 from our industry, the gas industry, businesses in
16 shaping the rules that came out of the law that was
17 passed back in the fall of 2013?

18 MARLA TEPPER: There was. We went
19 through the Capital Rulemaking Process, as we were
20 required to do so.

21 COUNCIL MEMBER ARROYO: Explain that to
22 me because I don't know what that is.

23 MARLA TEPPER: Okay. So, under the
24 Administrative-- City Administrative Procedure Act,
25 the Agency is required to notify the public of a

2 proposed rule. In doing so, we gave the industry the
3 opportunity to comment. Then there is a public
4 hearing at which industry and others can offer
5 testimony. By law, we consider the testimony and
6 comments and revise the rules as appropriate. This
7 particular rule, as I recall, and we can confirm it
8 after this hearing, we did not receive a lot of
9 testimony. Had we gotten more comments, we certainly
10 would have considered issues that are being discussed
11 today. For example, it was after implementation of
12 the rules, and some enforcement activity that the
13 concerns of industry first became apparent. And
14 that is why we ceased enforcement of the rule.

15 COUNCIL MEMBER ARROYO: All right. I
16 don't know what your experience is in dealing with
17 the Department of Buildings. But the information on
18 the ground where we have to deal with either
19 organizations. Or businesses that have to deal with
20 the Department of Buildings in the city, is that it
21 is a very cumbersome, lengthy process. I often find
22 it troubling that the agencies come to testify, and
23 then throw it off on another agency. That it's not
24 within your jurisdiction. Have you had conversations

2 with Zoning and City Planning in particular, or DOB
3 on their concerns about this legislation?

4 AMIT BAGGA: The short answer to your
5 question about whether or not we've had conversations
6 is yes. Under the auspices and leadership of the
7 Mayor's Office of City Legislative Affairs to whom we
8 defer on issues such as this as far as facilitating
9 interagency conversation. With their help, they have
10 facilitated a conversation, several conversations
11 between us and City Planning. They themselves have
12 had a conversation with the Department of Buildings,
13 and we have not spoken to Buildings directly.

14 COUNCIL MEMBER ARROYO: So do you have an
15 opinion from either one of these two agencies on
16 what's being recommended in this legislation? Or
17 maybe we should have invited them to this hearing to
18 hear what they have to say as well but--

19 AMIT BAGGA: I would defer to the Mayor's
20 Office of City Legislative Affairs in answering that
21 question.

22 COUNCIL MEMBER ARROYO: So you don't know
23 if there was an opinion?

24 MARLA TEPPER: I think that we can follow
25 up after this hearing, and provide you with some more

2 information. With regard to your statement earlier
3 about the process and our suggestion in the testimony
4 that we need to have the Department of Buildings
5 evaluate the waivers, it's because they are
6 statutorily authorized to do so. It's not an effort
7 on our part to pass the buck, but to--

8 COUNCIL MEMBER ARROYO: Ma'am, I don't
9 think I used the term "pass the buck".

10 MARLA TEPPER: Okay. I just wanted to
11 clarify that.

12 COUNCIL MEMBER ARROYO: I'm sure I
13 didn't.

14 MARLA TEPPER: Yeah. No, you didn't. I
15 was just saying that our agency wants to make this
16 process as easy for businesses as possible. In our
17 testimony, we did highlight, for example, that there
18 will be a cost. And we outline the process so that
19 the Council could consider those issues. And we
20 will, as my colleague said, go back and discuss this
21 more with the relevant agencies.

22 COUNCIL MEMBER ARROYO: So are you using
23 the potential cost to business for having to go
24 through Department of Buildings to get a waiver that--
25 - to get documentation that would empower you to give

2 them a waiver as a flaw in the process? I'm not
3 understanding if that's an issue or a concern. I
4 think they're going to eat some costs either way, but
5 are you saying that having to file permits with the
6 Department of Buildings would be a reason why we
7 shouldn't adopt this legislation?

8 AMIT BAGGA: The current law, which is
9 Local Law 9 of 2013.

10 COUNCIL MEMBER ARROYO: The one that was
11 passed in 2013?

12 AMIT BAGGA: Yes. Which is not currently
13 being enforced, as you know, as we stated.

14 COUNCIL MEMBER ARROYO: I got that, and
15 we appreciate that because you saw the error?

16 AMIT BAGGA: Yes, of course.

17 COUNCIL MEMBER ARROYO: Or whatever.
18 Okay.

19 AMIT BAGGA: That law actually already if
20 it were being enforced would require a gas station
21 owner to go to buildings to get this approval. And
22 so, we are simply highlighting that were this law
23 currently being enforced, that is a process that a
24 gas station owner would have to undergo. And that
25 process we have been advised by the Buildings-- I do

2 not know the exact cost, but we've been advised by
3 the Department of Buildings through the Mayor's
4 Office of City Legislative Affairs that that process
5 is costly both to Buildings and the business owner.

6 COUNCIL MEMBER ARROYO: Well, should we
7 add in the legislation that while a business is
8 undergoing that process that they should be held
9 harmless, and the requirement of signage of any kind
10 whether it's LED or black on white as it's stated in
11 the rules now?

12 MARLA TEPPER: Well, when we issue rules,
13 I think that we would issue a rule that implemented
14 the law fairly. And our inspectors the law would
15 reflect that a business had sought-- was in the
16 process of seeking to obtain permit or a waiver.
17 That's fair and efficient, and the rules could
18 outline that. So I don't think that we need to have
19 that process described in the law. The purpose of
20 describing the cost was just to bring that to the
21 attention of the Council because that was a concern
22 that we know the industry raised after started
23 enforcement.

24 COUNCIL MEMBER ARROYO: And I guess we'll
25 hear from them in a little bit.

2 MARLA TEPPER: Yes.

3 COUNCIL MEMBER ARROYO: So we do not need
4 to include in the language of the proposed
5 legislation that while a business is undergoing the
6 process of seeking a variance that they would not
7 receive any violations--

8 MARLA TEPPER: I don't think--

9 COUNCIL MEMBER ARROYO: --related to the
10 requirement of signage?

11 MARLA TEPPER: Yeah, I don't think that's
12 necessary, because typically, the Department of
13 Consumer Affairs can exercise discretion and the
14 rules that we propose and promulgate can address
15 that.

16 COUNCIL MEMBER ARROYO: How long have you
17 guys been working at the Department of Consumer
18 Affairs?

19 MARLA TEPPER: In November, I will have
20 been there 10 years.

21 COUNCIL MEMBER ARROYO: Okay. So I've
22 heard from businesses in my district the challenges
23 that they face with dealing-- in dealing with the
24 Department of Consumer Affairs, interpretation of the
25 rules and the application of those rules. So I know

2 that we will be having further conversations about
3 some of the things that come up. This is not the
4 forum for it, but what you sit here and testify, and
5 what businesses experience on the ground are two
6 different things. And I think that we need to be
7 able to appreciate that. And I appreciate that the
8 Mayor's Office has gotten involved in engaging in a
9 conversation to bring to all of the agencies that
10 would be involved in making sure that our businesses
11 get the best experience possible. We don't want to
12 hinder business development. We don't want to hinder
13 their ability to succeed and thrive because in the
14 long run we all benefit from that. So I really do
15 appreciate that, but I have to tell you that between
16 Consumer Affairs and BIC, it's not a rosy picture
17 that we hear from the businesses in our community.

18 AMIT BAGGA: If I may. We very much
19 understand and respect that and, in fact, have
20 received similar feedback. And I would like to
21 reiterate some points that I made at the very
22 beginning of my testimony. Which is that just over
23 the last few months, which we believe is truly an
24 indication and a demonstration of this
25 Administration's commitment to small businesses, and

2 their success. We have undertaken many, many, many
3 changes and reforms that truly do we hope and believe
4 make life easier for small businesses. We have
5 implemented the Cure Law, which enables many business
6 to cure the most picayune and minor violations
7 without receiving any fines.

8 We have also implemented a 24-Point Fine
9 Reduction Plan that will meet the Mayor's target of a
10 \$5 million fine reduction by the end of this coming
11 fiscal year that we're currently in, and we are on
12 target. We have also taken many great steps to
13 ensure that we are providing plain language
14 information. Our checklists are online for the very
15 first time. If you are a business owner, whether
16 you're existing or new, you can go right onto our
17 website and download a one-page or two-page checklist
18 that will tell you exactly what an inspector will be
19 looking for based on the type of business you are.
20 We've also made information available in a multitude
21 of languages that weren't available before. And I
22 think one good example of that is doing the
23 implementation of paid sick leave, the three main
24 documents that any business or employee would need to

2 access has been made available in 25 different
3 languages.

4 COUNCIL MEMBER ARROYO: Well, thank you
5 for that, and you'll have to forgive me, but I'm
6 reacting to 12 years of something else.

7 AMIT BAGGA: Of course.

8 COUNCIL MEMBER ARROYO: So I think you
9 for your testimony. Thank you, Mr. Chair.

10 CHAIRPERSON ESPINAL: Thank you, Arroyo.
11 I have a question. Local Law doesn't really specify
12 how big the sign has to be. It just talks about--
13 It just says it has to be visible to all on-coming
14 traffic. Is there a size that DCA, a smaller size
15 DCA feels that can work or is the size that you guys
16 have in place the size that you feel is best?

17 MARLA TEPPER: When we first evaluated
18 this, we thought that 3x5 was the best sign. We are
19 open to reconsidering that by looking at the types of
20 information that must be on it, and thinking about
21 what will be helpful to consumers while at the same
22 time won't overly burden businesses. So we'll be
23 looking at that. I can say that there were a lot
24 experiments with varying signs at the time-- Size of

2 signs at the time we issued the rules, but we will
3 certainly go back and think about that.

4 CHAIRPERSON ESPINAL: Okay, great. Thank
5 you. I would like to recognize my colleagues Karen
6 Koslowitz from Queens and Rory Lancman all from the
7 Borough of Queens who have joined us. Karen
8 Koslowitz has a few questions.

9 COUNCIL MEMBER KOSLOWITZ: Yeah. Thank
10 you. I'm very familiar with this, and I'm also
11 familiar that years ago Council Member McCaffey
12 [sic], may he rest in peace, introduced legislation
13 outlawing billboard signs, huge billboard signs
14 because they were distracting. I live along the
15 Corridor of Queens Boulevard, and we have a lot of
16 gas stations, as you know. There's one in Rico Park.
17 I think to have a bigger sign is kind of distracting.
18 You pass busy streets that traffic is going every
19 which way. And to have a sign bigger besides being a
20 burden on small business, I heard that the sign can
21 cost the business anywhere between \$20,000 and
22 \$25,000 or more to have such a sign made and a big
23 sign made.

24 I think we have to look at what-- How it
25 will reflect a business. I don't drive, but I notice

2 signs when I'm riding down Queens Boulevard. I also
3 notice the gasoline sign when I'm driving down. So
4 I'm not really sure why we have to change the size of
5 a sign, give more information. I mean when you go
6 into a gas station the sign is there, and you can see
7 it. And I understand the other law wasn't a great
8 one, and this law maybe has to be adjusted somewhat.
9 But I'm concerned about the size of the sign. And I
10 want to say to my colleague that the Administration
11 now is a lot different than the Administration we had
12 before as far as who is in charge. And, you know,
13 that's what I wanted to say, and I'm not sure that
14 this is, you know, an answer. We have to make it
15 better than it is.

16 AMIT BAGGA: I think as my colleague
17 recently stated, the Criticized and Classified Assets
18 through its rulemaking process is open to the
19 consideration of the smaller sign size.

20 COUNCIL MEMBER KOSLOWITZ: Okay, I'm
21 done.

22 [Pause]

23 CHAIRPERSON ESPINAL: Okay, so I think my
24 colleagues are good for now. Thank you for your
25 testimony.

2 MARLA TEPPER: Thank you.

3 AMIT BAGGA: Thank you so much.

4 CHAIRPERSON ESPINAL: I would like to
5 call up our next panel Eric Paladnick from Bill Wolf
6 Petroleum; Adam Wolf from Bill Wolf Petroleum; and a
7 guy with a good name, Ralph Bombardier from Gasoline
8 and Automotive.

9 [Pause]

10 CHAIRPERSON ESPINAL: I would also like
11 to recognize my colleague from Brooklyn Vinny Gentile
12 who has joined us. You're free to begin. Just state
13 your name on the microphone before your testimony.

14 ERIC PALADNICK: Hi, Eric Paladnick.
15 Before I begin, I would just like to ask your
16 permission-- I'm the attorney representing numerous
17 gas stations, if I could maybe just have a little
18 more than three minutes, or if I should leave, given
19 the light turnout. I won't take too much. I'll be
20 very quick.

21 CHAIRPERSON ESPINAL: That's fine.

22 ERIC PALADNICK: I'm a good New Yorker.
23 Thank you for allowing me to speak. My name is Eric
24 Paladnick. I'm an attorney representing Bill Wolf
25 Petroleum and a few other automotive service

2 stations. Adam Wolf is next to me. They own
3 approximately 25 to 30 automotive service stations in
4 New York City. We're here because we applaud you for
5 what you are doing. We think the idea is a good
6 idea. I myself have pulled into a gas station
7 thinking that I was getting a good deal, and went to
8 the pump and started pumping. And then I see it
9 clicking than a lot faster than I thought it was.
10 And I realized I was paying 50 cents more because I
11 was paying for credit. We've all fallen victim to
12 it. There are a few unscrupulous bad actors in the
13 marketplace -- Mr. Wolf not being one of them -- and
14 they do try to take advantage by suckering people in
15 with a lower price upfront. And we applaud you for
16 noticing that. You're not the first jurisdiction in
17 the country to notice it, and you're not the first
18 jurisdiction to take action on it. And in the
19 package that I submitted to you is legislation that's
20 been enacted up in Westchester, which is the gas sign
21 that's up on the right there that's being pulled away
22 right now. Which I think does exactly what you want
23 to do.

24 The law that you're proposing, the way
25 it's going to be enacted it's very ambiguous, and it

2 has a host of unintended consequences. The sign on
3 the left of the board up there is the sign as you
4 would see it if the law were enacted. That is what I
5 call that one. That is what I call the Bingo board
6 sign. If you played sports and you bet, and you go
7 to Vegas, you'll see signs like that in Vegas. What
8 this sign is doing by the way the law is written
9 require you to post the cash, credit, and the debit
10 pricing for every grade that the operator sells,
11 you're now forced as you can see by providing four
12 different price points for each of the different--

13 COUNCIL MEMBER: [off mic]

14 ERIC PALADNICK: No, no, that's okay.

15 Everybody is busy.

16 COUNCIL MEMBER: We were talking about
17 that.

18 ERIC PALADNICK: I think it is as much.

19 I do. That's okay. Take your time. There aren't
20 many people here so take your time. But that's what
21 you're seeing is that sign is the result of the law
22 that's being promulgated right now. It is not
23 causing clear vision for motorists. It is not
24 creative visual-- any sort of clarity. And it is not
25 getting the point across that you wanted to get

2 across from the law. Which is when a consumer drives
3 past the gas station at 40 miles an hour and doesn't
4 have the benefit of sitting there staring at the sign
5 like you do-- And if you're like my father shopping
6 for the cheapest price at every single gas station --
7 he is going to be going past that sign at 40 miles an
8 hour, and he's going to be confused out of his
9 bejesus. And he's either going to crash-- He's
10 either going to crash or he's going to do something.
11 He's going to cause a hazard for people, and the
12 reason he is because you're posting every single
13 possible sign iteration, price iteration. And there
14 are a lot of different iterations. Credit card
15 companies all charge different prices. There are a
16 lot of different that come into place. What they've
17 enacted in Westchester, and the jurisdiction from New
18 Jersey, what you see on the right, it gives one grade
19 of gasoline, the lowest grade. It gives the cash
20 price and it gives the credit price. So that even
21 the most ignorant consumer can see clearly when
22 looking at it that there's a price differential
23 between cash and credit. And it gets the message
24 across within two seconds that you're paying a
25 different price if you're paying with cash, and

2 you're paying another price if you're paying with
3 credit. And it does in a sign that's a reasonable
4 size. The conversation we had a moment ago with
5 Consumer Affairs about the price signage, the size of
6 it that Council Member Koslowitz brought up is that
7 the minimum size is 3x5 in the legislation the way
8 it's written. That's the minimum size the way the
9 legislation is written. You don't take a sign of
10 that size with the size of the fonts. If you look at
11 the legislation, the background and what the letters
12 need to be to include all of that information, the
13 different pricing structures. That's the size it's
14 going to be.

15 Now what's going to happen when an
16 operator goes to put that sign up? Seventy percent
17 of them are going to need waivers from the Department
18 of Buildings because they're all over on their Zoning
19 sign calculation right now. You're all Council
20 people, you all get my applications for the gas
21 stations over and over and over again. You have to
22 see them. They're BSA cases. They are all under--
23 Half of them are under BSA jurisdiction
24 automatically. So they can't just go change signage,
25 and they're maxed out in the signage. And they can't

2 just go to the Department of Buildings to move
3 signage. They have to first go to the BSA.

4 So there is no way anything is happening
5 in 120 days because we have to go to BSA first. And
6 BSA isn't going to grant us any sign variances. So
7 they're not going to let us. So my operators and the
8 people I represent are going to all line up at the
9 Department of Buildings the day after they enact the
10 law to ask for variances. So the law that you're
11 trying to effectuate they're all going to get out of
12 by applying for the variances. And the reason that
13 they're going to get the variances is because they're
14 all maxed out on their signage already. They're not
15 allocated that much signage to begin with. So to
16 pull the signage up there really doesn't allow for
17 any other advertising.

18 Also, what's going to happen is gas
19 stations in different districts have different sign
20 allocation for their signage. So if I'm a
21 Manufacturing Zoning District or CA Zoning District,
22 and I have a gas station, I could put up tons of
23 signs. If I'm in an RM Zone governed by the Board of
24 Standards and Appeals in a typical commercial overlay
25 zone that you would see down Queens Boulevard, I'm

2 limited to about 50 square feet per frontage. So I
3 don't even have the availability if I'm in those
4 districts to put more signage. And what's going to
5 end up happening is the people, the businesses that
6 have more signage available to them are going to gain
7 (a) an unfair advantage because they're going to be
8 able to advertise pricing much better than the people
9 that cannot.

10 Because they don't have enough signage.
11 The second thing that's going to happen with the
12 signage is you're going to really get what you're
13 looking for. Because at the end of the day,
14 everybody is going to ask for a waiver because the
15 ones that aren't in RM one or are C8 Zone don't have
16 the opportunity to ask for more signage. Like we
17 just said a second ago, what's the process? Council
18 Member Arroyo said very clearly it's the Department
19 of Buildings. The process at the Department of
20 Buildings first it's slow. But then they're going to
21 line up there, and they're going to be granted a
22 waiver. Because the law doesn't say any sort of
23 requirements of what you need to get the waiver other
24 than you don't comply with Zoning, and nobody
25 complies with zoning.

2 The final things I'll talk about, and
3 then I'll jump over and let everybody else speak.
4 The LED sign, every operator I speak to wants the LED
5 sign. It's a fantastic part of your provision.
6 We're way behind the times having a person climb up
7 on a ladder and put a thing up there like changing
8 the old ballgame so they can do the scoring. And
9 that's how the signage is done. So the LED sign, we
10 think is a fantastic idea. But again, there's not a
11 lot of regulation in the LED signs about how big they
12 have to be, and what size they should be, and what
13 colors they should be. It's just blank on that
14 issue. So what you're going to end up having, you
15 can drive down Queens Boulevard and one guy is going
16 to be flashing yellow LED sign. Another guy is going
17 to be flashing green.

18 Another guy is going to be flashing blue,
19 and it's going to be a whole sequence of unorganized
20 signage that you're going to see adding to the visual
21 clutter as Council Member Koslowitz brought up. The
22 other thing you should be aware of, and it is a
23 safety concern not only for the size of the signs
24 that it's visual clutter and distracting people.
25 But the signs are going to be so big and they're

2 going to rest on a property that in order to fit
3 within the height limitations. If a truck were to
4 drive underneath them because they're so big, with
5 something on its roof, you run the possibility of
6 vehicles running into the signs. So essentially what
7 you're creating are billboards on the property. So
8 if somebody is driving by, and they have a bicycle
9 strapped to their roof, you always see that Geico
10 commercial where the guy drives out of his garage and
11 the bicycle flies off the top. The same kind of
12 thing could happen here.

13 To sum it all up, we believe that the law
14 is-- it does have many unintended consequences. We
15 believe the timeframe to implement it of 120 days is
16 entirely unrealistic given the nature of the entities
17 that everybody has to interact with to get the
18 approval. We support the law. We believe the law is
19 a good law. We believe it has a valid purpose, and
20 we believe-- We've included in our package a copy of
21 the Westchester Rule, and I'll just read it for you,
22 and then I'll leave it at that. Which we believe
23 does what you want, and what the Westchester Rule
24 says:

2 It shall be prohibited to display
3 gasoline prices in a manner, which fail to include
4 and make plainly visible to the consumer the
5 difference in any-- the difference between price per
6 gallon for payment by cash, credit, or debit. So
7 what's say is if you're going to put the price up,
8 you have to clearly that it is a cash price and a
9 credit price. So if you put up regular, you have
10 show cash and credit and that's the sign on the
11 right. Your law the way it is written right now
12 you're asking the gas stations to put up every
13 conceivable price option, which as you can see gets
14 quite overwhelming very quickly. And I don't think
15 it achieves the goal that you want to achieve. Thank
16 you.

17 CHAIRPERSON ESPINAL: Thank you. All
18 this-- are these pictures included in your testimony?

19 ERIC PALADNICK: Those are in the
20 packages, yes.

21 CHAIRPERSON ESPINAL: Okay, great. Now,
22 we have it on record.

23 [Pause]

24 COUNCIL MEMBER ARROYO: Okay, your
25 reference to the existing, the law. The law that

2 we're discussing today does not speak to size of sign
3 or what it should contain, number one. Number two
4 that what it seeks to allow to put-- use an LED
5 sign, which now are not permitted, and the language
6 about variance. So in your testimony, you're
7 referencing the law requires. This law does not
8 require a particular size for the size either the
9 current or what we're hoping would become the signs
10 that we've been allowed businesses to use. So, is it
11 the law that was passed in 2013 that you are
12 referencing--

13 ERIC PALADNICK: 2013 gives the basis of
14 the minimum size requirements. I don't believe
15 that's been repealed.

16 COUNCIL MEMBER ARROYO: So not the law
17 that we're discussing today.

18 ERIC PALADNICK: No.

19 COUNCIL MEMBER ARROYO: Please let's
20 distinguish the two, okay?

21 ERIC PALADNICK: That law provides the
22 minimum, yes. That's provides the minimum size.

23 COUNCIL MEMBER ARROYO: All right. Thank
24 you. Thank you, Mr. Chair.

2 CHAIRPERSON ESPINAL: All right. Thank
3 you. Let's go on with the next testimony, and then
4 we'll go back to questions.

5 ADAM WOLF: Eric said most of it but I
6 wrote it. So I'm going to-- I'm going to read it.
7 All right, good afternoon members of the Committee on
8 Consumer Affairs. My name is Adam Wolf and I'm the
9 COO of Jericho Wholesale a Shell distributor in New
10 York and New Jersey. In the past week, I've met with
11 a few of the members of the City Council to discuss
12 with them my concerns on the proposed Resolution.
13 Through these meetings I was able to understand what
14 the Committee expected to accomplish in protecting
15 the consumer. As a service station owner, my concern
16 is how the Resolution will ultimately be interpreted
17 by Consumer Affairs, and the costs associated with
18 complying.

19 The Resolution from 2013, when enacted by
20 Consumer Affairs created a sign that was almost nine
21 feet wide, and depending on if a location is full-
22 serve, self-serve or both, the height of the sign
23 could range from 4-1/2 feet to 8 feet high. In
24 addition to creating visual pollution, the sign would
25 have been difficult to install at many of our

2 locations based on the size of the property, and
3 would have required tens of thousands of dollars to
4 install. I've included in my handout today examples
5 of this sign marked as Exhibit A and B. As you can
6 see, the new sign is confusing, loaded with numbers,
7 and resembles a Bingo board. The Resolution offers
8 six months to comply. The current resolution offers
9 six months to comply. However, there is no
10 possibility of having plans approved and custom signs
11 made for hundreds of service stations in New York
12 City within that time frame.

13 Although the current Resolution may
14 accomplish the goal of the Committee, I believe there
15 is a way to communicate the cash credit price to
16 consumers using the existing sign frame in a concise
17 and clear message. Before I continue, I was asked
18 this week why in our industry do we have cash or
19 credit pricing. Without going into the legality of
20 it, it is simple to explain. It's really no
21 different than a merchant that requires you to charge
22 \$10 or \$15 before you use a credit card. Credit card
23 fees at our service stations can be as high as 2.45%
24 with a 30-cent transaction fee. So if a customer
25 buys ten gallons of fuel at today's regular price of

2 \$3.59, the credit card company is making 11.8 cents a
3 gallon. In some cases, that's more than the merchant
4 makes per gallon on the transaction. We sell
5 commodity that is totally fungible, and every penny
6 matters. A pump at a service station is really no
7 different than an ATM at the local convenience store.
8 When you go to the ATM they charge you a fee for
9 your own money. The sale of gasoline is very much
10 the same.

11 The 2004 Resolution before us today does
12 provide an exception process if the site is able to
13 obtain a waiver from the Department of Buildings. In
14 the past, Consumer Affairs regulations had
15 standardized our street price signs. The signs had
16 always been 3 feet by 4 feet, and the products
17 displayed generally were regular, midgrade, and
18 premium. This Resolution will create a loophole in
19 the law where not all sites need to comply.
20 Ultimately changing the competitive landscape, and
21 not ultimately accomplishing the goals of this
22 Committee.

23 What I propose is that we adopt a New
24 Jersey or Westchester model. These jurisdictions
25 have implemented laws that state that if you post a

2 price you must post the cash and credit price, and
3 you must at least post the lowest price of fuel you
4 are selling. 80% of our customers purchase regular.
5 This adaptation of the law would allow us to use the
6 current price signs and reface them to comply.
7 Thereby meeting the goal of the Council. I have
8 today with me scale prints of what these signs would
9 look like as both a standard sign and as an LED. It
10 is cost-effective option that can be implemented
11 quickly.

12 I often say that gasoline service
13 stations have some of the most transparent pricing in
14 retail. We have a street price sign indicating the
15 price. We post the price on top of the top and on
16 the pump before you select the grade, the price is
17 posted as well. Finally, as you purchase the fuel,
18 we give you a running total. It would be nice when
19 you went to the grocery they provided you a running
20 total of your purchases as you put items into your
21 cart. Thank you for your time today. And I'll
22 answer any questions. I guess we're wafting on more
23 questions.

24 [background discussion]

2 RALPH BOMBARDIER: Oh, what he said.

3 [laughter]. I'm the Executive Director of the
4 Gasoline and Service Dealers Association established
5 in 1931 in Brooklyn, New York. We represent service
6 stations, repair shops--

7 CHAIRPERSON ESPINAL: Can you state your
8 name for the record?

9 RALPH BOMBARDIER: I beg your pardon, sir.

10 CHAIRPERSON ESPINAL: Can you state your
11 name for the record?

12 RALPH BOMBARDIER: Ralph Bombardier. I
13 thought everybody knew that. Okay. These businesses
14 could be considered small businesses. When you
15 factor it against the true definition of a small
16 business where, when are many businesses. I'm going
17 to read from my written testimony because I don't
18 want to be redundant. But I want to make a plea for
19 my kind of member. Gasoline stations are not equal.
20 If you look at a gas station they look the same. You
21 don't know who owns it. You don't know who is
22 supplying it. You don't know if it's a company opp
23 and you don't know if it's Yani Bonovich [sic] who
24 goes home at night, and then he's back the next
25 morning at 6 o'clock to reopen the station. From one

2 station to another, the price of the wholesale
3 gasoline can range up to 20 cents difference
4 depending on whether you own the property, you lease
5 the property, or you rent from a major oil company or
6 are supplied by a distributor.

7 So some of these stations need some kind
8 of a competitive edge. They have to have some kind
9 of a sales promotion that it can operate with. When
10 Exxon/Mobile left the state, Downstate New York
11 several years ago, the new distributors that did come
12 in, increased the price of gasoline to my dealers by
13 up to 18 cents a gallon. In order for some of them
14 to stay in business, they had to go gas and credit.
15 They had no choice. When the first law passed, a lot
16 of my people decided I can't afford this sign so I'm
17 going to stop doing it. The result of that was the
18 cash price had to go up. So many New Yorkers who
19 took advantage of that price, the cash price, now had
20 to pay more money because the cash price had to go up
21 in order to accommodate the credit card price.

22 So there are some unintended
23 consequences. I fully agree with there are other
24 ways of doing this. The Westchester Law may be a
25 solution. The New Jersey Law may be a solution, but

2 I ask you just to consider that everybody has a gas
3 station or 25 gas stations. First of all, people
4 sometimes they can't afford. These signs can cost
5 between \$5,000 and \$25,000 depending on it, and the
6 bureaucracy to get those permits is going to be
7 tremendous. So thank you for the opportunity to
8 speak here, and I hope you take into consideration
9 what we've said.

10 CHAIRPERSON ESPINAL: Thank you so much.

11 I just have one comment to say about these signs, and
12 we're talking the consumer kind of point of view.
13 For me personally, I drive and stop by gas stations
14 all the time. I think one of the biggest
15 frustrations I have as a consumer is that let's say I
16 frequent the same company --let's say it's Shell or
17 BP -- all of the time. But I enter one gas station,
18 and I find out that if I use my debit card and click
19 on the debit button, I get charged cash instead of
20 being charged credit. But next week I go to a
21 different gas station the same brand. I hit the
22 debit button and I'm being charged credit.

23 You know, it's very frustrating and I
24 think it blindsides the consumer because they're not
25 sure exactly what they're going to get or what

2 they're going to pay. Is there an easy way, or do
3 you think that-- How feasible is it for you guys
4 just to put a sign or a sticker just letting the
5 consumer know that you're charging debit, but it's
6 going to be the same as cash, or debit if going to be
7 as credit?

8 ADAM WOLF: Every pump in my chain says
9 right there-- It should say debit or credit price.
10 I didn't give that to you, but I didn't know that was
11 going to be a question. You can have this, but this
12 across my entire chain. But to eliminate that
13 question, we've done that--

14 CHAIRPERSON ESPINAL: Right.

15 ADAM WOLF: --partly because like I said,
16 a debit card is-- I've had this discussion with lots
17 of consumers. A debit card is not cash. They think
18 it is, and I grant them that point of view, but we
19 still pay a transaction fee just like if you went to
20 your ATM at a convenience store, and it's not your
21 own bank, they charge you-- I don't know what they
22 charge you, \$2.00, \$3.00 now, a \$1.50. It depends.
23 I don't even know. Why? Because I think it's a
24 debit card. It's not cash. By going to a restaurant

2 that says cash only, and you give them your debit
3 card. Are they going to take the card?

4 CHAIRPERSON ESPINAL: So why is that some
5 gas station are allowed to--

6 ADAM WOLF: Because they're able to--

7 CHAIRPERSON ESPINAL: --take debit.

8 ADAM WOLF: So our interpretation of the
9 Attorney General's-- Like, we've studied this to
10 make sure we always comply. Is that the Attorney
11 General more or less stated with the Cash/Credit Law
12 when it came into effect that if you charge something
13 different for cash or credit, that all credit cards
14 needed to be the same. So if you had a Shell
15 MasterCard or you used your United Airlines
16 MasterCard, it needed to-- They all needed to be
17 treated equally across the board. You couldn't
18 discount because it was branded. So that's the
19 stance we took, and then they kind of left it
20 ambiguous on debit. So the local service station has
21 decided to take that risk on his own, one way or the
22 other.

23 COUNCIL MEMBER: [off mic]

24 ADAM WOLF: I did. I know I said it, but
25 the oil company-- Right, we get charged a debit fee.

2 Yeah, there's no. Cash is the only way. It doesn't
3 cost us anything to do.

4 CHAIRPERSON ESPINAL: Okay. Do you mind
5 me asking you how many gas stations are in your
6 chain.

7 ADAM WOLF: In total chain it's probably
8 close to 60 in the five boroughs, and 40--

9 CHAIRPERSON ESPINAL: Do you feel that
10 putting that sign is a burden on your company? Is it
11 a burden?

12 ADAM WOLF: The sign that is proposed,
13 and I-- To just speak about the two--

14 CHAIRPERSON ESPINAL: No, just the
15 sticker on the pump.

16 ADAM WOLF: Oh, that sticker we buy in
17 bulk. It's like, I don't know, 25 cents a sticker.

18 CHAIRPERSON ESPINAL: So it wouldn't be
19 much of a burden on a business to put those stickers
20 on their gas pumps?

21 ADAM WOLF: Oh, no, no, no. But we do it
22 to eliminate confusion.

23 RALPH BOMBARDIER: We had a similar
24 situation in Albany, in Albany County. Albany County
25 Weights and Measures, and the Albany County

2 Legislature were trying to pass a similar law. And
3 we made the arrangement that we would circulate those
4 stickers to our members. And we did that, and that
5 ended the situation-- that ended the problem.

6 ADAM WOLF: That sticker might not be
7 required by DCA. I don't know. Because I'm sure
8 that-- I mean we're a pretty progressive company.
9 We pulled that out of somewhere either from Massel
10 [sic]-- Somewhere I got the idea for that sticker.

11 CHAIRPERSON ESPINAL: Well, putting
12 something on the actually state law. So the city has
13 the actual jurisdiction on that.

14 ADAM WOLF: It could have been from the
15 state, too. We talk to the often, too.

16 RALPH BOMBARDIER: There is no law
17 requirement anywhere for that, but are like concerned
18 with just exactly what you said. So when the
19 legislature has a problem up in Albany we met, and we
20 just had the stickers written up, and we went out and
21 gave them to all the gas stations.

22 CHAIRPERSON ESPINAL: Okay, so if I
23 proposed an idea to the State to regulate and have
24 every pump in the city to have these stickers, do you

2 think that gas stations are willing to have the big--
3 It wouldn't be a big burden to the gas station.

4 RALPH BOMBARDIER: Not at all.

5 CHAIRPERSON ESPINAL: Okay. I had no
6 problem with them.

7 ADAM WOLF: It's like a 6x3 sticker. I
8 mean I could have them-- If you needed them, I could
9 have them shipped to you tomorrow.

10 CHAIRPERSON ESPINAL: Okay.

11 ADAM WOLF: We have them by the thousands
12 in our office.

13 CHAIRPERSON ESPINAL: Thank you.

14 COUNCIL MEMBER: [off mic]

15 CHAIRPERSON ESPINAL: [laughs] I would
16 like to call on the Council Member from Brooklyn
17 Gentile. He has a few questions.

18 COUNCIL MEMBER GENTILE: Thank you, Mr.
19 Chairman. Just a few questions. So, Mr. Wolf, am I
20 understanding this right that the stations that offer
21 the same price for cash and credit actually have a
22 higher cash price to compensation for the charges
23 that they--?

24 ADAM WOLF: I did not say that.

25 RALPH BOMBARDIER: I said that.

2 COUNCIL MEMBER GENTILE: Oh, you said
3 that. Oh, okay.

4 RALPH BOMBARDIER: Yeah, what happens is
5 your cash price is-- And this is not everyone, but
6 the marketing process would be to lower the cash
7 price because you're making the price of the charge
8 for the credit card. So most stations that I have
9 would have a lower cash price than the stations that
10 had-- didn't have the discount for cash. So you
11 would be-- It wouldn't be a lot, maybe two or three
12 cents, but it is lower.

13 COUNCIL MEMBER GENTILE: I see. So those
14 who offer the same price for cash or credit are
15 covering some of that cost through the higher cash
16 price.

17 RALPH BOMBARDIER: That's right, and
18 remember I told you that gas stations are not equal.
19 So when you look at the sign, you can't tell that
20 that station was paying 10 or 15 cents higher or
21 lower than the station down the street. So it's hard
22 to figure out what the price is. But yes the formula
23 would be in most cases just to lower cash price, and
24 collect the credit card fees on the credit card
25 sales.

2 COUNCIL MEMBER GENTILE: I see. Okay.

3 So on this proposal as opposed to having the whole
4 menu of prices laid out, and I can see where you're
5 saying it really is confusing if you're driving by to
6 pick out the price that you want to pay. On this
7 proposal that you're making here, one would just
8 assume that these are the lowest prices available at
9 that station for regular.

10 ADAM WOLF: Right.

11 COUNCIL MEMBER GENTILE: And then if you
12 wanted plus or premium, it would be something more
13 than that?

14 ADAM WOLF: Right. So if you go to
15 Nassau and Suffolk and Westchester County, that's
16 all-- New Jersey's law is a little bit different,
17 but Nassau and Suffolk and Westchester that is just
18 what's posted. We don't post anything but our
19 regular price-- No, I'm sorry. Not Nassau and
20 Suffolk. Yes, in Nassau and Suffolk there is no
21 cash/credit price, and all we post is our regular and
22 our diesel price. In Westchester County where they
23 have a Cash/Credit Law we post the regular cash, the
24 regular credit and that's it. And if you post-- I
25 think I'm correct. If you post anything else, you

2 need to do it again. So like a site in New Jersey we
3 have, we post the regular cash/credit, the premium
4 cash/credit, and the diesel cash/credit. So
5 everything you post you must show. But historically,
6 the signs in New York City-- I mean obviously, you
7 drive around the five boroughs. All of our signs
8 different than what DCA said earlier. If I pulled
9 out the old Department of Consumer Affairs Law on
10 Service Stations, all of our signs must be 3x4.
11 There is no exception for that law. They cannot be
12 any bigger. It's well known if you go to the sign
13 industry and say I'm building a site in New York
14 City, you get a white background, black letter sign,
15 3x4 and the numbers are 430 points, which is six
16 inches. And that's one of the things that I wanted
17 to mention is that earlier they were saying that the
18 sign had to be a minimum of 60x30 or something like
19 that. They were five feet by three feet. That was
20 their minimum requirement, but they left out the
21 clause, and I have it in front of me, where every
22 single number needed to be 430 points, which is six
23 inches. And then, when you turn the page in their
24 own rule, I just so happen to have, it shows grade 1,
25 2, 3, cash, credit, debit-- I'm sorry, cash, debit,

2 credit, other. They never actually explained to us
3 what other was even though we asked that a dozen
4 times. So if all of that needs to be six inches the
5 sign kept growing and growing and growing. And the
6 sign that Eric showed, that was designed by my
7 engineers based meeting the code that they put forth
8 in 2013.

9 ERIC PALADNICK: Councilman, if I may,
10 just to go to your point because I honed in on what
11 you were saying. I was confused. You said that's
12 the lowest cash price. Our theory is that that
13 consumer is intelligent enough to see that regular.
14 And the driver knows the difference. Every driver
15 except a 16-year who just got their license,
16 understand that there are three different grades, and
17 that regular is the cheapest. So, we think that the
18 average consumer will have enough knowledge in order
19 to make the supposition, to make the leap from
20 understanding that that's the regular, and there's a
21 difference in cash and credit. And obviously, if
22 they go to the next grade up, it will be more
23 expensive, and there will also be a difference in the
24 cash or credit.

2 ADAM WOLF: I'm sorry, and just to his
3 point as well. So just the sign on top of our pumps,
4 which is also regulated by DCA, it's also white on
5 black and the numbers are still six inches tall.
6 Maybe not, three inches tall. We have to mark each
7 grade. So if you see the regular on the street, and
8 you are a premium and mid-grade customer, you've got
9 another shot at it on top of the pump. Before you
10 press the product key, it's listed right there. And
11 like I said, it's a running total from gallon zero.

12 COUNCIL MEMBER GENTILE: Well, it
13 wouldn't be another shot. That would actually be the
14 first time you would actually see the real price--

15 ADAM WOLF: Right, right.

16 COUNCIL MEMBER GENTILE: --for the plus or
17 premium.

18 ADAM WOLF: Yes.

19 ERIC PALADNICK: For the other grades.

20 ADAM WOLF: For the other grades, yes.

21 COUNCIL MEMBER GENTILE: Right. This
22 gives you a ballpark of what the regular is, and if
23 you're planning to put in the 89 or the 93, you're
24 looking-- You have to look at that with what's--

25 ADAM WOLF: Correct.

2 COUNCIL MEMBER GENTILE: --on the pump.

3 ADAM WOLF: Yes, and Ralph might
4 disagree, but 80% of my customers-- And to be really
5 honest on consumer habits, 80% of my customers buy
6 regular. Of those customers, most of them are
7 probably looking at the sign, and not saying anything
8 about the other customers. But once you're buying
9 premium, they literally, they're premium customers.
10 They don't even look at the price of gas.

11 COUNCIL MEMBER GENTILE: Right. [laughs]

12 ADAM WOLF: I mean, not that we don't
13 post it, but they don't even look.

14 ADAM WOLF: They want to just keep going.

15 COUNCIL MEMBER GENTILE: Well, it's true.

16 I know that most manufactures are now recommending
17 regular for their engines, right, as far as I know.

18 ADAM WOLF: I don't know. If so, that's
19 okay.

20 RALPH BOMBARDIER: That's true.

21 COUNCIL MEMBER GENTILE: So, I think it's
22 a function of what the manufacturer--

23 RALPH BOMBARDIER: I know they said 80%,
24 but I believe it's even higher.

2 COUNCIL MEMBER GENTILE: You think it's
3 even higher.

4 ADAM WOLF: And I live on the 80% right
5 now this year.

6 COUNCIL MEMBER GENTILE: All right.

7 ADAM WOLF: And we miss it, too. I'm
8 taking it as just regular alone, not the mixing of
9 new grade. [sic]

10 COUNCIL MEMBER GENTILE: Thank you, Mr.
11 Chair.

12 CHAIRPERSON ESPINAL: Thank you. I just-
13 - before we go to my next colleague, I just want to
14 just make clear that Arroyo's bill is just to have
15 the signs put-- be able to be in LED form. I'm
16 looking now that we have a sense of, heard your
17 testimony, I'm looking to maybe amending the previous
18 2013 law to make sure that the signs don't have to be
19 as big as the 2013 law.

20 ADAM WOLF: Thank you.

21 ERIC PALADNICK: That's what we were
22 hoping would be the discussion.

23 ADAM WOLF: And one of the-- I never saw
24 the Committee's Resolution in 2013. All I have today
25 is what was adopted by Consumer Affairs. So we

2 don't-- I don't know what as discussed here. It's
3 how they interpreted it that, you know, was
4 overwhelming.

5 CHAIRPERSON ESPINAL: It's actually a
6 law, and DCA created the rules not based on the bill
7 that was passed last year, but advocates to do what
8 they wanted to do. So, you know, it's good that
9 we're having this conversation, and we're trying to
10 see what makes more sense for the consumer and the
11 gas stations. So I would like to call up my
12 colleague from Queens Lancman.

13 COUNCIL MEMBER LANCMAN: My question and
14 I just wanted to clarify because I have this letter
15 from you, Mr. Paladnick about the direct unintended
16 consequences of the legislation before us. And I
17 looked at the legislation and I didn't quite get it.
18 So just to understand. The Council passed the bill.
19 The Department of Consumer Affairs implemented
20 regulations regarding what their sign should look
21 like. Maybe they were regulations based on the bill.
22 Maybe they were regulations based on DCA's existing
23 authority. And now, there's a bill before us, which
24 would do only two things, allow gas stations to apply
25 for a waiver under DCA's rules, and allow the digital

2 sign. Do you have an opinion, any of you, on that
3 bill? Are you for it, or are you against it?

4 Because I assume at some point, the Chairman is going
5 to bring it up for vote. Not today, but at some
6 later meeting.

7 ERIC PALADNICK: I'll go first. Eric
8 Paladnick. We're for the LED, and what we have
9 spoken to is for the LED. They believe it's about
10 time. It should be the digital there and we should
11 have it. It's done on the computer and it's
12 programmed and whatnot. As far as the waiver, we
13 believe the waiver is very vague in its description.
14 It doesn't provide any standards for it. And we
15 believe that the waiver itself will result in almost
16 everybody going and asking for the waiver because
17 everybody is already maxed out on their signage. So
18 that's our position on the waiver, and you do want to
19 speak?

20 ADAM WOLF: I agree. We're all in favor
21 of the ability to put LED signs up at our sites for
22 the future. In my meetings this week I even
23 indicated the five boroughs is the last place in the
24 country where you can't use an LED price sign as far
25 as I know. Everywhere locally you can. Concerning

2 the waiver. Again, we've enjoyed that standardized
3 4x3 sign for decades, and to offer that waiver is
4 going to change the landscape where some sites are
5 going to-- It's going to change how the price signs
6 in New York City. They are not all going to be
7 uniform, and it's not-- There is going to be a loss
8 of some of that level playing field that we enjoy
9 right now. But I don't think that's the intention of
10 the committee. And at the same time, the intention
11 is to inform the consumer of cash/credit pricing. By
12 applying for a waiver, the site is exempt. It now
13 doesn't need to comply. And now you have the DCA
14 going in, and they're always looking for that waiver
15 piece of paper. You kind of creating a step. We can
16 all comply. It's just paddling. [sic] I mean, it
17 would take-- Within a year, every site would have
18 done it.

19 RALPH BOMBARDIER: I'm sure that-- I'm
20 sorry, Mr. Lancman.

21 COUNCIL MEMBER LANCMAN: No, go ahead.

22 RALPH BOMBARDIER: I am sure that there
23 is an expense to applying for a waiver, and I can see
24 some of my members having a problem with that
25 expense. Whether an architect or an engineer going

2 to bureaucracy and discontinuing cash/credit rather
3 than go through that process. So I think the waiver
4 process will be a problem for some of my people.

5 COUNCIL MEMBER LANCMAN: So, it's not my
6 legislation, and I don't mean to impose myself into
7 the part to negotiate. But--

8 COUNCIL MEMBER ARROYO: That's why we're
9 here.

10 COUNCIL MEMBER LANCMAN: That's why we're
11 here. If the legislation were changed to just allow
12 for the LED, for the digital sign, without giving you
13 or your members the opportunity even to seek a
14 waiver, you would be in favor of it?

15 RALPH BOMBARDIER: Right. I've just
16 never had an industry testify at anything that I've
17 ever been involved with saying, no, don't give us the
18 opportunity to get a waiver on a regulation that are
19 imposed on us. No, we like them.

20 ERIC PALADNICK: I think the-- Eric
21 Paladnick. I think the problem we're all having,
22 though, is the original law, which I'm viewing almost
23 as the enabling legislation, and I'm viewing this as
24 an amendment to that to sort of fine tune it, for
25 better or for worse. That original legislation is

2 going to force the LED sign to be that, which is
3 going to be the Bingo board. And we don't think that
4 works in combination with any signage. We think the
5 size of that signage, and without amending that
6 language and saying that you don't-- The way the
7 2013 legislation is drafted is such that you have to
8 post every single gas grade you sell a the
9 cash/credit. There is no way around that billboard
10 effect. And if you took out that waiver, well then,
11 you'd run into the problem that was being described
12 before. Because nobody would be able to provide the
13 signage because nobody has the space. So all of the
14 operators in New York City would raise the cash price
15 to match the credit price. You would raise gas
16 prices in New York City because nobody would be able
17 to (a) a lot of people wouldn't be able to afford the
18 sign because of the cost. Once you get past the
19 cost, it's whether or not they have the square
20 footage on the property. The signage available.

21 COUNCIL MEMBER LANCMAN: I get your
22 objection to the law that the Council passed
23 previously and DCA's regulation.

24 ERIC PALADNICK: Okay. So that's really
25 the problem. The LED sign is good, but the LED sign

2 in combination with that size is not-- is the
3 problem.

4 COUNCIL MEMBER LANCMAN: All right.
5 Thank you.

6 CHAIRPERSON ESPINAL: Thank you. I'm
7 going to pass it over to Arroyo.

8 COUNCIL MEMBER ARROYO: Thank you, Mr.
9 Chair and I did say in my opening statement, we're
10 here to discuss the issues and concern, and what we
11 can potentially use to improve the legislation. The
12 intent of the legislation that I've introduced was to
13 permit the LED lights. And where zoning does not
14 permit the size of the sign to be erected that a
15 business have the opportunity to request a waiver.
16 Because that seems to put businesses in conflict with
17 the rules that the law of 2013 puts into effect. We
18 appreciate, or I certainly do, and I know that my
19 colleagues do, too. But I want to clarify for my
20 colleagues that the law that I've introduced seeks to
21 address two components of the challenges that
22 businesses are confronting today. Your feedback is
23 very helpful in strengthening and changing some
24 language in the law that would accomplish three
25 things. Maybe correct unintended consequences from

2 the 2013 law ,and I will work with the Chair of the
3 committee to modify language or include additional
4 language that would address the concern that a sign
5 could become a billboard. Because that, and if I
6 hear Karen Koslowitz, Council Member Koslowitz's
7 concern, none of us want to see in our communities
8 any more than we need to. That was not the intent of
9 my law. So I just want to make sure that you all are
10 clear that the bill that we're discussing today seeks
11 to allow you to use the LED signs. And where it's
12 necessary for the business, to apply for the variance
13 of the posting of the sign. We'll fix it. Mr.
14 Chair. Okay, thank you.

15 CHAIRPERSON ESPINAL: Okay, any more
16 questions. No. With that being said, I'd like to
17 thank Rachel Cordero, and thank my colleagues for
18 their input and also everyone here who gave testimony
19 With that being said, this committee-- meeting has
20 been adjourned. Thank you. [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 September 21, 2014