

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CONSUMER AFFAIRS

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

B E F O R E:

RAFAEL L. ESPINAL, JR.
Chairperson

COUNCIL MEMBERS:

JULISSA FERRERAS
KAREN KOSLOWITZ
RORY I. LANCMAN
VINCENT J. GENTILE.

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

[gavel]

CHAIRPERSON ESPINAL: Good morning and welcome to today's Consumer Affairs City Council Hearing. My name Rafael Espinal and I'm the Chair of the Committee. Today we'll be discussing Intro 467 sponsored by Council Member Andy King which would create a licensing scheme to regulate solicitation by costumed individuals in the city of New York. In the past few years a number of persons have taken to the streets in costume soliciting for donations or tips from tourists in exchange for photos. This activity has been most prevalent in the streets and pedestrian plazas around Times Square. While it is not illegal to wear a costume in public in the past two years there has been a number of disturbing media reports involving costume individuals, behavior aggressively towards the general public and the police department. In particular there have been reports of aggressive soliciting and physical altercations between costume characters and members of the public and police personnel. These reports as well as many other anecdotal reports have raised concerns here in the city council about, about unidentified and

1 unidentifiable persons interacting with the public
2 in Times Square. Currently when such interactions
3 turn sour it may be challenging to identify the
4 costumed individuals involved. Intro 467 attempts
5 to address this issue by creating a licensing
6 mechanism to be administered by the Department of
7 Consumer Affairs and enforced by the NYPD. Licensed
8 costumed individuals will be required to obtain
9 licenses, undergo fingerprinting and background
10 checks and wear their IDs in the course of their
11 activities. During today's hearing the council
12 hopes to learn more about an activity which
13 operates in public but yet very little official
14 information exists. The council is sensitive to the
15 concerns of all parties and looks forward to
16 hearing from the administration, the Times Square
17 alliance, the Broadway league, the costume
18 individuals as well as any other interested parties
19 regarding Intro 467 and suggestions for equitable
20 solutions to the problem at hand. I would like to
21 thank my committee staff Israel Martinez and Labony
22 [sp?] for all the work they done on, on this bill,
23 on this issue and getting this hearing together.
24 I'll also like to recognize Andy King who's the
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1 bill sponsor, Dan Garodnick ho represents Times
2 Square. And members of the committee we have
3 Julissa Ferraras from Queens. And we have Corey
4 Johnson who also represents the other side of Times
5 Square. With that said I'll like to call on this
6 bill's sponsor to say a few words.

8 COUNCIL MEMBER KING: Good morning and
9 thank you Mr. Chair Espinal. And thank you to each
10 and every one of you who showed up today to engage
11 in the spirited conversation with regards to how do
12 we continue to make the Times Square experience a
13 more pleasurable one for everyone who comes down
14 there to enjoy Times Square and all of New York.
15 Over a year ago we had an incident with one of our
16 costume characters, Elmo, which kind of lost his
17 mind because he felt he wasn't properly tipped and
18 berated a father and a son. From that Times on I
19 said to my colleagues; what's happening, is there
20 anything on the books that, that can deter this
21 type of behavior. Having a five year old that lives
22 in my house I know that she grows up enjoying the
23 little Bonnies and Doras and every, and so forth. I
24 will want to make sure that she doesn't encounter
25 this type of experience. Unfortunately this summer

1 she did experience the same kind of experience from
2 a Strawberry Shortcake. After Strawberry Shortcake
3 didn't get the proper tip she wanted she ripped off
4 her own head and started to berate a father and a
5 family. In the minds of a five year old how do you
6 comprehend a head being snatched off. In cartoons
7 you can erase the head and you can draw it back on
8 but in human life you can't do that. So we want to
9 make sure we maintain those kind of innocence for
10 our children and our families and making sure that
11 the individuals who go out there to entertain and
12 bring smiles on people's faces that they stay in
13 same line as those personas of the Spiderman or the
14 Mickey Mouse, or the Elmos or the Big Bird who
15 we've been educated and raised on. We want to make
16 sure that the experience for everyone is a joyful
17 and a pleasant one. So this was the premise of
18 making sure that we put pen to paper and out of
19 that came Intro 467. I want everybody to be real
20 clear that this bill is not designed to take away
21 anyone's first amendment's rights. It's not about
22 limiting freedom of speech. And even we all know
23 freedom of speech is not absolute because you can't
24 scream fire in a, in a movie theatre, you can't
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1 sell adult magazines next to a, a school. So these
2 things aren't absolute but we want to make sure
3 that we offer people the opportunity and experience
4 to be free in expression by continuing having the
5 trust the public also. This bill will also, is
6 about public safety. And if anyone is out there
7 asking for a donation for sharing a smile with our
8 tourists and our five year olds then we should have
9 an opportunity to know who these individuals are
10 that are underneath these costumes. And that's all
11 we're asking. I don't think we're asking anything,
12 any, anything that's unreasonable. We're not
13 talking about... one of the number one concerns that
14 our most vulnerable communities have is
15 immigration. It's not about immigration. We've made
16 it real clear. The legislation is not, there's no
17 trickery in the worlds that are in this piece of
18 legislation and I know we have our pros and we know
19 where we have our cons. But I'm asking us all that
20 are in this room today and all that have a vested
21 interest to have a really responsible conversation
22 on what can we do to make sure that not only just
23 Times Square but anyone who decides to dress up
24 across the city of New York that they're treated

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2 fairly, you know because the people underneath
3 these costumes are parents, they're students,
4 they're working Americans, or New Yorkers. But as
5 well we want to make sure that the tourists, that
6 families in New York and the little children are
7 respected also too. So when we're talking about
8 soliciting in an aggressive manor we want, we don't
9 want anybody to feel uncomfortable when they come..
10 We want them to feel as comfortable as when they go
11 into Toys R Us to spend their money they can come
12 out and take a picture with Big Bird and feel just
13 as comfortable and not feeling that they getting
14 shook, shake down. And, and in, in all fairness to
15 the characters I want to say that I will like.. you
16 know they're part of the New York experience and I
17 think they should be treated with fairness and
18 respect also too. I don't like to see the little 17
19 year old teenager run up in the back of Elmo, smack
20 him in the back of head and run down the street.
21 It's not fair to them also too. And it's also not
22 fair as much as we need to have rules of engagement
23 for everybody as well as NYPD knowing how they
24 should interact as well as the character should
25 know how to interact. So I think today I'm looking

1 forward what we can, come to a meeting of the minds
2 to start the conversation of how do we actually get
3 this bill pass. I know I have several of my
4 colleagues who have some concerns. And I'm looking
5 forward to us all working together to do what we
6 can do to make sure that this bill makes sense and
7 that everyone gets the chance to chime in. I've had
8 the opportunity of being out there with the
9 characters and watching them work and I've seen a
10 lot of them put a lot of good smiles and I've seen
11 some aggressively. And I've, and I've stopped and
12 said something to a few of them. But at the end of
13 the day I want everyone to be respected. I want the
14 men and the women to... be respected. I want our
15 families and our tourists to be respected. But more
16 importantly I want our characters who stand out
17 there 12 hours a day to put smiles on everyone to
18 be respected as well. So again I want to thank you
19 Mr. Chair for hosting this hearing today and I'm
20 looking forward to a, a nice loving spirited
21 conversation. Thank you.

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23 CHAIRPERSON ESPINAL: Thank you
24 Councilman. I'll also like to call up Dan
25 Garodnick.

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2 COUNCIL MEMBER GARODNICK: Well thank
3 you very much Mr. Chairman. I want to thank you for
4 holding the hearing today and also want to thank
5 Council Member King for his willingness to take on
6 a very difficult issue. He's a great representative
7 for the city and one of my favorite people. So it's
8 a pleasure to sit next to him. I also want to thank
9 the Times Square Alliance and La Fuente for their
10 advocacy on both sides of the issues and of course
11 to my colleague Council Member Johnson with whom I
12 share Times Square. He has been a very measured and
13 responsible voice on this issue and it is a
14 pleasure to work with him. There is a problem in
15 Times Square and it is mostly a behavioral problem.
16 There are people in costume who are aggressively
17 panhandling and disturbing New Yorkers and
18 tourists. The situation is made worse by the sheer
19 number of characters who are out there at any given
20 moment in an area that is among the business in the
21 city and even in the country. Some of the behavior
22 out there is simply abhorrent and it needs to stop.
23 But the problem is with the behavior, not with the
24 costumes themselves or with every human being who
25 occupies them. We have plenty of good well-meaning

1 folks working for tips out there some of whom who
2 are with us even today. But the behavioral problems
3 happen enough to spur this conversation and to
4 demand immediate attention from the city. And
5 whether we pass a bill here or not and no matter
6 what any legislation might say we need more, and
7 more complete enforcement from the NYPD. The
8 fundamental question is what will solve the
9 problem. Is it more aggressive enforcement of
10 existing laws as was done to address squeegee men
11 in the 1980s and early 90s? Is it setting Times,
12 place, and manner restrictions for entertainment in
13 Times Square so as to limit obstruction in a very
14 busy area? Is it a self-regulatory scheme with
15 background checks and identification, cards
16 coordinated with the NYPD? Or is it as my colleague
17 Council Member King proposes a New York City
18 license? There is no question that if we were to
19 set up a licensing scheme and limit the number of
20 licenses to 15 or 20 of them that would undoubtedly
21 solve this problem. This bill however in an effort
22 to walk a careful line on constitutionality does
23 not do wo. And I appreciate why it does not do so.
24 And I'm therefore skeptical that a license will
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2 solve all of the problems more than some of the
3 alternatives out there. We need to beware of some
4 of the legislative fixes that we could pass quickly
5 while the fundamental questions of enforcement will
6 still dominate. There is no question that this is a
7 difficult issue and I have nothing but respect for
8 my colleagues at Times Square Alliance La Fuente
9 and others who have weighed in on both sides of the
10 subject. We can joke about the frivolity of the
11 issue but in reality these are serious issues about
12 the intersection of quality of life offenses and
13 first amendment freedoms. It's the sort of issue
14 that law school classes are created to examine.
15 There is nothing easy about this issue and every
16 possible solution has flaws. So I look forward to
17 the discussion today. And again I thank Council
18 Member King and Chair Espinal and my colleague who
19 I represent the area with Council Member Johnson
20 and the members of this committee for taking this
21 up, thank you.

22 CHAIRPERSON ESPINAL: Thank you
23 Councilman Garodnick. I'd like to call up
24 Councilman Corey Johnson.

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2 COUNCIL MEMBER JOHNSON: Thank you Mr.
3 Chairman for holding this hearing today. I, I too
4 want to thank Council Member King for taking on an
5 incredibly difficult, contentious, complicated
6 issue I know spending a significant amount of this
7 year working on this, listening to all sides,
8 working with the administration, all the stake
9 holders involved, businesses... It has been an
10 enormous undertaking and he deserves to be lauded
11 for the seriousness which with, which he has taken
12 it on with. So I wanted to thank him. I very much
13 agree with nearly all of what Council Member
14 Garodnick said. But some of it I believe is worth
15 repeating. There is no dispute that currently what
16 is happening in Times Square is unacceptable on a
17 daily basis. Costume individuals and as my
18 colleague said, not all of them but some of them,
19 acting in an unacceptable way with intimidating
20 behavior, inappropriate behavior, aggressive
21 panhandling, and touching has made Times Square as
22 Tim Tompkins from the Times Square Alliance likes
23 to put it creepy and not quirky. And we are okay
24 with quirky but not creepy. So what needs to be
25 done. And I believe something needs to needs to be

1 done. I, I should mention that three weeks ago I
2 was in Times Square on a weekday night and I was
3 appalled by watching a group of six costume
4 characters separately surround three groups of
5 people, two of which had small children with them,
6 blocking them, aggressively panhandling, demanding
7 money, extra money. And so the problem exists, no
8 one's denying that it exists. The real issue here
9 is how do we best to deal with that problem. And it
10 is of my opinion at this Times that the best way to
11 deal with this is not through creating a licensing
12 and registration scheme. And my major concern with
13 that is that I think it puts a stamp of approval on
14 being a costume character in Times Square, not that
15 we need to disapprove of it but I also don't think
16 we need to say the city of New York is welcoming
17 you to come to Times Square, dress in a costume,
18 and, and do this. Instead I think we have to look
19 at measures that may already be available to us
20 like increased enforcement and also considering
21 Times, place, and manor restrictions to limit where
22 in Times Square costumed individuals can actually
23 operate. So I am willing to work with Council
24 Member King, Chair Espinal, my colleague Dan
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2 Garodnick, and all of you on finding the best
3 solution but my hope is, is, is that we actually
4 come up with a solution that works and that makes a
5 real difference. And at this point I am not
6 entirely sure that just licensing these individuals
7 is actually going to weed out the bad actors that
8 currently exist and that is the ultimate goal that
9 all of us share. So once we can come to some
10 resolution on that I look forward to the city and
11 the City Council taking further action to help
12 improve Times Square for all who want to enjoy it.
13 Thank you Mr. Chair for the ability to speak today.
14 Thank you Council Member King and I also want to
15 thank Council Member Garodnick who I've spent an
16 enormous amount of Times working with this on.

17 CHAIRPERSON ESPINAL: Thank you
18 councilman. I'd just like to state on the record as
19 the Chair of the committee I am a sponsor of the
20 bill but I do take into high consideration the, the
21 concerns that my colleagues who represent those
22 districts have, you know I know that you guys know
23 your district's the best so you know at the end of
24 this hearing hopefully we can come to a conclusion,
25 find a way we can all work together and make this

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2 bill work. So with that said I'd like to call up
3 the first panel. From DCA we have Marla Tepper, we
4 have Alba Pico, Inspector Edward Winski from NYPD,
5 from NYPD Oleg Chernyavsky, Detective Ken Rice,
6 Inspector John Hart. And I also like to recognize
7 members of the committee. We have my colleague
8 Vinny Gentile from Brooklyn, we have Rory Lancman
9 from Queens who just joined us. Thank you guys for
10 being here. Would you all raise your right hand so
11 I can administer an oath? Do you affirm to tell the
12 truth, the whole truth, and nothing but the truth
13 in your testimony before this committee and to
14 respond honestly to council member's questions?
15 Okay great. So just state your name before you
16 testify. Anyone, whoever'd like to begin first.

17 MARLA TEPPER: Marla Tepper, General
18 Council, Department of Consumer Affairs.

19 ALBA PICO: Alba Pico, First Deputy
20 Commissioner at Consumer Affairs.

21 INSPECTOR WINSKI: Inspector Edward
22 Winski, NYPD.

23 DEPUTY INSPECTOR HART: Deputy Inspector
24 John Hart, NYPD.

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2 OLEG CHERNYAVSKY: Oleg Chernyavsky,
3 NYPD.

4 INSPECTOR WINSKI: Okay, good morning
5 Chair Espinal and members of the council. I'm
6 Inspector Edward Winski, the commanding officer of
7 Midtown South Precinct. On behalf of Police
8 Commissioner William J. Bratton I'm pleased to be
9 here today to discuss Intro 467 which would amend
10 the administrative code to create a licensing
11 framework for costumed individuals who solicit in
12 public spaces in our city. Joining me from the
13 Department of Consumer Affairs are Deputy
14 Commissioners Alba Pico and Marla Tepper who can
15 answer questions that you may have. Intro 467 would
16 enact new administrative code provisions that apply
17 to any person wearing a costume who accepts or
18 requests by spoken word, signs, gestures, or any
19 other means a fee, donation, tip, payment, or any
20 other form of compensation. The bill would create a
21 license to be issued by the Department of Consumer
22 Affairs and would be unlawful for any costumed
23 individual to accept or solicit compensation in
24 return for posing for photos or otherwise
25 interacting with the public without having first

1 obtained a license. The bill also sets forth
2 regulations regarding the behavior of these
3 individuals including prohibiting aggressive
4 solicitation, limiting the locations where the
5 individuals may solicit, and prohibiting the use of
6 equipment, stands, vehicles, racks, or displays.

7 Over the past few years in New York City there has
8 been a tremendous influx of costumed characters
9 soliciting tips in exchange for posing for
10 photographs especially in Times Square. As we all
11 know Times Square is known as the crossroads of the
12 world and it is one of our most popular tourist
13 destinations. Naturally the high volume of visitors
14 estimated at nearly 500 thousand pedestrians per
15 day means a large number of potential customers for
16 costumed individuals. A problematic aspect of this
17 business however is that competition for tips and
18 donations in Times Square has become very intense
19 causing friction between the costume workers
20 themselves which in turn leads to aggressive
21 solicitation of the public. Since 2009 there have
22 been 38 arrests of costumed individuals in Times
23 Square by in large for aggressive solicitation.

24 Alarmingly however 18 of those arrests or almost 50
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1 percent occurred this year. Most were for
2 aggressive solicitation but some were for assaults
3 and one was even for a sexual assault. Complaints
4 by the public of criminal incidents involving
5 costume characters have been well documented in the
6 media. Notably on July 26th of this year an
7 individual dressed as Spiderman posed for a
8 photograph with a child in Times Square. The
9 child's mother attempted to hand the costumed man
10 one dollar in exchange for the pose. When the man
11 explained that he only took five, 10, or 20 dollar
12 bills a police officer intervened and told the
13 woman that tipping was optional. The costumed man
14 began yelling profanities at the officer and then
15 punched the officer in the head. The man was
16 apprehended a short while later by other nearby
17 officers. In response to the public outcry about
18 some of the more aggressive behavior of costumed
19 individuals together with our Deputy Commissioner
20 of Collaborative Policing Susan Herman I have
21 conducted outreach with the Times Square Alliance
22 as well as held meetings with groups that have been
23 organized to represent the costumed individuals. At
24 the meetings we explain what behavior costumed
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1 individuals may engage in and what is prohibited.
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3 These meetings also resulted in Times Square
4 Alliance enacting a campaign of sign posting in the
5 area of Times Square alerting pedestrians that
6 taking photographs is free and tipping of the
7 characters is optional. The public is also advised
8 that if they believe they have been victimized they
9 should alert a police officer. These efforts
10 supplemented our handing of flyers to pedestrians
11 that contained similar information. To date more
12 than 100 thousand flyers have been distributed as
13 part of this educational campaign. Also as part of
14 our increased enforcement efforts the Department
15 recently conducted a decoy operation in Times
16 Square to check against the bad practices of some
17 of these costumed individuals. Supplementing our
18 educational enforcement efforts we welcome the
19 creation of more tools for us to use to address
20 this growing problem. One such tool could be a type
21 of license for costume characters who engage in
22 solicitation that contains reasonable restrictions
23 on the time, location, and manner of solicitation.
24 We are pleased to continue the discussion of this
25 problem and look forward to hearing other opinions

1 and solutions. The administration of course
2 recognizes that most costumed individuals are not
3 engaging in criminal activity or intending to take
4 advantage of unwitting tourists. They are simply
5 trying to make a living for themselves and their
6 families and we respect their right to do so. But
7 the rights of all those who live in, work in, and
8 visit our city must be respected as well. We
9 appreciate the opportunity to provide our comments.
10 Thank you for your focus on this issue and we are
11 happy to answer any questions you may have.

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13 CHAIRPERSON ESPINAL: Anyone else
14 testifying from the panel? No, okay. What, what is
15 the current law concerning aggressive panhandling,
16 street harassment?

17 OLEG CHERNYAVSKY: Yes Councilman it
18 prevent, it prohibits individuals from
19 aggressively.. [cross-talk] Pardon.

20 CHAIRPERSON ESPINAL: And state your
21 name please.

22 OLEG CHERNYAVSKY: Yes thank you
23 Councilman, Oleg Chernyavsky for the NYPD. The
24 current status of aggressive solicitation prevents
25 individuals from following others down the street

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2 after initially soliciting money, putting their
3 hands on people, intimidating individuals.

4 CHAIRPERSON ESPINAL: Now is there, is
5 there, do you see an increase of this behavior
6 happening with people who are wearing costumes as
7 opposed to people who don't wear costumes?

8 INSPECTOR WINSKI: We have, as by our
9 statistics in my testimony most of our arrests are
10 for aggressive solicitation and, and normally it,
11 one of the costumed characters will physically
12 touch someone to prevent them from walking away.
13 They will follow them down the street and harass
14 them verbally to, to get a tip or an additional
15 amount of money or on, on occasions also it's very
16 common these characters work in groups and they
17 will surround the person and prevent them from
18 walking away until they get the tip that they are
19 looking for.

20 CHAIRPERSON ESPINAL: Council Member
21 Ferreras... question?

22 COUNCIL MEMBER FERRERAS: Good morning.
23 And you know this is something that we've been
24 discussing, have met with a lot of groups on both
25 ends and I think the spirit of the legislation

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2 while being well intentioned is something that we
3 really have to look into especially when we're
4 talking about aggressive solicitation and that is
5 already a law. So it's about enforcement of that
6 law. And I understand that like I said I have, I
7 have a one year old so as a concerned mom of course
8 we want to know who's behind the, the mask or the,
9 the head or whatever costume it is. But maybe
10 perhaps consumer affairs can answer this. Or the...
11 Can this be resolved or some type of identification
12 be done through the Muni ID? Because it seems like
13 we're doing a lot of work on Muni ID. So why
14 wouldn't the character be able to, be included and
15 show their Muni ID?

16 ALBA PICO: I mean I don't know if it's
17 a Consumer Affairs or PD question on the, on the
18 Muni ID.

19 COUNCIL MEMBER FERRERAS: Well I think
20 every city agency's working on the Muni ID right?

21 ALBA PICO: Yeah. I mean we, we were
22 thinking that one of the requirements to prove age,
23 because the law recommends that there is an age 18
24 or older that the Muni ID will be proof of, of ID.

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2 COUNCIL MEMBER FERRERAS: Right, of
3 residency, of ID, of a name. So if someone is doing
4 anything inappropriate and I need to report to NYPD
5 and you know Elmo might have gone running but I
6 know that Elmo might be, I might know Elmo's name
7 if I look for the ID correct?

8 ALBA PICO: Yes.

9 COUNCIL MEMBER FERRERAS: Okay. Is there
10 any or can you talk, can you walk me through how
11 many other licensing requires fingerprints in our
12 city?

13 ALBA PICO: It's about 14 license
14 categories.

15 COUNCIL MEMBER FERRERAS: And what are
16 they?

17 ALBA PICO: Home improvement
18 contractors, home improvement sales people,
19 blacksmith, second hand dealer auto, second hand
20 dealer general, auctioneers, bingo commercial
21 lessers where the bingo games are, are being
22 played, employment agencies, electronic home
23 appliance service dealer because they going into
24 peoples' homes... home brokers, scrap metal
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2 processors, and tow truck drivers, and tow truck
3 companies.

4 COUNCIL MEMBER FERRERAS: And on average
5 where are these finger, well where are these
6 fingerprints stored?

7 ALBA PICO: The Division of Criminal
8 Justice Service. We have an agreement with them and
9 if anyone is ever after their fingerprint that if
10 anyone is ever arrested we get immediately notify
11 and we follow our policies and protocols.

12 COUNCIL MEMBER FERRERAS: So if you
13 have, and I guess this is a follow-up to NYPD if we
14 have someone who was arrested for aggressive
15 solicitation you would then run their fingerprints
16 with this license potentially? Or what's the
17 process? So you get arrested for aggressive
18 solicitation. Is it a fine, are you going downtown,
19 are you going to spend a day in... what happens?

20 INSPECTOR WINSKI: Aggressive
21 solicitation is a non-fingerprint-able misdemeanor.
22 So it can be a summons or it can be arrest if
23 someone has a warrant or if they have no
24 identification. So it, it's either or. It can be a
25 summons or it can be an arrest.

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2 COUNCIL MEMBER FERRERAS: So if we have
3 aggressive solicitation this bill is asking to
4 fingerprint licenses. Where is the correlation?
5 Because I know that we're trying to get to be more
6 efficient from your perspective. So collecting the
7 fingerprints and having the arrest done where do
8 you see the link? How is this making you be more
9 aggressive in what you do?

10 INSPECTOR WINSKI: I, I believe the
11 fingerprinting is an effort to identify the
12 individuals before they're issued a license to see
13 their criminal background.

14 COUNCIL MEMBER FERRERAS: Okay. So... Okay
15 so what, what I'm trying to get at is if we have
16 this license that comes out and you're trying to
17 see if there's a criminal background check, what is
18 it, what, what acts of crime can you have had in
19 your prior record for you to be able to be license.

20 ALBA PICO: Yeah so the licenses that I
21 had, like I mention to you it depends their
22 relationship with the crime and the, and what
23 they're applying for. So for this one here our
24 process is that when the fingerprints, it'll get
25 submitted to Criminal Justice Services. About two

1 days after we get a report back from Criminal
2 Justice Services. And base on the arrest, if the
3 arrest is not final of course we work with the
4 applicant and we ask them for this positions,
5 what's going on, when is the next court date. And
6 if the arrest is already final and they have been
7 convicted there is a whole fitness review on the
8 relationship, if this person have abuse children,
9 if this person has sold drugs, if the person had
10 been and aggressive and maybe hurt people before
11 that would be something that I believe we would
12 consider and it could be other, other kind of
13 arrest that might be consider for when we looking
14 at at the fitness of issuing this license.

16 COUNCIL MEMBER FERRERAS: So as we're
17 trying to work through this legislation you
18 currently don't have an actual list of things that
19 may exclude someone, something that they may have
20 done in the past or is that interpreted on a
21 license by license basis?

22 ALBA PICO: It's, it's license by
23 license basis.

24 COUNCIL MEMBER FERRERAS: So if you end
25 up speaking to someone who thinks if you sold drugs

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2 when you were, or you were caught with some type of
3 drugs when you were 17 or 18 and now you're an, you
4 know an older adult and this is a way by which you
5 want to collect or work it is held in, in your
6 department on whether they'll be able to be
7 licensed or not?

8 ALBA PICO: No it's not. I mean we go
9 how many years ago did it happen, is the person
10 maybe on probation, are they following the
11 probation, is the person following a drug program,
12 or is the person a good citizen now? So we, many of
13 our licenses come in with records and they get
14 license.

15 COUNCIL MEMBER FERRERAS: Okay. And what
16 is the cost for your average license?

17 ALBA PICO: The license fee is going to
18 be 175 dollars for two years. And the fingerprint
19 fee that we take and we send to Criminal Justice
20 Services is 75 dollars. But the fingerprint fee is
21 a onetime fee, the license fee they have to pay
22 every two years.

23 COUNCIL MEMBER FERRERAS: Okay...

24 INSPECTOR WINSKI: If I could just
25 clarify...

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2 COUNCIL MEMBER FERRERAS: There is a, a,
3 a section of this bill that states exactly what
4 would disqualify someone. It's, it's, it mentions
5 moral character, sex offender, or anything related
6 to this activity. It's a 20-544 so it is in the
7 bill.

8 COUNCIL MEMBER FERRERAS: Yeah I just
9 want to have some responses on the record. Because
10 sometimes things are written here and interpreted
11 there very differently so I just want to make sure
12 we're on... [cross-talk]

13 INSPECTOR WINSKI: Yes.

14 COUNCIL MEMBER FERRERAS: ...the same
15 page. But thank you very much. And I'll allow my
16 colleagues to continue asking questions. I'll come
17 back on the second round. Thank you.

18 CHAIRPERSON ESPINAL: Thank you. I, I
19 want to follow-up on licensing fee. 175 I
20 personally believe it's a little too high
21 especially when these people are panhandling and,
22 and soliciting for money. It's, I think it's pretty
23 clear they don't have that amount, that amount of
24 money to pay for these licenses. How would, how
25 would you compare the 175 fee to any, any other

1 industry license? Is it high, on the high level? Is
2 there any other industry that compares?
3

4 ALBA PICO: No, actually it might be low
5 compared to some of the licenses that we issue. A
6 general vendor is 200 dollars. A tow company 600
7 per truck so... And, and when the analysis was done
8 what was taken into consideration is what the
9 process that it takes; the review, the picture
10 taking, they don't have to really send me the
11 photographs, we will be doing those there, we going
12 to be doing the fingerprints with them so they
13 don't have to pay a fingerprint fee, go to another
14 place and pay for that. So it's not... compared to
15 most of our licenses which is 340 dollars it's
16 actually lower than...

17 CHAIRPERSON ESPINAL: Does it include a
18 processing fee for fingerprinting?

19 ALABA PICO: No. The fingerprint is, we
20 have to pay Criminal Justice Service... [cross-talk]

21 CHAIRPERSON ESPINAL: So it'll be 175
22 for two years and 75 on top of that for the
23 fingerprinting? Okay. Alright. I'll like to call up
24 Council Member King.
25

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2 COUNCIL MEMBER KING: Well I'll be, I'll
3 be quite brief because my question was along the
4 fee for the licenses. I know we said 75, and I'm
5 hearing another 75. Of course after speaking with a
6 number of the characters that was a major, one of
7 the major concerns. Even though they looked at the
8 whole legislation and some of the things they were
9 able to be okay with. But I know it's not etched in
10 stone and there is a part in the bill that says if
11 someone financially cannot afford the fee that it
12 can be waived. How long does that, is that
13 immediate, as soon as, if they bring.. and what
14 criteria is being used to waive somebody of the
15 fee?

16 ALBA PICO: It will have to be a proof
17 of a hardship case. So sometimes people will come
18 in with proof that they, if they have income taxes,
19 if they have debt, if they, if they are on public
20 assistance. You know so proof will have to be
21 submitted so show their hardship.

22 COUNCIL MEMBER KING: Thank you. And my
23 final question is for NYPD. With all the bills that
24 you already on the books for aggressive panhandling
25 how do you think or do you think something like

1
2 this, this Intro is necessary right now? Do you
3 think it adds to what we want to do for our safety
4 concerns in, in Times Square and all of New York
5 City?

6 INSPECTOR WINSKI: We've taken a multi-
7 faceted approach to this problem including
8 education enforcement, collaboration even with the
9 characters themselves. We think this is another
10 part of that multi-faceted approach that we're in
11 support of discussion of this issue.

12 COUNCIL MEMBER KING: Alright thank you..

13 CHAIRPERSON ESPINAL: I'd also like to
14 follow up on the fingerprinting aspect. Will the
15 fingerprints be used to check, to see their legal
16 status in the country?

17 ALBA PICO: No it doesn't. Even the, the
18 fingerprints that we do now which is hundreds of
19 them it does not show the, the status.

20 CHAIRPERSON ESPINAL: And now NYPD when,
21 when someone... you book someone do you have access
22 to a list of people who might have a warrant
23 against, for deportation?

24 INSPECTOR WINSKI: We... no the recent
25 city council decision that we're not going to give

1
2 any of that information to ICE. So even if we have
3 access to that information we will not forward that
4 information. We're not at all interested in the
5 immigration status. We're interested in criminal
6 warrants.

7 CHAIRPERSON ESPINAL: Thank you. I'd
8 like to call up Councilman Dan Garodnick.

9 COUNCIL MEMBER GARODNICK: Thank you
10 again Mr. Chairman and I want to thank the, the
11 Police Department and the Consumer Affairs for
12 being here today. I think, I want to follow-up on
13 Council Member King's question about aggressive
14 solicitation and the bill and how it interacts with
15 existing law. Because the law as, as drafted it
16 requires that there be a license. And the first
17 component of behavior that is prohibited for a
18 licensed individual under the bill is that you may
19 not solicit aggressively while in a costume with a
20 license. So I think it's really important for us to
21 really flesh out what difference this creates for
22 the Police Department relative to what you have the
23 opportunity to arrest or ticket for today. So let
24 me just go through a few things because I think
25 that the answers to some of these will be pretty

1 simple. But today just being in a costume in Times
2 Square there's nothing that prohibits somebody from
3 doing that under existing law, is that correct?
4

5 INSPECTOR WINSKI: That's correct.

6 COUNCIL MEMBER GARODNICK: Okay. And how
7 about asking someone for a tip for posing for a
8 picture? [cross-talk]

9 INSPECTOR WINSKI: Not a lot... [cross-
10 talk]

11 COUNCIL MEMBER GARODNICK: That's okay.

12 INSPECTOR WINSKI: Yes.

13 COUNCIL MEMBER GARODNICK: How about
14 just asking somebody to pose for a picture in
15 general, no issue with that either presumably?

16 INSPECTOR WINSKI: Absolutely no.

17 COUNCIL MEMBER GARODNICK: Okay. How
18 about complaining that the tip is not enough?

19 INSPECTOR WINSKI: I, I think what we've
20 said is prohibitive behavior is following someone
21 down the block and continually verbally harassing
22 them about the amount of the tip.

23 COUNCIL MEMBER GARODNICK: So
24 complaining is one thing but complaining with
25 following becomes aggressive?

1
2 INSPECTOR WINSKI: And, yeah, and
3 obstructing anyone's movement down the street.

4 COUNCIL MEMBER GARODNICK: Okay. So that
5 was going to be my next question which is if you,
6 either yourself or with a group obstruct somebody's
7 ability to move freely, is that allowed under the
8 law today?

9 INSPECTOR WINSKI: No, that's aggressive
10 solicitation.

11 COUNCIL MEMBER GARODNICK: Okay. How
12 about touching someone on the street in an
13 unwelcome way?

14 INSPECTOR WINSKI: Not allowed.

15 COUNCIL MEMBER GARODNICK: Okay. How
16 about yelling at someone in an intimidating way?

17 INSPECTOR WINSKI: It's, it's
18 borderline. I mean if it's a continued course of
19 conduct you know then it could rise to the level of
20 aggressive solicitation.

21 COUNCIL MEMBER GARODNICK: Okay the,
22 what we see out there today is usually a costumed
23 character inviting somebody over to take a picture,
24 usually it's a kid who is excited to see an Elmo or
25 a Big Bird or whatever and they go... the picture's

1 taken, but maybe even before the picture suddenly
2 there's not just one Elmo, there's three Elmos or
3 five Elmos or two Captain Americas, three Elmos,
4 and a partridge and a pear tree... I, just that
5 everybody gets gathered around..
6

7 INSPECTOR WINSKI: Yeah, very common.

8 COUNCIL MEMBER GARODNICK: Very common.

9 And at the end there's a request for a tip. So far
10 we're okay under existing law. If the tip is, is 50
11 cents there might be a request for bills. Still not
12 a violation under existing law it sounds like to me
13 from your description, correct?

14 INSPECTOR WINSKI: When they get into..
15 yeah you know what you just described, no it's
16 still okay.

17 COUNCIL MEMBER GARODNICK: Okay. And
18 then if the person gives bills to, or gives a bill
19 to the person they intended to take the picture
20 with, still no problem?

21 INSPECTOR WINSKI: No problem.

22 COUNCIL MEMBER GARODNICK: Okay now what
23 if they say sorry not bills just for me bills for
24 everyone around me? And all I'm doing here is
25 describing what happens in Times Square even as we

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sit here. Not just bills for me, bills for everyone. Still, still okay as a request?

INSPECTOR WINSKI: Still okay as a request, yes.

COUNCIL MEMBER GARODNICK: Okay. So now the person says no, no, no I'm not interested and starts to walk away. At that moment is the moment where if there's further following, arguing, complaining... that's where it crosses the line, is that correct?

INSPECTOR WINSKI: Normally at that point when we get involved with aggressive solicitation is there's some type of obstruction, whether it's a grabbing, surrounding, blocking the path. That's when it becomes aggressive solicitation.

COUNCIL MEMBER GARODNICK: Okay. The examples you gave were, were troubling examples of arrests that were made but of course they were also examples of arrests where the police actually took action to, to enforce aggressive solicitation laws or maybe even other, I mean the punching of a police officer was even more significant than just aggressive solicitation but they were all examples

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2 of action that the police department felt it was
3 empowered to take today?

4 INSPECTOR WINSKI: Yes, correct.

5 COUNCIL MEMBER GARODNICK: Correct. In
6 your testimony you talked about how one tool could
7 be a license for costume characters who engage in
8 solicitation that contains reasonable restrictions
9 on time, place, and manor as to where you can do
10 it. Do you think that you need a license to create
11 time place and manor restrictions on where you can
12 conduct certain speech in Times Square? Or could we
13 just create time, place, and manor restricts on
14 speech in Times Square?

15 INSPECTOR WINSKI: Well we, we have
16 regulations that you know restrict the same time,
17 place, and, and manor with the first amendment
18 artist and such in Times Square so it would be
19 similar to that.

20 COUNCIL MEMBER GARODNICK: Without a
21 license?

22 INSPECTOR WINSKI: Without a license.

23 COUNCIL MEMBER GARODNICK: Okay. So the
24 answer is that we could create time, place, and
25

1
2 manor restrictions without a license? I think you
3 just, you answered that.

4 INSPECTOR WINSKI: On a case by case
5 basis it would be and.. You want to answer this a
6 little better.

7 OLEG CHERNYAVSKY: I mean yes we can.

8 COUNCIL MEMBER GARODNICK: Yeah...

9 OLEG CHERNYAVSKY: But it...

10 COUNCIL MEMBER GARODNICK: ...it's a
11 simple one. I, I, you don't even need to go deeper
12 into that, I know you can. Let's talk for a second
13 about the license as proposed and what would
14 practically happen out there on the street. The
15 same example that I gave, a crowding of costumed
16 characters around an individual, you know a family,
17 they go to leave, somebody says hey hey hey you owe
18 us bills. They hold them for a second or two second
19 whatever. Let's just say it, it meets the criteria,
20 no police officers there to see it however. The
21 family walks away down the block and grabs the
22 closest officer and says Elmo number, Elmo number
23 seven, license number seven over there held me,
24 berated me, and I want you to do something about
25

1
2 it, okay. Under the bill what would be the step
3 that NYPD would take at that point?

4 INSPECTOR WINSKI: I mean it, it's the
5 same at is, as it is now. It's a misdemeanor so we
6 can make an arrest on it in that occurrence but
7 the, the one issue is that, as you said there's
8 seven Elmos and who's to say which Elmo committed
9 that violation you know without being able to
10 identify them.

11 COUNCIL MEMBER GARODNICK: Ah. So
12 you're... okay. So now we're, we're, we're honing in
13 on one of the clear benefits here which is
14 identification.

15 INSPECTOR WINSKI: Right.

16 COUNCIL MEMBER GARODNICK: And I think
17 that that is a, I think that's a fair point. I
18 think there's a lot of agreement on this panel that
19 we want to know who's behind the costume, license
20 or not... okay. But other than that the rules are the
21 same, as... [cross-talk]

22 INSPECTOR WINSKI: Yes.

23 COUNCIL MEMBER GARODNICK: ...you said.
24 Okay. This is a question for DCA. Have we ever
25 licensed panhandling before?

2 ALBA PICO: No, not that I'm aware. I
3 mean I have been there for 31 years and not that
4 I'm aware of.

5 COUNCIL MEMBER GARODNICK: Why not?

6 ALBA PICO: The, the council didn't act
7 on, on any of those laws.

8 COUNCIL MEMBER GARODNICK: But does,
9 does DCA have any view as to you know why or
10 whether we should be licensing panhandling?

11 MARLA TEPPER: DCA's position is that as
12 discussed here there are challenging issues and we
13 want to have a, as you said a spirited discussion
14 as to how we can advance the goals of this, this
15 bill. There are various options that can and should
16 be explored.

17 COUNCIL MEMBER GARODNICK: Alright.
18 Thank you very much Mr. Chairman.

19 CHAIRPERSON ESPINAL: thank you
20 Councilman Garodnick. I'll like to call up
21 Councilman Corey Johnson.

22 COUNCIL MEMBER JOHNSON: Thank you Mr.
23 Chair. I, I think Mr. Garodnick asked most of the
24 questions that I was going to ask this morning. But
25 I want to drill down a little bit more on currently

1
2 what the issues that are facing the police in Times
3 Square. And I also want to recognize that the two
4 commanding officers, Officers Hart and Winski are
5 fantastic and that I'm really grateful that I get
6 to work with them from midtown north and midtown
7 south and I appreciate their thoughtful testimony
8 here today. And you know Times Square is one of the
9 most challenging places in the City of New York to
10 operate as an officer. And so the work that they do
11 day in and day out is very difficult. So I
12 appreciate that. What I want to understand is let's
13 just pick a round number on, on any given day, on a
14 sunny warm day in Times Square between 42nd Street
15 and 52nd Street there could be in the range of,
16 let's pick a number, 100 costume characters
17 operating in Times Square 75... [cross-talk]

18 INSPECTOR WINSKI: 75 I would say.

19 COUNCIL MEMBER JOHNSON: 75.

20 INSPECTOR WINSKI: On a nice day, yes.

21 COUNCIL MEMBER JOHNSON: On a nice day.

22 So 75 costumed individuals operating in Times
23 Square, not all in the same place, groups of two,
24 three, five spread all over Times Square, is that
25 correct?

1 INSPECTOR WINSKI: That's correct.

2 COUNCIL MEMBER JOHNSON: So I would
3 assume that given that they're spread all over and
4 that they are costumed that it is not possible and
5 it wouldn't even probably be a good amount of
6 police resources to try to have your officers
7 between midtown south and midtown north following
8 them or being in every place where they're
9 currently situated in Times Square, that's not
10 really doable right now?

11 INSPECTOR WINSKI: No.

12 COUNCIL MEMBER JOHNSON: So if in fact
13 we as a council or as a city put some restrictions
14 on the location of where they're able to operate...
15 so if we said costumed individuals can operate in
16 five locations in Times Square in between a set of
17 lines that was marked on the ground like we do as
18 you mentioned with first amendment vendors. Then
19 the NYPD would know exactly where those costumed
20 individuals were and I would assume that if they
21 left those lines then they would be in violation of
22 the law and it would be easier for you all to go
23 after them because they're operating outside just
24

1
2 like first amendment vendors do, is that, is that
3 correct?

4 INSPECTOR WINSKI: Well first amendment
5 vendors have some restrictions on time and place
6 but there's really no restriction on a number of
7 them so that's, that's one difference. And, and
8 part of the number is not, you know restricting the
9 number is not part of this legislation and, and you
10 know we're here to support discussion of the
11 legislation in front of us.

12 COUNCIL MEMBER JOHNSON: I apologize if
13 I wasn't clear. The point that I'm trying to make
14 is if we came up with individual spots in Times
15 Square where costumed individuals were allowed to
16 operate it would likely make it I think
17 operationally easier for you and your officers to
18 understand where they are put people in those
19 places to watch out for bad behavior. Currently
20 that's not really doable because they're spread all
21 over Times Square.

22 INSPECTOR WINSKI: The way you're
23 describing would be easier for us to police.

24 COUNCIL MEMBER JOHNSON: It would be
25 easier to police. So.. and I would imagine you know

1 given that we have restrictions on location on
2 first amendment vendors in Times Square currently
3 if there isn't a spot available extra vendors can't
4 show up because there's nowhere for them to go. So
5 if we pick, or if they do show up you can say
6 you're not allowed to be there, that's not a
7 designated area for you. So if we did in fact limit
8 the number of locations where this activity was
9 permissible then if extra people showed up they
10 would sort of be out of luck. They, you know if
11 the, if the eight by eight box that they're
12 supposed to operate in was full in four locations
13 then I'm sorry there's nowhere for you to go. It,
14 it could potentially limit the number of costumed
15 individuals operating in Times Square would sort of
16 be first come first serve basis.

18 INSPECTOR WINSKI: Similar to food
19 vendors or any type of vendor now in Times Square,
20 yes.

21 COUNCIL MEMBER JOHNSON: And currently
22 as you described earlier the aggressive panhandling
23 statute says that you are not allowed to
24 aggressively follow someone and solicit someone
25 down the street. If they want to approach you after

1 hearing you make a solicitation and give your money
2 that is allowed under law. But if you call out to
3 them or walk up to them and they decide to move on
4 and you follow them that's against the law.

5
6 INSPECTOR WINSKI: Not just following
7 itself but... [cross-talk]

8 COUNCIL MEMBER JOHNSON: Aggressively...

9 INSPECTOR WINSKI: ...aggressively
10 following, asking, blocking, you know a combination
11 of those acts would raise to aggressive soliciting.

12 COUNCIL MEMBER JOHNSON: Because the
13 incident that I witnessed less than a month ago in
14 Times Square on numerous occasions it actually was
15 not the tourist that was approaching the costumed
16 individual, it was the costumed individual that was
17 actively soliciting the tourist and the tourist
18 didn't really understand what was going on and so
19 they took the picture, attempted to walk away, and
20 the costumed individuals blocked them or followed
21 them. But if we had a designated area [sic], area
22 then tourists would have to actively come up into
23 that area, make a decision on their own to get
24 their photo taken with the group of individuals,
25 and if they decided to walk away, the tourist,

1 without providing a tip the costumed individuals
2 couldn't follow them because they're restricted to
3 a certain area. What I'm trying to outline is I
4 think there is a way for us to potentially do this
5 that doesn't involve a licensing scheme. Because as
6 my colleague Dan Garodnick pointed out, right now,
7 even if we did have a licensing scheme and Elmo
8 number seven did something aggressive or
9 inappropriately touched someone or was holding a
10 child and didn't give that child back to a parent
11 until they received a tip but no police officer saw
12 it then a tourist can walk up to you and tell you
13 but you can't make an arrest or do anything unless
14 you've witnessed it.

16 INSPECTOR WINSKI: We, no it, it's a
17 misdemeanor so we could make an arrest but the
18 identification of that Elmo as, again would be the,
19 the issue unless we could 100 percent say it was
20 that Elmo.

21 COUNCIL MEMBER JOHNSON: But even, even
22 if you didn't witness it, even if no officer saw
23 anything?

24 INSPECTOR WINSKI: Yeah because it's,
25 it's, it's unclassified misdemeanor so... A violation

1
2 we have to witness, the unclassified misdemeanor we
3 can make the arrest.

4 COUNCIL MEMBER JOHNSON: But it would be
5 hard I think for a judge to... if someone said I
6 didn't do that it would be more difficult to
7 actually have a finding against the person.

8 INSPECTOR WINSKI: I mean there are,
9 there are challenges just for the fact that most of
10 these people, the vast majority are tourists that
11 are visiting for a short period of time then,
12 they're not likely to be available for any future
13 court appearances so the whole case is challenging.

14 COUNCIL MEMBER JOHNSON: Okay. I just
15 want to reiterate the fact that there is an issue
16 that currently exists in Times Square. It's
17 indisputable. It's something that we have to take
18 care of. I am totally on board with figuring out
19 the way to make your lives easier as law
20 enforcement officials in taking care of this
21 problem in a real way. But I, it's, it's my opinion
22 that at this point I'm not sure that just creating
23 a licensing scheme is the panacea to take care of
24 all of this with a silver bullet. I'm not taking it
25 off the table either. I think that if we try these

1
2 other things and they don't work then we should
3 look at licensing as potentially a final measure.
4 And I, I want to just state again I think there are
5 good intentions on all sides here. I don't think
6 that the Times Square Alliance or any of the
7 corporations or individuals involved, or the police
8 are looking to target low income individuals or
9 immigrants and try to hurt their wellbeing and
10 their lives. I think they're trying to find a
11 solution to an intractable problem that has existed
12 for far too long and I think all of us need to
13 figure out the best way to do that. So thank you
14 for answering my questions. Thank you for being
15 generous with the time today Mr. Chair.

16 CHAIRPERSON ESPINAL: Thank you
17 Councilman Corey Johnson. For housekeeping purposes
18 I'd like to recognize my colleagues who have joined
19 us. We have Robert Cornegy from Brooklyn, Karen
20 Koslowitz from Queens, and Vinny Gentile from
21 Brooklyn. I'd like to call up Councilwoman Ferreras
22 followed by Councilwoman Koslowitz.

23 COUNCIL MEMBER FERRERAS: Thank you
24 Chair. I just wanted to follow-up on, I know that
25 you... following up on a question from Council Member

1 King. You talked about the fee waiver and that
2 there's opportunities for those that can't afford
3 the 175 that the fee could be waived, is that
4 correct? Did I understand that correctly?
5

6 ALBA PICO: Yes. I mean the bill
7 mentions that it will be, a fee will be waived in,
8 in some bases.

9 COUNCIL MEMBER FERRERAS: So these are
10 panhandlers. What is your requirement? Because you
11 know it's not like a vendor where you're selling a
12 product, these are actual panhandlers? So do they
13 qualify for the waiver?

14 ALBA PICO: They gonna [sic] have to
15 show some kind of proof of income hardship. We're
16 going to see proof of... [cross-talk]

17 COUNCIL MEMBER FERRERAS: So if I'm
18 undocumented and you know obviously not on public
19 assistance how do I prove to you my... do I just come
20 with a bank statement with no money in the bank?
21 Like I don't understand how we're proving that
22 panhandlers can't afford to pay this fee. They're
23 panhandlers.

24 MARLA TEPPER: I think that we'd be
25 flexible in our determination but we also want to

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not be arbitrary so it, there may be an opportunity perhaps for rule making or specific policies. In that instance we would recognize that that type of individual may not have the same documentation as others with more traditional careers.

COUNCIL MEMBER FERRERAS: No I, I think that needs to be looked into much more. I mean it, it kind of doesn't make sense that we're putting a fee on pan handlers and then we're saying but if you can prove that you're, don't have money... perhaps if they were in a different economic status they wouldn't be panhandling. But I want to talk about... can you repeat the division in which fingerprints are kept?

ALBA PICO: The Division of Criminal Justice Service is a state.

COUNCIL MEMBER FERRERAS: And that is a state agency, not a city agency?

ALBA PICO: Not a city agency.

COUNCIL MEMBER FERRERAS: So our ask don't tell policies do not apply to the state agency, correct, of sharing information?

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2 ALBA PICO: No. I mean it's, it's, we,
3 the agency has what you call an MOU, a contract
4 with the state and.. [cross-talk]

5 COUNCIL MEMBER FERRERAS: So does the,
6 is your, secure communities and the federal
7 regulations that are, are enforced by the state
8 level, does your MOU override the federal rules
9 that are imposed by secure communities on a state
10 level?

11 ALBA PICO: No. I mean we don't get,
12 they only notify us of, of anything, arrest in New
13 York state, it's not even a federal level law.

14 COUNCIL MEMBER FERRERAS: Right. But
15 secure communities is something that's imposed by
16 the, onto our state to share information of
17 fingerprinting. So if we're collecting the data, or
18 they're collecting the data of city residents does
19 secure communities.. The question is does secure
20 communities over, over, have overreach on
21 collecting this data? Because you stated that the,
22 that the fingerprints aren't shared. I want to
23 know... they might not be shared if you collect them
24 here in the city but they can be shared on a state
25 level, yes or no?

1
2 ALBA PICO: They don't share it, no.
3 They sign a contract. I mean even the city we have
4 applicants that come in and apply for other..
5 [cross-talk]

6 COUNCIL MEMBER FERRERAS: So the MOU
7 over, the M, the MOU that you have with the state
8 and the Criminal Justice System says that you, that
9 the state does not have to uphold the secure
10 communities requirement for the fingerprints that
11 they collect from us? Is that correct?

12 MARLA TEPPER: We will have to get back
13 to you with that... [cross-talk]

14 COUNCIL MEMBER FERRERAS: Yes.

15 MARLA TEPPER: ...answer.

16 COUNCIL MEMBER FERRERAS: Can you please
17 get back to this committee... [cross-talk]

18 MARLA TEPPER: Yes.

19 COUNCIL MEMBER FERRERAS: ...on that?

20 MARLA TEPPER: Mm-hmm.

21 COUNCIL MEMBER FERRERAS: Because I
22 think that's a big, a big issue for us in
23 particular. And for the data that you collect as
24 licensees if you are foiled by any of us, by many
25 of the people here on the right, if you are foiled

1
2 what information can you share of all those
3 licensees that you may have collected, or must you
4 share?

5 ALBA PICO: When it comes to fingerprint
6 records?

7 COUNCIL MEMBER FERRERAS: No, when it
8 comes to anything you're collecting. Because you're
9 collecting applications, you're providing a
10 license. So when you are foiled what do you have to
11 share?

12 ALBA PICO: We, we will redact the
13 application if they have like a birthday, a social
14 security number if it's given to us because that's
15 not mandatory... [cross-talk]

16 COUNCIL MEMBER FERRERAS: Right.

17 ALBA PICO: ...we will redact all of that.
18 So usually just the name, the address if it's the,
19 if it's the address that was given to us. But we
20 will redact all of the personal information.

21 COUNCIL MEMBER FERRERAS: So name and
22 address and any other information that's not social
23 security and date of birth?

24 MARLA TEPPER: I, I think that the
25 question of whether we would redact the address is

1
2 a legal issue that we look into because the address
3 is typically provided as a business address.

4 COUNCIL MEMBER FERRERAS: Right.

5 MARLA TEPPER: In this instance it's not
6 that it, the business address so there's a legal
7 issue there. [cross-talk]

8 COUNCIL MEMBER FERRERAS: Right, but you
9 wouldn't know. It could be a business address, it
10 could be a personal address.

11 MARLA TEPPER: If the person is applying
12 to be, to do this work in Times Square and they
13 give us a home address for example in Queens it
14 will be apparent to us that that is not their
15 business address.

16 COUNCIL MEMBER FERRERAS: But if they
17 decide to form a cooperative amongst all of them
18 then that address would be shared.

19 MARLA TEPPER: There are lots of legal
20 issues that we would look into related to the foil.
21 [cross-talk]

22 COUNCIL MEMBER FERRERAS: Well if you
23 would be able to get back... [cross-talk]

24 MARLA TEPPER: Yes.
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COUNCIL MEMBER FERRERAS: ...to the committee on this... [cross-talk]

MARLA TEPPER: Mm-hmm.

COUNCIL MEMBER FERRERAS: ...information on what you can share through a foil, secure communities question, and your fee waiver question I would greatly appreciate it.

MARLA TEPPER: We will do so.

CHAIRPERSON ESPINAL: Thank you Council Member. I kind of want to again just point out the fingerprinting aspect. I think it's what makes me most, most uncomfortable on the bill. Is it possible to do a comprehensive background check without having fingerprints on record?

MARLA TEPPER: It, it really depends on what the purpose of the background check is. If it's to determine criminal history relative to the occupation that the person is engaging in the answer is probably no. It's, if it's for other purposes such as determining whether they perhaps owe money to other city agencies and other kinds of questions yes we could do it without a fingerprint check.

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2 CHAIRPERSON ESPINAL: Alright thank you.
3 I'll like to call up Council Member Koslowitz.

4 COUNCIL MEMBER KOSLOWITZ: Thank you. I
5 was wondering when someone gets arrested for
6 panhandling what happens to them, what do you do
7 with them?

8 INSPECTOR WINSKI: Well pan, aggressive
9 panhandling would quite often be a summons. It
10 would only turn into arrest if that person had a
11 warrant for some other violation or crime or they
12 had no identification that we could verify. So they
13 would get arrested and go, come back to the
14 precinct, fingerprints and down to central booking
15 to be processed for, you know in the courts.

16 COUNCIL MEMBER KOSLOWITZ: But if they
17 have no prior arrests or anything..

18 INSPECTOR WINSKI: If they have no prior
19 arrests and identification they would be issued a
20 summons.

21 COUNCIL MEMBER KOSLOWITZ: And they
22 couldn't go back and do what they did before?

23 INSPECTOR WINSKI: Correct.
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2 COUNCIL MEMBER KOSLOWITZ: So really the
3 process... how many of the people that you have
4 arrested came up that had warrants?

5 INSPECTOR WINSKI: I don't have that
6 exact information with me. Of the 38 arrests we
7 have 11, 11 had prior arrests out of the 38 people
8 we arrested.

9 COUNCIL MEMBER KOSLOWITZ: That 11 had
10 prior arrests?

11 INSPECTOR WINSKI: Prior arrests, but I
12 don't have the warrant history with me.

13 COUNCIL MEMBER KOSLOWITZ: Okay. I'm
14 very, I'm like perplexed in, in, in what I want to
15 do. I'm on, I'm on the bill. But when you talk
16 about licensing, licensing is great, it gives you
17 more control over the, the person and yet on the
18 other hand a lot of the licenses, I was the chair
19 of Consumer Affairs in the 90s and a lot of these
20 laws we did in our committee. And what's confusing
21 for instance the street vendors. We worked very
22 very hard on that. And supposedly, and I'm going
23 back two other administrations, in the 90s, and
24 what happened was they formed a, a panel, a street
25 vendor panel to restrict the streets because they

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2 were clogging up the streets; 5th Avenue they would
3 have like three vendors on a block. And all of them
4 were licensed, all of them were licensed and then
5 they gave them blocks. We, we worked very very hard
6 on this and we gave them where they could vend and
7 what blocks and there was like one on each corner
8 but not three on one corner. And the panel never
9 took hold. There was never a meeting of the panel.
10 So now what you have is street vendors all over the
11 place because nobody really watches them, and
12 nobody even remembers what streets are good and
13 what streets aren't good. So I don't know what the
14 right answer is. If, if someone gets arrested for
15 harassing someone and they go down and they get a,
16 a summons and then they have no record and they're
17 let go again then they go out and do the same
18 thing. What would stop them from doing the same
19 thing? Nothing happened. I'm very confused. I don't
20 know what the right answer is.

21 INSPECTOR WINSKI: There are some
22 penalties involved even with a summons. I mean if
23 you're, this bill there are, the first violation is
24 I believe minimum 25 and maximum 50 dollar penalty.
25 So there are penalties even to summonses.

1
2 COUNCIL MEMBER KOSLOWITZ: There are
3 penalties for summonses? [cross-talk]

4 INSPECTOR WINSKI: Yeah for any, for any
5 summons that we issue there, there's a penalty.

6 COUNCIL MEMBER KOSLOWITZ: ...how much did
7 you say they are?

8 INSPECTOR WINSKI: In this bill the
9 first offense for most of the violations is a
10 minimum of 25 dollars and a maximum of 50 dollars.

11 COUNCIL MEMBER KOSLOWITZ: Okay because
12 in thinking about it I have to say that the things
13 that we licensed, you hear about them today, the
14 same, the same things, the same offences. So you
15 know I came in here, I'm on the bill, and now I
16 question what, you know what's the right thing to
17 do. Thank you.

18 CHAIRPERSON ESPINAL: Thank you.
19 Councilman Cornegy.

20 COUNCIL MEMBER CORNEGY: First of all I
21 want to thank you Chair Espinal for allowing me as
22 not a member of the committee to come and speak. I
23 want to thank both of you and Council Member King
24 for tackling a very complicated issue. And even
25 when we don't agree or that we disagree I have a

1
2 tremendous amount of respect for Council Member
3 King and also this committee. But really a great
4 deal has been said about the advent of a new
5 progressive movement that's arrived in New York
6 City politics. Certainly Mayor de Blasio's
7 administration and the city council have tackled
8 some significant policy issues that aim to uplift
9 immigrants and support working class families.
10 However the return of broken windows of policing
11 has been extremely problematic and has raised well-
12 founded concern and even outrage in communities of
13 color, and for smaller communities of interest such
14 as vendors and subway performers. I strongly
15 believe that the current proposal to regulate the
16 individuals who pose in costume in our city's
17 tourist areas is misguided. And it's another bad
18 example of broken windows policing that I've spoken
19 out against on several occasions. I believe that if
20 passed it will lead to increased harassment of
21 these vulnerable law abiding mostly immigrant New
22 Yorkers who right now are just using their
23 creativity and ingenuity to hustle within the law
24 to make ends meet in our expansive city. They bring
25 smiles and a great deal of joy to children and

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2 visitors. And coming from and representing Bedford-
3 Stuyvesant I'm definitely not one to knock that
4 hustle. Seriously I have great respect for Tim
5 Tompkins and the Times Square Alliance. I've met
6 with him and the alliance about this bill and
7 understand that the increase in the number of
8 individuals posing there in a costume for tips has
9 created some tourist confusion and concerns for the
10 alliance. That's why I think it's so important and
11 heartening that this proposal and the coverage of
12 incidents in Times Square has led to increased
13 organization among the performers themselves and
14 dialogue between them, the alliance, and the NYPD.
15 I believe that this dialogue and the performer's
16 own ideas for identifying themselves have the
17 potential to alleviate the legitimate concerns that
18 have been raised. I don't believe that this bill is
19 needed to keep the public safe in Times Square. The
20 vast majority of individuals engaged in this
21 activity are law abiding and have never been
22 accused of wrongdoing. Moreover there are existing
23 criminal penalties sufficient to deal with every
24 incident of negative behavior a costumed individual
25 has been accused of. And there is sufficient police

1 present in the Times Square area to do the
2 observation and investigate, and investigative work
3 to identify the actual bad actors. As I read it the
4 real goal of the bill is to reduce the number of
5 individuals engaged in this activity. And this
6 reduction would be accomplished by creating a
7 barrier of a costly license. By defining aggressive
8 solicitation in a extremely overbroad manner and by
9 creating a regime in which these individuals'
10 costumes can be summarily seized on the street
11 preventing them from engaging in this activity at
12 another place or time. I've been concerned about
13 the bill including distinctions it would draw
14 between individuals who pose in full costume and
15 others whose faces are visible. But I'll leave
16 those points and the constitutional arguments to
17 other witnesses and finish by saying this. My
18 guiding principle as the Chair of Small Business
19 Community has been the Hippocratic oath; first, do
20 no harm. I think we all want to be part of a
21 council that can take credit for uplifting those
22 who have been disadvantaged in the tale of two
23 cities. Certainly I do not want to be part of a
24 council that takes affirmative steps to implement
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2 policies that over criminalize or otherwise harm
3 these good folks. I believe that's what the bill
4 would do and I hope for that reason and neither
5 this committee nor the full council will support
6 it. Thank you.

7 CHAIRPERSON ESPINAL: Thank you
8 Councilman Cornegy. Councilman Gentile, then
9 Lancman.

10 COUNCIL MEMBER GENTILE: Thank you Mr.
11 Chairman. I, I guess this question is for DCA.
12 It's, it, it, the bill indicates that the
13 commissioner could forgo fingerprinting if criminal
14 history records for the applicant are not available
15 from the State Division of Criminal Justice. Does
16 that, do I take that to mean if someone had a
17 criminal history from a different state you would
18 not, you would not pursue that? That, that, it says
19 here only from the State Division of Criminal
20 Justice.

21 ALBA PICO: Yes.

22 COUNCIL MEMBER GENTILE: You would not
23 pursue it?

24 ALBA PICO: Not pursue it.

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2 COUNCIL MEMBER GENTILE: You would not
3 pursue it. There's no federal database that you
4 would, you would look into?

5 ALBA PICO: No.

6 COUNCIL MEMBER GENTILE: So someone
7 could move here from Arizona with a sex offender
8 record and go to Times Square and, and apply for a
9 license and you would never know?

10 ALBA PICO: We would not know.

11 COUNCIL MEMBER GENTILE: You would not
12 know?

13 ALBA PICO: No.

14 COUNCIL MEMBER GENTILE: I think that's
15 a major issue and problem Mr. Chairman with the
16 wording of this bill. Thank you.

17 CHAIRPERSON ESPINAL: Thank you.
18 Lancman.

19 COUNCIL MEMBER LANCMAN: Thank you. Good
20 morning. So I'm one of the, the co-sponsors of, of
21 the bill, in part because I had personal experience
22 observing conduct that I didn't think was
23 appropriate in Times Square behalf some of the
24 costumed characters. And at least on one occasion
25 experienced it directly with my, with my own

1 family. Which is not to say of course that all of
2 the costumed characters engage in misconduct or
3 inappropriate behavior but that's not the standard
4 that we apply when we're licensing an industry or,
5 or a trade. We don't wait for all the individuals
6 engaged in that trade or profession to engage in
7 misconduct before we decide that it's appropriate
8 to, to regulate. Let me just ask you some, some
9 questions to clarify. As, as I understand it the
10 legislation does not change or alter, or, or
11 further criminalize behavior beyond what already
12 exists in the aggressive solicitation law? Am I
13 correct? And the only thing that we're doing... well
14 we're doing a number of things in this legislation.
15 But only thing that we're doing in terms of the
16 conduct of the costumed individuals, the licensed
17 individuals is certain time place locations, the
18 proximity to sidewalk or other businesses or subway
19 station, etcetera, is that correct?

21 INSPECTOR WINSKI: Yes.

22 COUNCIL MEMBER LANCMAN: Okay. I, I want
23 to follow-up on something that Council Member
24 Johnson raised. I did note in the, in the bill that
25 with all the, the location restrictions they're all

1 relative based on certain number of feet or
2 distance to some other location. So it might be 20
3 feet from the, the door of a, of a store, 12 foot
4 wide sidewalks, etcetera. And I can see the
5 difficulty that both the costumed characters would
6 have in figuring out where they should be standing
7 as well as the police officers who would have to be
8 walking around with a tape measure which I, might
9 be part of... [cross-talk] their standard.. [cross-
10 talk] yeah. But just, just to clarify do, do you
11 think that it would be better in terms of everybody
12 understanding where they can be and where they
13 cannot be, both law enforcement and the costume
14 characters if rather than limit their locations
15 based on certain number of distance, certain
16 distance from, from certain spots to you know here
17 are the, Council Member Johnson I think mentioned
18 an eight by, eight by 10 box... you know I want to
19 give them a little more room than that but here are
20 the places where you can, you can stand and, and do
21 this work. Because that's what we're talking about,
22 work.

24 INSPECTOR WINSKI: Yes you know it's not
25 part of this bill and, and the restrictions in this

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2 bill are very similar to general vendors and food
3 vendors and, and first amendment vendors and that's
4 really what we're here to discuss.

5 COUNCIL MEMBER LANCMAN: So the model in
6 this bill... well the, the, the way that this bills
7 goes about it, that's the same model that exists
8 for the food vendors and the, and, and, and the
9 others that you mentioned?

10 INSPECTOR WINSKI: Yeah, similar, a lot
11 of the same regulations.

12 COUNCIL MEMBER LANCMAN: Well given that
13 this is a problem or an issue, I wouldn't say a
14 problem, this is an issue that is somewhat limited
15 to a discreet area, Times Square, like I haven't
16 seen these folks out in Flushing or in Jamaica.
17 That may be next... [cross-talk]

18 INSPECTOR WINSKI: It has... I'm sorry. It
19 has expanded a little bit. We've seen in Herald
20 Square and we see them on the Brooklyn Bridge
21 walkway.

22 COUNCIL MEMBER LANCMAN: Okay. Alright
23 well I, I would really be interested in, in the,
24 both the police department and, and Consumer
25 Affairs looking at structuring the, the, the, the

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2 location restrictions in a, in a, in a different
3 way.

4 INSPECTOR WINSKI: That's something
5 we'll take back.

6 COUNCIL MEMBER LANCMAN: Yeah, take back
7 and, and look at it. Now I just want to ask you
8 something that is intuitive to me but you as a law
9 enforcement professional will tell me is, is true
10 or, or not. It seems to me that when individuals
11 are costumed when their appearance is concealed,
12 when they know that they cannot be easily
13 identified. Just as, as, in terms of human nature
14 and in the law enforcement contacts it's more
15 likely that they are going to engage in, in
16 misconduct or inappropriate behavior?

17 INSPECTOR WINSKI: I, I wouldn't say
18 that. I mean I, I think we've all agreed that the
19 vast majority of these costume characters are law
20 abiding so I wouldn't agree with that.

21 COUNCIL MEMBER LANCMAN: Well let me ask
22 you this. One of the, the, the parts of the bill
23 that I think is most... you want to expand on that.

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2 INSPECTOR WINSKI: He was saying if
3 someone's already inclined to engage in criminal
4 behavior they may be more inclined with a mask on.

5 COUNCIL MEMBER LANCMAN: They may be
6 more inclined with a mask on, okay. One of the most
7 important parts of the legislation as I, as I read
8 it is the display of some identification so that if
9 a parent wants to grab a police officer and say hey
10 Elmo over there did X, Y, and Z we know which Elmo
11 that they're talking about. Is, is, and this might
12 be a more appropriate question for Consumer Affairs
13 I know some of my colleagues have concerns about,
14 about licensing. I don't necessarily share them,
15 but is there a way to require the characters,
16 particularly the concealed characters to wear
17 identifying, something that identifies them either
18 by number or name or something so that if something
19 happens the police know, okay we're looking for Joe
20 Smith, or we're looking for Elmo 362?

21 ALBA PICO: I mean it's actually why, we
22 license to general vendors and we issue them an ID
23 and ID has a photograph and... identifying
24 information to make sure that they don't pass...
25 [cross-talk]

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2 COUNCIL MEMBER LANCMAN: Right, so for
3 my mind that's actually the most important piece of
4 this legislation that the vendors be, the custom
5 characters be identifiable. Is there a way to make
6 them identifiable without a licensing regime?

7 INSPECTOR WINSKI: Legally right now no
8 there is no way.

9 ALBA PICO: I mean I'm not aware of a
10 law that says that they are required, people are
11 required to have an ID so we might have... [cross-
12 talk]

13 INSPECTOR WINSKI: Except outside of,
14 except within the context of a licensing regime.

15 COUNCIL MEMBER LANCMAN: Yeah I can't
16 hear you.

17 OLEG CHERNYAVSKY: If a costume
18 character wanted to self-identify themselves they
19 could do that now but there's no way to enforce it
20 if somebody didn't want to do so.

21 COUNCIL MEMBER LANCMAN: Alright well I,
22 I think that that's something that bears
23 emphasizing. That the only way that we can identify
24 the individuals who are engaging in this business,
25 and it is a business, it is a commercial activity

1 is through some licensing mechanism. And whether
2 the licensing mechanism in the, in the statute or
3 the bill is onerous, or appropriate, or there are
4 aspects of it that should be improved or tweaked
5 or, or eliminated, at its core we can't require the
6 costume characters to be identifiable unless we
7 license them in some way, correct?

9 ALBA PICO: Based on current laws that
10 I'm aware...

11 COUNCIL MEMBER LANCMAN: Okay. Alright
12 thank you very much.

13 CHAIRPERSON ESPINAL: Thank you. We're
14 going to take one more question with Councilman Dan
15 Garodnick and then we'll call up the next panel.

16 COUNCIL MEMBER GARODNICK: Thank you
17 again Mr. Chairman. Let me just clarify that last
18 point because I think it's, I think it is an
19 important one that Council Member Lancman is, is
20 asking. Because again I think that identification
21 here is, is... it's important. And the only thing
22 that I would point out is that your response was
23 about existing law, there cannot be any
24 requirement. But... and I'm sure we're going to hear
25 about it as testimony progresses today is at least

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2 a proposal on a self-regulatory scheme which would
3 have identification in conjunction with the police
4 department, background checks, etcetera. So I
5 think... something we should talk about further. But
6 it's clearly not something that we can require by
7 law today. I think that the testimony here is
8 right. So my, my last question is really a legal
9 question. And I'm confused about a fundamental
10 issue here. We can't, as a city or as a council,
11 require that just panhandling in New York requires
12 a license, can we?

13 ALBA PICO: The, I think the answer to
14 that is no unless it's panhandling as my colleagues
15 here as my colleagues here have described it with
16 another type of illegal conduct.

17 COUNCIL MEMBER GARODNICK: Okay well
18 wait a second.

19 ALBA PICO: It's...

20 COUNCIL MEMBER GARODNICK: So pan, so
21 panhandling... if we said, if, if, if, if someone
22 were to introduce a bill to say look there's a lot
23 of panhandling going on out there and sometimes
24 it's aggressive and sometimes it's not aggressive
25 but because there's so much panhandling we want as

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2 a city to issue licenses so that we know who people
3 are and that we have additional tools if somebody
4 were to do something bad we couldn't do that, could
5 we?

6 INSPECTOR WINSKI: As, as far as we're
7 concerned you know panhandling in itself is, is
8 legal in the city right now and.. [cross-talk]

9 COUNCIL MEMBER GARODNICK: Okay so..

10 INSPECTOR WINSKI: ...I'm not going to
11 speculate on what we can and cannot do.

12 COUNCIL MEMBER GARODNICK: So
13 panhandling is legal. But the question is whether
14 we, we can require a license for garden variety
15 panhandling today or whether that presents legal
16 issues that could be insurmountable?

17 ALBA PICO: ...said earlier that this was
18 like a law school class so I think that one of the
19 answers here is what is the definition of
20 panhandling. The law doesn't really, the proposed
21 bill doesn't speak to panhandling. It speaks to a,
22 a type of conduct that is not just solicitation of
23 money.

24 COUNCIL MEMBER GARODNICK: Okay.
25

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2 ALBA PICO: So I think that that's,
3 that's kind of the, the issue that we're dealing
4 with.

5 COUNCIL MEMBER GARODNICK: Okay so let's
6 just say that we wanted to, to license panhandlers
7 and allow for additional summonsable offences for
8 aggressive behavior, no costumes, just panhandling.
9 Into the mic please.

10 OLEG CHERNYAVSKY: Pardon me Councilman.
11 I think, I think the first amendment ramifications
12 would have to be weighed prior to I guess enacting
13 something or drafting something like that. There's
14 existing case law that found I believe the
15 laundering for the purpose of begging
16 unconstitutional in and of itself. So I think we
17 would have to, or whoever's drafting the
18 legislation would have to look at that case law and
19 where that brings you to determine if you can in
20 fact license somebody solely for loitering for the
21 purpose of begging or soliciting for, just for that
22 purpose.

23 COUNCIL MEMBER GARODNICK: Right I, I
24 think that's, I think that's right. Whether anybody
25 agrees with it or not is a different story but I

1 think that's right. I'm not sure what the
2 difference is when you put on a mask or a costume
3 what the difference is there. Because the, the
4 fundamental behavioral problem is not permitted
5 whether you are loitering for the purpose of
6 begging or whether you are loitering for the
7 purpose of taking a photograph and asking for a
8 tip. The fundamental behavior is aggressive action
9 which is prohibited under the law today, right?
10

11 INSPECTOR WINSKI: Aggressive action,
12 yes.

13 COUNCIL MEMBER GARODNICK: Right.

14 INSPECTOR WINSKI: Yes.

15 COUNCIL MEMBER GARODNICK: Okay thank
16 you.

17 CHAIRPERSON ESPINAL: I, I know I
18 promised to wrap it up after Dan Garodnick but the
19 prime sponsor of the bill does have a question.

20 COUNCIL MEMBER KING: First I want to
21 thank all my colleagues for this start of the
22 spirited conversation of the pros and the cons and
23 agreeing and disagreeing but I know at the
24 beginning of the intent of it, and, and we're
25 talking about identification and being able to have

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2 identification because, which I think is the jest
3 of what we're trying to go with. And I'm, and I'm
4 listening to the term licensing and it seems like
5 you know in the English language when we hear
6 certain words our brains and our responses go
7 someplace else. Now I'm asking you Consumer Affairs
8 if there is a way of creating identification... I
9 don't know if we want to change the term of
10 licensing, some people seem to have a issue of
11 licensing? I'm trying to have an identification
12 system so those who dress up that we can readily
13 identify if there ever was a situation. And that's
14 why we're here today because we had a number of
15 incidents and we didn't know who these individuals
16 are underneath these costumes. So is there a way to
17 in this legislation maybe the change in term that
18 people can feel more comfortable while creating an
19 identification system?

20 ALBA PICO: Certainly something we can
21 discuss.

22 COUNCIL MEMBER KING: Okay, alright,
23 thank you. And thank you all for your testimony
24 this morning.

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2 CHAIRPERSON ESPINAL: Alright last and
3 final question then I'm closing it out. Rory
4 Lancman. We do have a long list of people who want
5 to testify so let's be mindful of that time, thank
6 you.

7 COUNCIL MEMBER LANCMAN: You got it. And
8 I'm, I hate to ruin a good wrap up so I'll be very
9 very quick. But I don't know if you mentioned this...
10 Department of Consumer Affairs. You know we're
11 talking about panhandling and, and, and, and, and,
12 and this activity. I view this as commercial
13 activity, as a business. They're in the business,
14 they dress up in a costume, they offer their, the,
15 the kid or the parent to take a picture for a, a
16 fee. How many businesses do you, does, does the
17 Department of Consumer Affairs license? How many
18 businesses, trades, professions?

19 ALBA PICO: We license 55 different
20 categories, about 80 thousand licenses.

21 COUNCIL MEMBER LANCMAN: Do you view
22 this, this legislation, this proposal as anything
23 other than simply licensing one additional business
24 that is engaging commercial activity?

25 ALBA PICO: Yes.

1
2 COUNCIL MEMBER LANCMAN: That's all it
3 is. Alright, thanks.

4 CHAIRPERSON ESPINAL: Thank you. Thank
5 you for your testimonies. I'd like to call up Jim
6 Caras from the Manhattan's Borough President's
7 Office. Jim whenever you're ready just turn the mic
8 on and state your name for the record.

9 JIM CARAS: Is this... okay. Good morning
10 Chair Espinal and members of the Consumer Affairs
11 Committee. My name is Jim Caras and I'm General
12 Council and Land Use Director for Manhattan Borough
13 President Gale A. Brewer. Thank you for the
14 opportunity to testify today on Intro number 467 in
15 the subject of the licensing of solicitation by
16 costumed individuals. The borough president
17 believes that the proliferation in Manhattan and
18 especially in the Times Square area of unregulated
19 costumed individuals soliciting money in return for
20 photographs is a continuing problem that needs to
21 be addressed. Legislation, licensing, or
22 registering these costumed characters should be a
23 tool in addressing this phenomenon so that good
24 actors can operate in a better environment and bad
25 actors can be identified and the public can be

1
2 protected from them. By now we have all become
3 familiar with the stories of harassment of and
4 aggressive and inappropriate behavior toward
5 pedestrian shoppers and visitors to the Times
6 Square area by costumed characters attempting to
7 solicit money in return for posing for a
8 photograph. Two key factors make this phenomena
9 more worthy of attention; first the behavior is
10 targeted toward children, and second the
11 character's faces are obscured by masks or heads
12 making identification difficult if not impossible.
13 That is why the borough president applauds the
14 efforts of Council Member King and this committee
15 for furthering this important discussion. We think
16 legislation requiring registration or licensing
17 should adhere to the following guidelines. First it
18 should provide that costumed characters display a
19 license or registration with identifying
20 information at all times while working. Second it
21 should provide for a criminal background check to
22 prevent predators or those with a history of
23 violence from engaging in this type of costume
24 solicitation. Third, it should contain restrictions
25 on aggressive behavior similar to those found in

1
2 the aggressive solicitation laws as a condition of
3 and as violations for any license or registration.
4 Fourth, the license should have a minimal or
5 nominal cost or the registration and a quick
6 turnaround time so as not to unduly burden those
7 who engage in this activity and a provision such as
8 that contained in Intro 467 for waiving the fee in
9 cases of hardship. We envision something where the
10 license and registration would, the fee would
11 essentially cover the cost of actually printing and
12 producing the license, a more nominal fee. And
13 fifth, the licensing or registration scheme should
14 contain only minimal and necessary locational
15 restrictions in order to ensure easier and more
16 uniform enforcement and avoid onerous regulation
17 that may be difficult for the persons engaged in
18 this activity to understand and follow. Recognizing
19 that many of the costumed characters may be
20 immigrants the borough president also applauds the
21 provision contained in Council Member King's
22 legislation which would preclude inquiry into an
23 individual citizenship or immigration status.
24 Finally the borough president does not believe that
25 any legislation can be a magic bullet to complex

1 sidewalk activity and quality of life issues such
2 as this. Education of both the public and the
3 individuals engaged in this activity and
4 enforcement of laws are critical to addressing
5 these types of issues. The borough president again
6 thanks Council Member King and this committee for
7 their efforts and stands ready to work with the
8 local council members Council Members Johnson and
9 Garodnick and this committee to address this issue.
10 I'll be happy to answer any questions.
11

12 CHAIRPERSON ESPINAL: Any questions from
13 my colleagues? No. Thank you Jim.

14 JIM CARAS: Thank you.

15 CHAIRPERSON ESPINAL: Let's call up the
16 next panel, Matt Shapiro, Yamill Marolos from New
17 York Artists United, United for Smile, Steve
18 Mercier, Jorje Vilkus, Alberta Gerra, Kieth Albahay
19 a.k.a Joker. We're going to set the clock for I
20 would, I would say three minutes, people
21 testifying.

22 [background comments]

23 KIETH ALBAHAY: Alright you want me to
24 talk right here. Do I pick this up or... It can be
25 heard? Okay. Hi everyone... yeah, okay.

2 CHAIRPERSON ESPINAL: Give me, give me
3 one, give me one second.

4 KIETH ALBAHAY: Oh, okay.

5 CHAIRPERSON ESPINAL: Okay we'll, we'll
6 start with the Joker. You have three minutes.

7 KIETH ALBAHAY: Okay. So can I start
8 right now?

9 CHAIRPERSON ESPINAL: Yes, just state
10 your name... [cross-talk]

11 KIETH ALBAHAY: Okay my real name is
12 Kieth Albahay and my stage name is now the New York
13 Joker. So can I speak? Okay thank you everyone.
14 I'll, I'll try to make this brief. I've been a
15 clown since last November and listening to some of
16 this today I resent that this is called a costume.
17 Seven days a week I wear suits like this because
18 it's my first amendment privileges. I wear makeup
19 three four days a week. Women wear nail polish and
20 lipstick, nobody puts laws on them, okay? You know
21 a lot of times, I was saying this, for most of the
22 time that I've done this I have never asked a tip.
23 It's only recently, part of it is to survive I ask
24 for the tips, and part of it is an emotional
25 reaction because I've had cameras in my face and

1 people demanding pictures. There's a flip side. I'm
2 sorry that some of the costumed characters might
3 have gotten out of line, I do not. I'm polite to
4 everyone. But I have a right to dress the way I
5 want to, okay. And, and a lot of times I will say,
6 I will ask somebody when they have a camera right
7 in my face, do you tip? And if they say no I say I
8 hold up my hand, I will not take pictures. That is
9 my right to do so and they become abusive. The, a,
10 I make, I love people, especially children. I
11 entertain them all over the city. I treat everyone
12 with respect. But if you're in a costume a lot of
13 times you are subject to abuse, okay. Maybe some of
14 the costumed characters are out of line. This, I,
15 New York City 2015 this straight up seems like
16 fascism to me. And I'm not trying to be the Joker,
17 be funny, okay. I mean the first amendment is the
18 first amendment. Nobody, anybody should have the
19 right with the first amendment to, to say, to, yes
20 I'll only take a picture if you'll tip. Okay, and
21 there should not be restrictions on areas or
22 locations. You, what the first amendment is not
23 allowed. And if I go into an area and I'm looking
24 like this, what I'm not going to be allowed on 52nd
25

1 Street and Broadway in the United States of America
2 in nearly the 2015? And you could say well no maybe
3 we'll allow you in, you just can't ask for tips. A
4 lot of times tips are the only way to stop
5 harassment. What I mean by that is I have cameras
6 in my face, people demanding pictures, they put
7 their arms around me okay, and the only way I say
8 will you tip it's, it's a first amendment thing.
9 It's not about the money. Okay I'm, I'm sounding
10 emotional now. I might clownish and everything but
11 I'm speaking from the heart. Because I believe in
12 the first amendment, I deplore discrimination. I am
13 a clown because I love people, especially children
14 all over the city. I'm now known as the New York
15 Joker. I'm, I'm going to have my own show on
16 YouTube, it's actually probably this week or next
17 week, that's what people can see. Okay but the
18 first amendment should apply to everyone. Nobody
19 should have a right to say that, that because I
20 like to dress differently which entertains numerous
21 people that if somebody's going to put their arm
22 around me, put a camera in my face that, and the
23 only way I can get them away from me is putting my
24 hand up and saying tips or no pictures and a lot of
25

1 times that works. I am speaking from the heart. A
2 lot of what I heard today and maybe the,
3 professionally this isn't good for me but this is
4 outrageous. [beeping] I guess, is that my time?
5 Thank you very much. I hope everyone has a pleasant
6 day and I really appreciate your allowing me to
7 speak.

9 CHAIRPERSON ESPINAL: Thank you for
10 your, for your emotional testimony. Appreciate it.

11 KIETH ALBAHAY: Okay, thank you.

12 YAMILL MAROLOS: [speaking Spanish]

13 TRANSLATOR: My name is Yamill Marolos..

14 YAMILL MAROLOS: [speaking Spanish]

15 TRANSLATOR: Thank you very much to..

16 [cross-talk]

17 YAMILL MAROLOS: [speaking Spanish]

18 TRANSLATOR: More than three months ago
19 I sought assistance because I didn't know what to
20 do with the problem of being harassed in Times
21 Square by the NYPD.

22 YAMILL MAROLOS: [speaking Spanish]

23 TRANSLATOR: In less than a week we were
24 able to form the New York City Artists United for a
25 Smile. We started as 40, we went to 150, and now we

1
2 have over 200 artists registered that participate
3 at some point in Times Square.

4 YAMILL MAROLOS: [speaking Spanish]

5 TRANSLATOR: And that, those artists of
6 that, from time to time perform in Times Square.

7 YAMILL MAROLOS: [speaking Spanish]

8 TRANSLATOR: So there started to be
9 rumors about legislation and immediately the Times
10 Square Alliance and the NYPD started handing out
11 fliers that criminalized the characters and, and
12 indicated that they were, implying that they..
13 [speaking Spanish] implying that they were cheating
14 people in the street.

15 YAMILL MAROLOS: [speaking Spanish]

16 TRANSLATOR: So we immediately then met
17 with Council Member Andy King who told us that the
18 proposed legislation was to protect the innocence
19 of children.

20 YAMILL MAROLOS: [speaking Spanish]

21 TRANSLATOR: Just days before he
22 actually submitted the piece of legislation he
23 indicated that he couldn't because the Mayor's
24 Office was making edits to the legislation.

25 YAMILL MAROLOS: [speaking Spanish]

1
2 TRANSLATOR: After two months of
3 analyzing what this legislation now sends, says, we
4 are very clear what the legislation means to us.

5 YAMILL MAROLOS: [speaking Spanish]

6 TRANSLATOR: Like you and the mayor and
7 the multitude of personnel you've had enough time
8 to analyze what this legislation means.

9 YAMILL MAROLOS: [speaking Spanish]

10 TRANSLATOR: And I still ask why.

11 YAMILL MAROLOS: [speaking Spanish]

12 TRANSLATOR: And, and I wonder why after
13 you... analyze whether or not it will violate the US
14 Constitution and our fundamental right to this
15 activity in the center of the universe which is New
16 York City. [speaking Spanish]

17 UNKNOWN MALE: [speaking Spanish]

18 [cross-talk]

19 YAMILL MAROLOS: [speaking Spanish]

20 TRANSLATOR: Okay I come from a country
21 where I understand what intimidating people is
22 about especially when you're going to use big
23 interest like big business and use, and you know
24 policing and interest to actually shut you up and,
25

1
2 and shut you down. In this case they're using
3 legislators in order to protect those interests.

4 YAMILL MAROLOS: [speaking Spanish]

5 TRANSLATOR: So I do oppose anything
6 that's going to limit my right and my freedoms in a
7 country where I came to actually avoid that kind of
8 decriminalization. [speaking Spanish]

9 [cross-talk]

10 [background conversation]

11 ALBERTA GERRA: [speaking Spanish]

12 TRANSLATOR: My name is Alberta Gerra. I
13 am a single mother of... [speaking Spanish] three,
14 three children and I am a member of the New York
15 City Artists United for a Smile.

16 ALBERTA GERRA: [speaking Spanish]

17 TRANSLATOR: I, I enjoy being in Times
18 Square. I think it's, it's kind. Some of the young
19 people come running up to me, little babies, small
20 children run up to me and, and hug me. It's a nice
21 feeling, I enjoy it. And some of them do leave
22 tips.

23 ALBERTA GERRA: [speaking Spanish]

24

25

2 TRANSLATOR: I design my own costumes
3 because I'm also, I... [speaking Spanish] a
4 seamstress.

5 ALBERTA GERRA: [speaking Spanish]

6 TRANSLATOR: Being a character in Times
7 Square is not all joyful. We do experience a lot of
8 harassment from tourists and from pedestrians and
9 we experience cold, snow, rain, hot, heat... all
10 kinds of, of things.

11 ALBERTA GERRA: [speaking Spanish]

12 TRANSLATOR: I don't think this license
13 is actually going to educate the individual under
14 the costume. I've been doing this for the last
15 eight years and, and thank god I've never run into
16 any kinds of problems.

17 ALBERTA GERRA: [speaking Spanish]

18 TRANSLATOR: If you, if you work with
19 you know education and, and profession there should
20 be no reason why you need a license.

21 ALBERTA GERRA: [speaking Spanish]

22 TRANSLATOR: So I've been doing this for
23 the last eight years and luckily I've never had a
24 problem. Usually to, some tourists give, some of
25 them don't. If they have they, you know they give,

1
2 if they don't, they don't because some people just
3 don't have either.

4 ALBERTA GERRA: [speaking Spanish]

5 TRANSLATOR: So I've... a mother of three
6 children that has had a couple of accidents on the
7 job in the last couple of years and I dress up to
8 go to Times Square and you tell me do I not have a
9 right to actually do what it is that I'm doing now?

10 ALBERTA GERRA: [speaking Spanish]

11 UNKNOWN MALE: [speaking Spanish]

12 THERESA GOMEZ: [speaking Spanish]

13 TRANSLATOR: Good morning. My name is
14 Theresa Gomez and I'm also a member of the New York
15 City Artists United for a Smile.

16 THERESA GOMEZ: [speaking Spanish]

17 TRANSLATOR: I work in Times Square
18 because I, right now I wasn't able to get a job and
19 I actually hope that some of the tourists feel in
20 their hearts to give me something.

21 THERESA GOMEZ: [speaking Spanish]

22 TRANSLATOR: I realize this job with a
23 lot of respect with the tourists and the locals and
24 I expect respect in turn from the authorities and,
25 and ask...

2 THERESA GOMEZ: [speaking Spanish]

3 TRANSLATOR: I do expect respect from
4 the authorities and ask for your support for all
5 the regulation because I'm am a honest person and I
6 don't want to be criminalized under this law.

7 THERESA GOMEZ: [speaking Spanish]

8 TRANSLATOR: That's all and thank you
9 for your attention.

10 JORJE VILKUS: [speaking Spanish]

11 TRANSLATOR: My name is...

12 JORJE VILKUS: [speaking Spanish]

13 TRANSLATOR: My name is Jorje Veliz and
14 I am always looking for self, super, you know, to,
15 to make myself better and I am an artist in Times
16 Square.

17 JORJE VILKUS: [speaking Spanish]

18 TRANSLATOR: So I go to Times Square in
19 order to be recognized for my art. I design my own
20 costumes, I am also a cook.

21 JORJE VILKUS: [speaking Spanish]

22 TRANSLATOR: Mexican, Portuguese, and
23 Ecuadorian food.

24 JORJE VILKUS: [speaking Spanish]

1
2 TRANSLATOR: I am opposed to some of the
3 injustices that happen against the characters in
4 Times Square.

5 JORJE VILKUS: [speaking Spanish]

6 TRANSLATOR: Sometimes the characters
7 are actually hit by some of the young people and
8 sometimes even adults.

9 JORJE VILKUS: [speaking Spanish]

10 TRANSLATOR: Sometimes the police
11 officers see them and they don't do anything.

12 JORJE VILKUS: [speaking Spanish]

13 TRANSLATOR: I support an auto
14 regulation where the organization La Fuente has
15 already a lot of our information.

16 JORJE VILKUS: [speaking Spanish]

17 TRANSLATOR: It has a number that, they,
18 that was generated and if people have a problem
19 they know to come to La Fuente. It's actually
20 happened before.

21 JORJE VILKUS: [speaking Spanish]

22 TRANSLATOR: I'm actually, want to make
23 sure that I get better at whatever it is that I do
24 and I'm open to that kind of change.

25 JORJE VILKUS: [speaking Spanish]

1
2 TRANSLATOR: [speaking Spanish] In order
3 for us to get better in line with some of the
4 things that you guys want us to, to do... [speaking
5 Spanish]

6 CHAIRPERSON ESPINAL: Only have 10
7 seconds left...

8 TRANSLATOR: Okay, so it's alright.
9 [cross-talk] I, I was just saying that if you
10 wanted to seat his time because he's trying to tell
11 him to say the other part. Okay.

12 JORJE VILKUS: [speaking Spanish]

13 TRANSLATOR: Some idea is to just become
14 better as a person and for people to come out of
15 there happy.

16 CHAIRPERSON ESPINAL: [speaking Spanish]
17 Anyone else testifying? Matt Shapiro?

18 MATT SHAPIRO: Hello my name's Matthew
19 Shapiro and I'm a staff attorney at the Street
20 Vendor Project at the Urban Justice Center. Our
21 members sell food and merchandise from carts trucks
22 tables all across the city. And we are here today
23 to support our brothers and sisters who work and
24 wear costumes and work next to us in the street.
25 From 13 years of experience we know that NYPD

1 officers will use every chance they get to harass,
2 ticket, evict, and arrest self-employed people who
3 make their living in public space. The police
4 department conduct strict enforcement against
5 vendors every day whether or not there are any
6 complaints for conduct as harmless as keeping your
7 license in your pocket instead of wearing it
8 conspicuously at all times as this bill will now
9 require costumed characters to do. This type of
10 honest mistake will be punished by a fine as high
11 as 500 dollars. Even if they are not guilty there
12 is little our members can do to avoid these
13 penalties. It is their word against the officer's.
14 Intro 467 has more things wrong with it than I can
15 list. The definitions of costume and solicit are
16 vague and they may not pass constitutional muster.
17 The bill gives officer full discretion to determine
18 what type of solicitation is aggressive. It's
19 language is modeled after the most notorious
20 criminal statute on the books, disorderly conduct
21 which the police use to sweep up homeless people,
22 LGBT youth, street musicians, and many other
23 powerless groups. The licensing provision may
24 violate the first amendment. It certainly offends
25

1
2 our city's reputation as a welcoming place for
3 immigrants including those who are undocumented.
4 Apart from the blanket statement that immigration
5 status shall not be used for licensing the bill
6 contains nothing to safeguard an individual's
7 private information. Personal data can be obtained
8 by federal agencies or large corporations that seek
9 to remove costumed characters from the streets or
10 worse. While getting a license may sound easy we
11 know that often it is not. Under this bill a
12 license may be withheld for unanswered summonses.
13 But often the Environmental Control Board does not
14 allow a person to answer a summons once they have
15 missed a hearing date even if that absence is due
16 to a valid reason like a sick child. And it gets
17 worse. We have had members who lose their wallet or
18 have it stolen and often they must spend a month
19 waiting for DCA to send them a replacement. In the
20 meantime they cannot work. They cannot pay their
21 rent. They cannot support their families. Intro
22 467's location restrictions are copied from the
23 vending rules that we know very well. In this
24 context they often make no sense. After all
25 costumed characters do not have tables or carts

1 that might block the public thoroughfare as vendors
2 are often accused of doing. In addition the rules
3 are poorly drafted. For example no costumed
4 character shall lean against the side of a building
5 or sit on a park bench. No license holder whether
6 or not they are even in costume can stand within 20
7 feet of any building entrance. It is clear that
8 costumed characters and their advocates did not
9 participate in this bill's drafting. So why is
10 Intro 467 being proposed? We know that some of the
11 richest and most powerful corporations in the city
12 have waged a campaign to get the costumed
13 characters removed. It has gone on for many years.
14 You will hear from some of them today. We often
15 fight against these same groups who feel that they
16 have the right to say who is allowed in our streets
17 and public spaces. Please do not do the bidding of
18 these media moguls and real estate executives. We
19 know that there have been a few times when costumed
20 characters misbehaved. We believe that some of
21 these cases have been exaggerated by the corporate
22 media. [beeping] That is not... just a few more
23 seconds. That is not to excuse bad behavior. Anyone
24 who commits a crime should be punished for it and
25

1
2 they have been. Times Square is one of the most
3 highly policed areas in the city if not the world.
4 The NYPD should be encouraged to enforce existing
5 laws equally against all people who commit crimes.
6 To the extent they are doing so we commend them.
7 New legislation is not the answer. We should
8 explore ways for police and the costumed characters
9 to work together to keep Times Square safe for
10 everyone. The Street Vendor Project stands ready to
11 assist. Thank you very much.

12 CHAIRPERSON ESPINAL: Thank you Matt. We
13 have Steve Mercier.

14 STEVE MERCIER: Hi, good morning. My
15 name's Steve Mercier and I'm a member of New York
16 City Artists United for a Smile. Over 12 years ago
17 I came to Times Square from Saratoga Springs, New
18 York as a means to follow my dreams of being a
19 street performer. I've been performing as the Big
20 Apple for over 10 years in Times Square. Let me be
21 outright and say that I don't understand with so
22 many laws on the books that caught all the bad
23 apples which is, which is why we don't need new
24 ones that will criminalize the good bunch. A few
25 years ago it was reported in several outlets that

1
2 then Mayor Bloomberg and the City Council were
3 looking to impose a series of sidewalk regulations
4 that including ticketing people for walking too
5 slow or walking within a massive group. Thankfully
6 common sense prevailed and the city realized that
7 there were already laws on the books to deal with
8 these issues of pedestrian traffic. Hopefully after
9 today's hearing everybody will agree that this
10 proposed legislation is unnecessary licensing
11 scheme and just another classic case of
12 overregulation. If we went by the logic that our
13 city needs new regulation every time something bad
14 occurs then we need dozens of regulations
15 pertaining to, our, to just our elected officials.
16 How many cases of bribery, laude behavior with
17 young interns, or even obstruction of justice have
18 there been within the last five years. Just as
19 there are laws on the books to handle their
20 inappropriate behavior there are laws that already
21 deal with performers who make poor choices. If the
22 current regulation works then, then why now are we
23 in need of new regulation. Given the fact that in
24 the news recently there has been much regarding how
25 the NYPD comports itself. Why is the council not

1
2 actively seeking means to implement body cameras?
3 We are not as blind to realize that this regulation
4 is being pushed by the Times Square Alliance, an
5 organization that feels as if we are a threat to
6 their associates. This has led to current
7 legislation which was created with the consultation
8 of the NYPD, Mayor's Office, and Times Square
9 Alliance. The only people who were left out were
10 the performers who could have easily told you that
11 a day in the life of, of what the day in the life
12 of a performer is, how it is to interact in our
13 space. According to Councilman King the bill is
14 meant to be a means to ensure everyone plays by a
15 set of rules that only he knows. The truth is if,
16 what we are looking for is a person to act in a
17 manner where they have morals and dignity and there
18 is no fee that can afford anyone that. [beeping]
19 Just a couple of more sentences. That must come
20 from the individuals themselves. All this proposed
21 measure does is, is bring the city 175 dollars per
22 performer in revenue. And guess what that, the bad
23 apples will still be rotten. The only difference is
24 they will now have a city issued license to
25 continue with the behavior. Please consider this

1 before deciding if you're going to move this bill
2 out of committee. Thank you.

3
4 CHAIRPERSON ESPINAL: Thank you guys. I
5 know some of my colleagues have questions for the
6 panel. So I'm not sure if, if previous people who
7 testified would like to come back up to answer
8 those questions. I'd like to call, call up on Dan
9 Garodnick who has a few questions.

10 COUNCIL MEMBER GARODNICK: Thank you
11 very much. And let me just start off by saying that
12 I understand that the characters out there oppose
13 anything that may limit rights or freedoms but it
14 does not at least from what I have heard so far,
15 there does not seem to be a recognition of the fact
16 that we have a problem in Times Square or any
17 prescription of where we should.. The idea that what
18 we're seeing is a manufactured attempt by powerful
19 corporations, real estate executives, and the
20 corporate media I think unfairly distracts from
21 what is a legitimate problem in Times Square. So I
22 want to get to that legitimate problem. And it may
23 not be a problem caused by anybody who's testifying
24 today. We accept that. We've met with you guys.
25 We've enjoyed our conversations. It's all good. But

1
2 we, we have a problem. So I guess what I would ask
3 is what's the solution that either the performers
4 or the, the Street Vendor Project would propose to,
5 to deal with what's going on out there?

6 STEVE MERCIER: I'm not so sure there
7 is, there is a problem out there. I've been
8 performing in Times Square for 12 years and I never
9 had one run in with any, any, any people that visit
10 Times Square, any tourists, any people from New
11 York but I've had several dozens of incidents with
12 the NYPD over the years including false arrests,
13 false tickets, bullying, bullying a lot of times
14 out of Times Square. And like I said I've been
15 doing this for a very long time so I'm not 100
16 percent sure that there is a problem.. [cross-talk]

17 COUNCIL MEMBER GARODNICK: Okay so let
18 me, let me pose a question to you. Would you agree
19 that the idea that a group of costumed characters
20 might surround a tourist and demand payment is a
21 problem?

22 STEVE MERCIER: Demanding a payment, I
23 would have to say that, that is a problem if that
24 occurs...

25 COUNCIL MEMBER GARODNICK: Okay.

1

STEVE MERCIER: ...in Times Square.

2

3

COUNCIL MEMBER GARODNICK: And if they were to restrict somebody's movement in any way, also a problem right? [cross-talk]

4

5

6

STEVE MERCIER: Correct.

7

8

COUNCIL MEMBER GARODNICK: Okay. To intimidate in any way, also a problem?

9

10

STEVE MERCIER: Correct.

COUNCIL MEMBER GARODNICK: Okay. You haven't had those issues 'cause you don't do those things it sounds... [cross-talk]

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12

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STEVE MERCIER: Correct.

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COUNCIL MEMBER GARODNICK: So that's good. But there are others who do. So my question is and I, and this can be for anybody in the panel... what's the proper way for us to address this? Because I know that nobody likes police activity either. Nobody likes to be bothered by the police and yet our alternatives here are either a licensing scheme or police action for those bad acts out there. What do you prescribe? What's our, what's our answer?

24

25

STEVE MERCIER: I believe it should be based on a case by case basis. There's a high

1
2 presence of NYPD out there. There's, there's video
3 surveillance cameras in Times Square. Times Square...
4 has their own people that patrol Times Square. If
5 someone acts up bad there's laws in place. There is
6 I don't know how many laws that NYPD has to
7 enforce. They have a tough job. I'm sure there's
8 thousands of laws. One time that I got ticketed an
9 officer brought a stack of papers like this thick
10 and was going through... he was going to arraign me
11 so there's, the laws are out there. And basically
12 I'm just take it on a base by case basis. And then
13 actually I do have a license that's issued by the
14 state. And I've had it for 10 years so I'm not sure
15 why they're trying to come up with some new
16 licensing scheme which I already have a license
17 that's provided by the state.

18 COUNCIL MEMBER GARODNICK: Your license
19 is which?

20 STEVE MERCIER: It's a show and
21 entertainment vendor's license.

22 COUNCIL MEMBER GARODNICK: Most costumed
23 characters in Times Square today do not have that
24 license, is that correct?

25

2 STEVE MERCIER: I, I wouldn't know the
3 answer to that question.

4 COUNCIL MEMBER GARODNICK: Do you have a
5 show and entertainment license?

6 STEVE MERCIER: Yeah I do.

7 COUNCIL MEMBER GARODNICK: Sorry, not
8 you. I'm asking... [cross-talk]

9 STEVE MERCIER: Oh okay.

10 COUNCIL MEMBER GARODNICK: ...the
11 gentleman to, to your right.

12 JORJE VILKUS: [speaking Spanish]

13 TRANSLATOR: Okay so we have actually
14 created an organization where we started to create
15 a set of principles and auto regulate...

16 COUNCIL MEMBER GARODNICK: [speaking
17 Spanish] No? Okay the question was do you have a
18 license from the state of New York. Okay. So now
19 let's talk about the auto, the self-regulation
20 okay. And I didn't mean to interrupt you, I just
21 wanted to get clarity on that. Because I think, and
22 I'm pretty certain that most of the characters in
23 Times Square, they don't have a license of any
24 sort. I think you're, I think you're in a different
25 category. Self-regulation. Tell us about how that

1
2 would work and why that should give confidence to
3 any member of the public or this committee that,
4 that we would solve the issues that we have
5 identified.

6 JORJE VILKUS: [speaking Spanish]

7 TRANSLATOR: So when I get involved in
8 creating this organization the idea was for us to
9 be involved with all the costumed characters and
10 including the NYPD.

11 JORJE VILKUS: [speaking Spanish]

12 TRANSLATOR: Because the councilman put
13 out a legislation that addressed the fact that his...
14 [speaking Spanish] his daughter, I think you said
15 granddaughter had had bad experience in Times
16 Square.

17 JORJE VILKUS: [speaking Spanish]

18 TRANSLATOR: So I experience a lot of
19 things in Times Square and thousands of people and
20 children that go through Times Square but tell me...
21 you know we also experience naked women hanging out
22 in Times Square.

23 JORJE VILKUS: [speaking Spanish]

24 TRANSLATOR: So why create this level of
25 penalties up until even jail time?

2 JORJE VILKUS: [speaking Spanish]

3 TRANSLATOR: So I'm not a delinquent. I
4 just get up every morning and I put on makeup.

5 JORJE VILKUS: [speaking Spanish]

6 TRANSLATOR: To get a, a tip, a
7 voluntary tip of, that of which the tourist wants
8 to give me..

9 COUNCIL MEMBER GARODNICK: Go ahead.

10 TRANSLATOR: [speaking Spanish]

11 JORJE VILKUS: [speaking Spanish]

12 TRANSLATOR: So that's why we created
13 the auto regulation system to work with the NYPD in
14 order for it not to just be negative consequences
15 towards us.

16 JORJE VILKUS: [speaking Spanish]

17 TRANSLATOR: Andy King requesting
18 identification recreated an identification... [cross-
19 talk]

20 JORJE VILKUS: [speaking Spanish]

21 TRANSLATOR: Set of rules, we've created
22 a set of rules for us to act in Times Square.

23 JORJE VILKUS: [speaking Spanish]

24 TRANSLATOR: [speaking Spanish]

25 JORJE VILKUS: [speaking Spanish]

2 TRANSLATOR: So the council members of
3 which I respect and esteem very much should
4 actually help us find alternatives.

5 JORJE VILKUS: [speaking Spanish]

6 TRANSLATOR: And the rules that we've
7 created are...

8 JORJE VILKUS: [speaking Spanish]

9 COUNCIL MEMBER GARODNICK: [speaking
10 Spanish] down through the whole rules? Yeah can,
11 can we have a copy for the...

12 TRANSLATOR: So we can...

13 COUNCIL MEMBER GARODNICK: ...just look
14 at?

15 TRANSLATOR: [speaking Spanish] ...you
16 can... We have copies you can get.

17 COUNCIL MEMBER GARODNICK: And these are
18 in place today?

19 TRANSLATOR: [speaking Spanish] So he
20 has translation equipment so... [cross-talk] Yes
21 because there's a delay. I'm not translating... he
22 has... [cross-talk]

23 CHAIRPERSON ESPINAL: Let's, let's,
24 let's, let's stop with the cross, with the cross
25 conversations, the cross arguments. [cross-talk]

1
2 TRANSLATOR: He has his own... the
3 translator's over there. He has equipment.

4 JORJE VILKUS: [speaking Spanish]

5 TRANSLATOR: So the... [speaking Spanish]

6 JORJE VILKUS: [speaking Spanish]

7 TRANSLATOR: So we give the policy, we
8 give actually the policies to the NYPD so they
9 could see what it is that we were creating.

10 JORJE VILKUS: [speaking Spanish]

11 TRANSLATOR: The, the day that we had
12 the meeting with the police... [cross-talk]

13 JORJE VILKUS: [speaking Spanish]

14 TRANSLATOR: ...the organization La
15 Fuente.

16 JORJE VILKUS: [speaking Spanish]

17 TRANSLATOR: So since that meeting they
18 haven't reached back out to us. They had certain
19 things that they needed to follow up on. And you
20 know that's an indication that they don't want to
21 work with us, they just want to impose... [cross-
22 talk]

23 JORJE VILKUS: [speaking Spanish]

24 TRANSLATOR: So we've tried to look for
25 all kinds of alternatives to work with them but you

1 know they just want to strip us of our rights..

2 [cross-talk]

3
4 COUNCIL MEMBER GARODNICK: Okay let,
5 okay put, put aside the, the, the attribution of
6 what the police want to do here. I just, much like
7 some of the other stuff I just don't think that
8 that's, that's too helpful in the conversation. But
9 one of the, the things that confuses me is that if
10 you are already act, acting within a system of
11 self-regulation it's not working yet. The problems
12 exist still. So we need to either, together embrace
13 a system where everyone agrees as to what the
14 principals are and have background checks and
15 agreed upon identification or we need more clarity
16 on our different options here. Do you, tell us
17 where it stands. Because you know we know, I've
18 seen some of the characters have those IDs on them
19 which surprised me a little bit because I didn't
20 know that anything was in the works but it sounds
21 like you all have proceeded along that path. But
22 where do things stand?

23 LUCIA GOMEZ: So just for the record my
24 name I Lucia last name is Gomez. I'm the executive
25 director of La Fuente. One of key priorities is to

1
2 ensure that the individuals... themselves develop
3 their own leadership and are able to actually
4 create whatever it is that you've been hearing that
5 they've been developing. With the intentions that
6 tomorrow I am no longer the executive director of
7 La Fuente my priorities are no longer helping the
8 characters develop and I move on and they need to
9 continue to be able to do this on their own so
10 hence why I did not testify today. But I am happy
11 to put some clarifying points on these things.

12 COUNCIL MEMBER GARONDICK: Please.

13 LUCIA GOMEZ: So I made these right. I
14 just made them because they wanted them. A lot of
15 the characters wanted to say well listen if you
16 don't know who I am I'm happy to tell you who I am.
17 So we made these in house at the office. We have a
18 membership system within the organization that you
19 know we've tried to model behind the municipal IDs
20 component. So a lot of them have brought their
21 foreign passports. A lot of them have bought,
22 brought their existing New York state licenses.
23 They all us to make copies of them. We keep them in
24 a secure system where we manage all of our member's
25 database information. That's how we function as an

1 institution like any other membership based
2 institution. The intentions of doing this was
3 because they asked for it. They wanted to be on the
4 clear. They wanted the NYPD to know that they
5 wanted to work with them. It wasn't because they
6 were trying to hide but they wanted to feel
7 trusting, that this was for their best intentions
8 right. And so when this happened in August where
9 people rumored legislation and then the flyers
10 started being handed out. And then you know there
11 were altercations with the police a couple of
12 instances because the police would place the flier
13 in front of the interaction with the tourist even
14 though the behavior was not illegal. A month later,
15 and they were just starting up. They don't know
16 each other. Some of them do know each other from
17 their countries of origin or from the places in
18 which they live but these are a bunch of
19 individuals; some of them limited English
20 proficient, some of them US born, some of them
21 fully fluent in the English language. There's
22 differences. The way in which everyone, anyone can
23 come to Times Square, anyone. I've seen over 200 of
24 them, I haven't seen them all. I can't say that I
25

1
2 have. I can't say... many of them want to join you
3 know an organization. Some of them feel they don't
4 need to. Some of them feel they can defend
5 themselves quite well. I've seen the Joker before
6 but I've never interacted with him. He's probably
7 not in my database right, in terms of that
8 scenario. One of the problems if you want to call
9 it that is that there's no way... and our, and our
10 standpoint is it's voluntary. There's no way you
11 can demand that someone come and register because
12 we believe as an institution that it's
13 fundamentally flawed to believe that you can
14 regulate private streets of the city of New York by
15 regulating behavior that is constitutional and at
16 the same time it's not commercial because they're
17 not putting a fixed amount of money. And so in that
18 scenario it's a work in progress [sic], progress.
19 Two recommendations that I have for the council;
20 you know you issue a bunch of commissions all the
21 time and studies and there's thousands of
22 universities and law schools and individuals dying
23 to do this; issue a, issue a study. All these
24 businesses that really want to have an impact, use
25 your money and put it where it works. Put it to

1
2 actually create a system and the entire country,
3 and the entire nation, and the entire you know
4 universe is looking at this as New York City can
5 you come up with a formula. Hollywood's looking
6 straight at us. I've gotten calls from Seattle,
7 Washington. I've gotten calls from Nevada telling
8 me I fought this in court, I fought this in court,
9 this is the legislation so...

10 COUNCIL MEMBER GARODNICK: Can you, can
11 you, can you wrap up your comments?

12 LUCIA GOMEZ: Yeah, so my point is use
13 what you have at your disposal right now. Use at,
14 this information and come up with a, come up with a
15 system collectively. Let's sit down and we'll have
16 a real conversation on how to meet your goals
17 without necessarily entrumping [sic] on peoples'
18 rights.

19 COUNCIL MEMBER GARODNICK: Okay. I, I
20 just... but there's, there's two, two more things
21 that I have to ask and we can do this briefly. But
22 one is in a voluntary system would you be willing
23 to undergo background checks with the police
24 department on a voluntary basis?
25

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2 LUCIA GOMEZ: So the question that we
3 have out there to our legal experts is whether or
4 not a private background check that they can
5 present the information would necessarily go
6 through the state department's communications with
7 under secure communities. We've been fighting
8 against the cooperation with ICE under certain
9 basic civil penalties, any cooperation, any
10 fingerprints that could trigger some kind of
11 investigation on an individual that has not
12 committed a crime outside of entering the country
13 illegally which is a civil crime, not a crime, it's
14 a civil issue within the courts. We're concerned
15 that anything that requires them to do fingerprints
16 that can have that kind of repercussion and
17 deportation issue is really something that we're
18 not willing to entertain.

19 COUNCIL MEMBER GARODNICK: So is it fair
20 to say that you're, you're willing to do background
21 checks but the concern is about the public nature
22 of the background check? Is that a, is that what
23 you're... [cross-talk]

24 LUCIA GOMEZ: The concern is the
25 precedent that's being set to create background

1
2 checks on a multitude of diversity amongst the
3 individuals that a lot of them have said I'll do my
4 background check, I have nothing to fear. A lot of
5 them have said that. And some of the major concerns
6 behind that is that well you also don't know all
7 the repercussions right? I mean the DCA didn't
8 recognize that you know the state has an obligation
9 to share that information with ICE, homeland
10 security. They have an obligation. And something as
11 simple as you know being in this country for the
12 last 25 years some legal permanent residents who
13 don't realize that 1980 you know previous crimes
14 can trigger a deportation order is of a major issue
15 to us and should be a major issue to... [cross-talk]

16 COUNCIL MEMBER GARODNICK: I think that
17 they, they're going to respond back to Council
18 Member Ferreras in this committee because that was
19 a question that she asked. And the last question is
20 in a, in a system where not everyone is a
21 participant, and by definition in a voluntary not
22 everyone will be... how, how can we feel any level of
23 confidence that the behaviors that you have on the
24 sheet, the principals of self-regulation would,

25

1
2 would dominate and that the public would feel
3 safer?

4 LUCIA GOMEZ: So one of, the same way as
5 you educate the consumer about these things one of
6 the recommendations that we had is you know you can
7 actually create some kind of involuntary seal of
8 approval, the way in which you put grade A, grade
9 B, grade C on restaurants. Perhaps if the city
10 council entertains it, the Times Square Alliance
11 entertains it with the same kind of signs you can
12 put out and say these individuals have voluntarily
13 chosen to do X, Y, and Z whichever those parameters
14 are. And people at that point can be educated to
15 say take a picture with those we know for a fact,
16 but the consumer also has a right to say I don't
17 care if they have a sign or not. You know I, they
18 have the opportunity to not take a picture with
19 certain individuals if they feel that that person
20 hasn't passed those parameters.

21 COUNCIL MEMBER GARODNICK: Thank you
22 very much.

23 CHAIRPERSON ESPINAL: Thank you. We have
24 Councilman King. Let's just be mindful of our time.

1
2 COUNCIL MEMBER KING: Thank you. Thank
3 you Mr. Chair and thank you for testifying again.
4 My, just my one question, we are here because we
5 have half of the council saw that there's an issue
6 happening in the Times Square area. I, after
7 listening to your testimony do you think that there
8 is a concern in, in the Times Square area and do
9 you think what we're attempting to do, is there any
10 pros to anything that, that we put on the piece of
11 paper?

12 UNKNOWN FEMALE: Can you ask the
13 question again so they can... [cross-talk]

14 COUNCIL MEMBER GARODNICK: I touched on
15 that earlier but...

16 COUNCIL MEMBER KING: I just want to
17 know do you think, do you think that there's
18 anything that was put on this piece of paper makes
19 sense? Is, is the intent or anything helpful or, or
20 just strictly no?

21 STEVE MERCIER: I wouldn't say no to
22 everything but I mean like I said I don't believe
23 that there's a, a huge, like you're trying to
24 emphasize there's a huge problem in Times Square.
25 I've been there for 12 years performing in Times

1 Square and I've never seen any problems like I said
2 with any tourists or anything like that but several
3 problems with the police, NYPD doing false arrests,
4 false tickets, and bullying in Times Square.
5

6 COUNCIL MEMBER KING: Alright. Well
7 I'll, I'll just end with that. I won't ask any
8 questions. But if we're going to sit down and have
9 further dialogue we have we, relook and see if
10 there's really an issue there. Because if we're
11 going to be in total denial that there's something
12 going on we'll never get it through the meeting of
13 the minds of how we can come up with real solutions
14 to what we're engaged in. Not in the last say 12
15 years but you know what's happening in the last two
16 years. And we don't know what the next four years
17 are going to look like if we don't have a real
18 conversation of where we are right now.

19 STEVE MERCIER: I'm not so sure a
20 license is going to make people behave better too..
21 [cross-talk] that would happen too but..

22 COUNCIL MEMBER KING: Thank you.

23 LUCIA GOMEZ: Yeah so just for the
24 record the principals that you have before you were
25 created by them you know based on what they saw to

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2 be a problem amongst themselves you know. One of
3 the things that are outside of those parameters is
4 something that they're still up in the air about is
5 whether or not two or three characters coming
6 together for a picture, or five you know hovering
7 over someone could constitute some type of
8 aggressive solicitation or something that they need
9 to backpedal on. But the fact is that they created
10 those regulations themselves based on the problems
11 that they saw, on the experiences that they've had.
12 Eliminating competition is probably one of the
13 primary things that I hear all the time. So one of
14 the things that a lot of them have said, especially
15 those that have been there for a very long time, is
16 that if you create a license and that you can limit
17 the number of licenses they're all for it,
18 especially if it means you're going to limit how
19 many people have that opportunity to go out there
20 in the street. So there's a, there's a back and
21 forth between the pros and cons of being able to
22 put out a license that then you could limit the
23 number of people for the simple reason that it's
24 sort of like a way of like diminishing competition

1
2 amongst the characters that may or may not be a
3 violation of their rights.

4 MATT SHAPIRO: One further response.

5 Whether or not there's a limit on the licenses or
6 not the regulations in place which were copied from
7 the vending regulations established de facto limits
8 on the number of places where these characters
9 would be able to do business. I mean 20 feet from
10 any door entrance, count the number of door
11 entrances in Times Square and see if there's any
12 room left for characters to do. Characters must
13 about the curb... you know with all the other
14 construction and all the other things that happen
15 in Times Square there'll be extremely little space
16 left just as there has been for vendors. Extremely
17 little space left for these people to be there.

18 LUCIA GOMEZ: And just as a final point
19 on this all the characters have to do is take off
20 their masks, wear a different costume that is not a
21 mask costume and, and they won't be required a
22 license. It doesn't, it's not going to diminish how
23 many people are there it's just going to diminish,
24 diminish the nature in which they're there. And you
25 know if that means that Elmo and the Elmo company

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or the Marvel Company is happier because their characters are not out there that doesn't diminish the number of people. That doesn't diminish the, the solicitation behavior. It's just going to create a different kind of economy and a different kind of situation.

COUNCIL MEMBER KING: alright thank you.

JORJE VILKUS: [speaking Spanish]

TRANSLATOR: I recommend the following if you really want to fix the, the issue of artists in New York.

JORJE VILKUS: [speaking Spanish]

TRANSLATOR: Be more in line with the priorities that you put out.

JORJE VILKUS: [speaking Spanish]

TRANSLATOR: Create a better mechanism to understand what the better ways are.

JORJE VILKUS: [speaking Spanish]

TRANSLATOR: Look across the country to identify places where these have actually been good results.

JORJE VILKUS: [speaking Spanish]

2 TRANSLATOR: Don't just react and,
3 without understanding what the implications are of
4 your actions.

5 JORJE VILKUS: [speaking Spanish]

6 TRANSLATOR: If there aren't good
7 examples, better, and you can be pioneers.

8 JORJE VILKUS: [speaking Spanish]

9 TRANSLATOR: There's a lot of
10 universities and places of study that will... [cross-
11 talk]

12 JORJE VILKUS: [speaking Spanish]

13 TRANSLATOR: ...to help you find a
14 solution.

15 JORJE VILKUS: [speaking Spanish]

16 TRANSLATOR: Ask these companies to use
17 their resources for the right.

18 JORJE VILKUS: [speaking Spanish]

19 TRANSLATOR: Not only to impose a wrong
20 so they can continue to make money.

21 JORJE VILKUS: [speaking Spanish]

22 TRANSLATOR: Let's try to create a
23 voluntary situation...

24 CHAIRPERSON ESPINAL: [speaking Spanish]

25 I'd like to call up Council Member Lancman.

2 COUNCIL MEMBER LANCMAN: Thank you. Good
3 morning or afternoon now at this point. Can you
4 tell me or estimate what percentage of the costumed
5 characters are out there engaged in this activity
6 as a business, as a means of earning money and
7 supporting themselves and what percentage are there
8 just to express whatever artistic expression they,
9 they want to express?

10 JORJE VILKUS: [speaking Spanish]

11 TRANSLATOR: Okay...

12 COUNCIL MEMBER LANCMAN: Is there a
13 translator, is there a council translator, I don't
14 understand.

15 LUCIA GOMEZ: I asked for that. That's
16 my problem. She's over there translating into
17 Spanish in their piece but I asked for a
18 translator.

19 COUNCIL MEMBER LANCMAN: So do, you'll
20 do the best you can but you're not, I just want to
21 understand there's no council translator.

22 LUCIA GOMEZ: Yeah I asked, I asked your
23 council... I'm trying to like just compensate.
24 [speaking Spanish]

25 JORJE VILKUS: [speaking Spanish]

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2 LUCIA GOMEZ: Yeah can you ask him the
3 question again just so he can hear it. The problem
4 is that there's major interference... [cross-talk]

5 COUNCIL MEMBER LANCMAN: Sure. To, to be
6 honest with you my question was more directed
7 towards you as someone who seems to a, a leader of
8 an organization. So can you tell me what percentage
9 of the costumed characters out there on a given day
10 are there engaged in making a living, they're out
11 there to support themselves or earn money, and what
12 percentage are there just to express themselves?
13 When I show, when I come out of a... [cross-talk]

14 LUCIA GOMEZ: With or without a mask?

15 COUNCIL MEMBER LANCMAN: ...and there are
16 five Elmos I can't believe that that, like within
17 Elmo there's that much you know artistic expression
18 that, that can be drawn from, from that. So...

19 LUCIA GOMEZ: And the question is
20 whether or not within that same five characters of
21 Elmo there's that much money to made amongst the
22 five right?

23 COUNCIL MEMBER LANCMAN: Well no I'm not
24 questioning the wisdom of the business. You know
25 I'm just wondering how many folks are out there...

1
2 Mr. Apple I don't know what you do and when you're
3 out there but I don't know what percentage of folks
4 are out there expressing themselves artistically.
5 And then let's be candid with each other what
6 number of folks are out there making a living. And
7 it's fine to make... [cross-talk] living but...

8 STEVE MERCIER: I'm not sure about the
9 percentages but I want to, but I mean I would have
10 to say, I would have to think that most are trying
11 to make a living out there. But I don't know what
12 the percentage would be... both too.

13 LUCIA GOMEZ: Yeah I, I mean I would
14 definitely feel a little split by that only because
15 the ones that have been consistent in coming to the
16 organization are pretty much because this is what
17 they love to do. Another group doesn't show up
18 because they're not as interested because they only
19 go there part time. They only do... But the ones at
20 least that have been consistent is about 75 of
21 them, so I would say anywhere between 40 to 50
22 percent if not a little bit more I would say are
23 doing this for the love of the, of the, of what
24 they're actually doing. And they really get into it
25 and they're like artists.

1
2 COUNCIL MEMBER LANCMAN: But I love what
3 I'm doing but I get paid for it. So I just want to
4 make that, that distinction.

5 LUCIA GOMEZ: You have that capacity.
6 You have the capability of, of putting yourself in
7 the position to do that. Not everyone does.

8 COUNCIL MEMBER LANCMAN: Yeah I
9 understand but that's not the question. So of the,
10 the 75 people who I guess regularly show up what
11 percentage of them whether they love what they're
12 doing or not... [cross-talk]

13 LUCIA GOMEZ: Oh all, everyone who shows
14 up, the 75 that continues to show up to our
15 organization are doing it for the love of the art.

16 COUNCIL MEMBER LANCMAN: And are they
17 making money, are they, is this how they support
18 themselves?

19 LUCIA GOMEZ: I don't, I can't, I can
20 tell you voluntary, give and take, a dollar, two
21 dollars, if people actually give it to them I can
22 constitute as making money. I think you would
23 recognize if you're going to go out there every
24 single day asking people give it to you or don't.

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2 COUNCIL MEMBER LANCMAN: Is this their,
3 is this their primary means of support?

4 LUCIA GOMEZ: Not everyone. A lot of
5 them have regular jobs during the week. And some of
6 them are students. Some of them are foreign
7 students. Some of them you know, there's, I have a
8 couple of high school students.

9 COUNCIL MEMBER LANCMAN: Do you have any
10 of your members... is that right term...

11 LUCIA GOMEZ: Mm-hmm.

12 COUNCIL MEMBER LANCMAN: ...your members
13 never solicit tips or, or fees for taking a picture
14 with someone.

15 LUCIA GOMEZ: They, they all carry
16 something that says tips I've noticed, or bags that
17 say tips. I mean they're soliciting tips.

18 COUNCIL MEMBER LANCMAN: Okay.

19 LUCIA GOMEZ: Sort of like the guy with
20 the weed sign that says you know I, you know... I do
21 it for weed. It's pretty much the same.

22 COUNCIL MEMBER LANCMAN: I get it. But
23 we changed that policy so that might be productive
24 business model now. So...

25 LUCIA GOMEZ: ...yeah...

2 [laughing]

3 COUNCIL MEMBER LANCMAN: And now sir,
4 I'm sorry I don't, I don't remember your name.

5 YAMILL MAROLOS: Yamill.

6 COUNCIL MEMBER LANCMAN: What is it?

7 YAMILL MAROLOS: Yamill.

8 COUNCIL MEMBER LANCMAN: Yamill. Can you
9 just describe for us briefly what kinds of
10 harassment or, or hassling the, the cops do with
11 you? How have they harassed you? Of what kind of
12 things?

13 YAMILL MAROLOS: Yeah.

14 COUNCIL MEMBER LANCMAN: You can go next
15 Mr....

16 STEVE MERCIER: Alright cool. [cross-
17 talk]

18 YAMILL MAROLOS: [speaking Spanish]

19 TRANSLATOR: So just to... something
20 that's usually not an anomaly I was in Times Square
21 and an individual you know took a picture with me
22 and they asked me... [speaking Spanish] said he was
23 going to... [speaking Spanish]

24 YAMILL MAROLOS: [speaking Spanish]

25

2 TRANSLATOR: Oh I took a picture of a
3 bunch of police officers that was with an
4 individual.

5 YAMILL MAROLOS: [speaking Spanish]

6 TRANSLATOR: Okay.

7 YAMILL MAROLOS: [speaking Spanish]

8 TRANSLATOR: So the individual who
9 followed me was the individual who was talking to
10 the police and he indicated that he was going to
11 kill me.

12 YAMILL MAROLOS: [speaking Spanish]

13 TRANSLATOR: I went to the, the police
14 that was nearest...

15 YAMILL MAROLOS: [speaking Spanish]

16 TRANSLATOR: Because I don't speak
17 English, my friend who works with me, Batman, he
18 came with me.

19 YAMILL MAROLOS: [speaking Spanish]

20 TRANSLATOR: And I explained the issue
21 to the Sergeant that was there.

22 YAMILL MAROLOS: [speaking Spanish]

23 TRANSLATOR: And the police officer only
24 said that it was harassment...

25 YAMILL MAROLOS: [speaking Spanish]

2 TRANSLATOR: ...and that it wasn't a
3 crime.

4 YAMILL MAROLOS: [speaking Spanish]

5 TRANSLATOR: When they started to hand
6 out the fliers...

7 YAMILL MAROLOS: [speaking Spanish]

8 TRANSLATOR: When they started handing
9 out the fliers the police officers in the middle of
10 a conversation with a tourist would hand out fliers
11 saying that the pictures were free.

12 YAMILL MAROLOS: [speaking Spanish]

13 TRANSLATOR: I have understanding nobody
14 in the world works for free.

15 YAMILL MAROLOS: [speaking Spanish]

16 TRASLATOR: That's my point.

17 COUNCIL MEMBER LANCMAN: That's one of
18 my points as well. Thank you.

19 STEVE MERCIER: This might take a while
20 but I'll try to shorten it down... [cross-talk]

21 COUNCIL MEMBER LANCMAN: You got one
22 minute.

23 STEVE MERCIER: Okay. I just, I'll just
24 refer back to the 2011 incident. There's a video on
25 YouTube, 'Big Apple Gets Arrested in Times Square'.

2 If anyone wants to look it up this is pretty much
3 how the NYPD treats the performers in Times Square.

4 COUNCIL MEMBER LANCMAN: What were you
5 arrested for?

6 STEVE MERCIER: There's, I had two pink
7 tickets, I had a few officers that came up to me
8 and issued me I think blocking traffic, pedestrian
9 traffic, invenning [sic] on a grate. And then he
10 asked me if I was going to leave and I just asked a
11 question, why is the Naked, the Naked Cowboy able
12 to perform every day here and then they came back
13 about 15 minutes later and gave me three more pink
14 tickets. And then they asked me if I was going to
15 leave. I'm like I'm trying to pay my bills and..
16 [cross-talk]

17 COUNCIL MEMBER LANCMAN: Let me... [cross-
18 talk]

19 STEVE MERCIER: ...five minutes later I
20 got tackled in the middle of Times Square and so..
21 [cross-talk]

22 COUNCIL MEMBER LANCMAN: Got it. So let
23 me, so let me ask this question... [cross-talk]

24 STEVE MERCIER: ...all kinds of stuff.

1
2 COUNCIL MEMBER LANCMAN: Let me ask this
3 question to, to, to both of you. Wouldn't it be, it
4 be easier for you in being able to go out and, and
5 do what you do whether you do it solely for the,
6 for the art or you do it for income or some
7 combination if there were clear guidelines in law
8 about where you could stand, where you couldn't
9 stand, where, what you could block, what you
10 couldn't block that was part of official city
11 guidelines overseen by the Department of Consumer
12 Affairs? Wouldn't that make your day to day life
13 easier?

14 STEVE MERCIER: I would have to say no.
15 I think it would just... they would just add more and
16 more to the licensing, when you can come out and
17 work, where you can work... just etcetera etcetera.
18 It would be, it would just, it would continually
19 constrict what you can do out there I would think.

20 COUNCIL MEMBER LANCMAN: But wouldn't it
21 at least provide a bright line... I'm on this side of
22 the street, I'm at this location, I'm good, and
23 I'm, I'm on that side of the line, I'm on that
24 location I'm, I'm not good?

25 STEVE MERCIER: Possibly.

2 COUNCIL MEMBER LANCMAN: Do you have an
3 opinion sir?

4 YAMILL MAROLOS: [speaking Spanish]

5 TRANSLATOR: I come from Columbia, from
6 a country that you're not allowed to express your,
7 your, express yourself. If you do you're probably
8 decapitated and killed.

9 YAMILL MAROLOS: [speaking Spanish]

10 TRANSLATOR: I came to America because
11 it's a free country.

12 YAMILL MAROLOS: [speaking Spanish]

13 COUNCIL MEMBER LANCMAN: So let me, let
14 me, let me interrupt you.

15 CHAIRPERSON ESPINAL: Rory can I ask you
16 to just like, let's, let's try to...

17 COUNCIL MEMBER LANCMAN: I'll try to but
18 I mean we've had...

19 CHAIRPERSON ESPINAL: ...come, come to an
20 end with the questions?

21 COUNCIL MEMBER LANCMAN: ...people
22 questioning for, for 30 minutes and I'm actually a
23 member of the committee so... [cross-talk]

24 CHAIRPERSON ESPINAL: No, no I... [cross-
25 talk]

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2 COUNCIL MEMBER LANCMAN: ...I will.

3 CHAIRPERSON ESPINAL: Just we have a, a
4 long list of... [cross-talk]

5 COUNCIL MEMBER LANCMAN: I understand.

6 CHAIRPERSON ESPINAL: ...members... [cross-
7 talk]

8 COUNCIL MEMBER LANCMAN: And I got to go
9 fight the plastic bag tax in 20 minutes so I got a
10 full day. So one of the ways that maintain our, our
11 freedom is by having clear rules of what citizens
12 can do and, and cannot do, what the police can
13 arrest us for or charge us with and, and what they
14 can't. And I'm wondering whether you think that the
15 part of this bill which will establish those clear
16 rules in terms of where you can stand and where you
17 can't the kinds of things you can do and the kinds
18 of things you can't do wouldn't help you express
19 yourself freely without having to worry about
20 police officers arbitrarily and on a whim deciding
21 when they should or should not ticket you or arrest
22 you...

23 UNKNOWN MALE: Do you want him to
24 answer? I, I can comment... [cross-talk]

25

1
2 COUNCIL MEMBER LANCMAN: No, I want to
3 hear from the street performer.

4 UNKNOWN MALE: Yeah, I think so.

5 COUNCIL MEMBER LANCMAN: I mean not, if
6 you don't have an answer that's fine or if you know
7 you want to answer...

8 TRANSLATOR: It's just that your
9 translation equipment is really bad so he gets it
10 in and out... [cross-talk]

11 COUNCIL MEMBER LANCMAN: Oh I'm patient.

12 YAMILL MAROLOS: [speaking Spanish]

13 TRANSLATOR: I am a passive person, a
14 pacifist and, and so I shouldn't be supporting a
15 license that would implicate where I can and cannot
16 stand.

17 YAMILL MAROLOS: [speaking Spanish]

18 TRANSLATOR: A lot of, some of the
19 tourists that come to Times Square are very shy.

20 YAMILL MAROLOS: [speaking Spanish]

21 TRANSLATOR: But they want to take a
22 picture with us.

23 YAMILL MAROLOS: [speaking Spanish]

24 TRANSLATOR: ...artist because I feel it
25 that way.

1 YAMILL MAROLOS: [speaking Spanish]

2 TRANSLATOR: I get, I get to, I confront
3 the, the tourist or get in front of the tourist and
4 ask them hey do you want a picture.
5

6 YAMILL MAROLOS: [speaking Spanish]

7 TRANSLATOR: Why would you try to limit
8 my space when right now I can actually be anywhere?

9 COUNCIL MEMBER LANCMAN: Okay, yes?

10 STEVE MERCIER: I think there's... a lot
11 of factors that go into too. Like, like if you're
12 put in a spot where there's not a lot of traffic
13 that could affect you know you're business or
14 you're performing and, and your arts and stuff like
15 that. And I believe that there's enough laws in
16 place right now and regulations in Times Square
17 that they don't need new ones. Just...

18 COUNCIL MEMBER LANCMAN: Okay. Last
19 question that's very simple. If it's beneficial to
20 create these IDs which you've done for your members
21 and I think it's terrific, and there's some,
22 there's some benefit to that, that people can be
23 identified, that... whatever benefits there are from,
24 from, from the ID, clear there are some, why not
25 require that all the costume characters have that

1
2 ID so that whoever benefits they get and whatever
3 benefits the public gets can be, be, be max,
4 maximized?

5 LUCIA GOMEZ: So the licenses were for
6 you and for those individuals who feel like they
7 need to know who's under the mask. The licenses
8 weren't necessarily for them. It was in response to
9 what you consider to be a benefit of creating this
10 legislation. It was a trial and error period, a lot
11 of them, all of them expire the 30th of November.
12 We wanted to see whether or not the interaction
13 with the public got better, if it made them feel
14 more safe, made them feel more secure. But it, it
15 was a trial and error scenario. Some people are
16 happy that they're wearing them. Some of them are
17 happy that they're organizing. Some of them have
18 been very complimenting to them because they have
19 it on and they're fascinated by it. But by no means
20 would we think or, or consider for the council to
21 mandate them from anyone.

22 COUNCIL MEMBER LANCMAN: But you'd, but
23 you'd agree that if some people can choose to not
24 wear the badges then they're not really
25 accomplishing at least the council's goal?

1
2 LUCIA GOMEZ: Right, unless the council
3 in the same way that they're educating the consumer
4 by telling them that the pictures are optional and
5 they feel that that has been great the same way
6 they can say hey, FYI these individuals if you want
7 to feel safer go to the ones that actually have it
8 on. Not just this one but you know somebody else
9 who might be able to create them.

10 COUNCIL MEMBER LANCMAN: Alright,
11 alright. Well I just think that would be an
12 enormous challenge in Times Square, we have
13 millions of people coming in for one day or two
14 days. But, but thank you very much for your
15 testimony. Thank you Mr. Chairman.

16 CHAIRPERSON ESPINAL: Thank you Rory
17 Lancman. I'd like to call up the next panel. And
18 we're going to keep the clock at strictly, at three
19 minutes to, just to save time. We have Tim
20 Tompkins, Tom Ferrugia, Christine Nicholas, and
21 Joshua Noler.

22 TIM TOMPKINS: Thank you. I'm Tim
23 Tompkins, president of Times Square Alliance. And
24 I'd like to thank Council Member King, Espinal,
25 Garodnick, Lancman, and just all the folks that

1
2 have been here for your, for this very robust
3 conversation and the acknowledgement that we've got
4 something we need to work on. Why is this issue
5 being addressed; I'll just give you three examples.
6 Two years ago I first learned about this issue when
7 a female member of my staff came in and said that,
8 that Elmo had grabbed her backside. On October
9 19th, 2013 this is from a, a court record,
10 individual dressed as Spiderman approaches 16 year
11 old female on a class trip to Times Square.
12 Spiderman grabs her arm and spins her around
13 pressing his body against her photo. When she does
14 not tip the Spiderman character reaches out and
15 grabs her buttocks. Incident observed by adult
16 chaperone who reports incident to police. Defendant
17 is arrested. Ended up the defendant pleads guilty
18 to all charges and is sentenced to 90 days in jail.
19 Third example, letter received out of the blue June
20 2nd, 2014 from two young women in Connecticut. My
21 friend and I who are 16 year old Asian girls were
22 walking down Times Square. There were three
23 costumed characters who pushed us into taking
24 photos with them without explaining that it would
25 cost money. They wouldn't let us go. They even

1
2 tried to keep my friend with them and they wanted
3 me to go to the ATM and get money. The trip to
4 Times Square that we had dreamed of was a
5 nightmare. That's the problem we're focusing on. I
6 want to be explicit and clear that I do not think
7 that any of the people that testified today, any of
8 the people that have been working with the group La
9 Fuente to, to come up with a set of solutions,
10 those are not the problem people. We have never,
11 Times Square has always been a place that has
12 celebrated expression and different kinds of things
13 as I've said; quirky is fine but creepy is not. We
14 respect and support the fact that many people are
15 honest players trying to earn a living and we
16 believe that a license system actually protects the
17 honest players but also protects the members of the
18 public. That's what we're focusing on. I'm, when,
19 when we cite bad incidents we're not casting
20 dispersions upon the people that we do think are
21 honestly trying to earn a living. Why is this issue
22 important? It's important because it's a consumer
23 protection issue. These are folks engaging in
24 business. But it's also important for the city of
25 New York and its economy. Tourism is the, one of

1 the biggest drivers. Times Square itself generates
2 one in every, indirectly and directly, on in every
3 ten jobs in New York City through all five
4 boroughs. And over time, not immediately but over
5 time all these negative experiences will push us
6 back where we were before. Fewer people will come
7 to New York City. Fewer hotel rooms will be filled.
8 Fewer jobs in those hotels and those restaurants
9 and those stores will be available people. So how
10 do we think this needs to be addressed? We do think
11 that a licensing scheme is important because it
12 does two key things. It creates a first filter to,
13 to weed out people that have recent violent or
14 predatory criminal records, a first filter. The
15 other thing it does is it creates accountability
16 because someone can see, and see who this person is
17 and make a distinction between an honest hard
18 working Elmo and one that is not honest. And it
19 also just in the same way that the name on a police
20 badge or the name on a taxi medallion creates a
21 culture where someone has to behave a little bit
22 better because they know they're being watched and
23 they know that they can be turned in. Those are the
24 elements of a licensing scheme that are important.
25

1
2 And we are you know very grateful for that
3 introduction. Some people have said as Council
4 Member Cornegy referred to that they're, they're
5 concerned about negative police citizen
6 interactions or that this would create more
7 opportunities for negative police citizen
8 interactions. One of our arguments is that a
9 licensing scheme actually creates a middle ground.
10 Council Member Garodnick took us through some very
11 complex scenarios of where someone is subtly being
12 intimidated or talking to. We want to avoid this
13 situation where the only choice is either do
14 nothing or the full power of an arrest on these
15 very subtle forms of behavior that are judgment
16 calls. A licensing scheme allows you to call 3-1-1
17 to say look this person hasn't behaved well and
18 over time their license can be revoked. It gives
19 you an intermediary measure for enforcement. We
20 think that even if there is some time, place, and
21 manner restriction related to somebody being in a
22 box that you still have the problem that under the
23 cloak of anonymity someone who is in that box can
24 do something bad. So time, place, and manner is not
25 enough we think. We need also to deal with the fact

1 that the bad players here are taking advantage of
2 anonymity. Self-regulation; we think that that is
3 an admiral action for the folks who are honest but
4 the problem is you think about any business
5 regulation system, you know the good folks will say
6 we'll play by the rules but why do we regulate
7 businesses anywhere in the world and any commercial
8 activity, it's because you need to have something
9 to constrain and punish the bad players not the
10 good players. There's been some expressions
11 concerned about immigration. You know we were
12 emphatic in saying we did not want this bill to
13 have anything where people were being asked their
14 immigration status. The council wisely passed a, a
15 law recently saying that, that there's a fine line.
16 If there's ways to add extra sense of security
17 around this issue of not having information be
18 shared we support it. We want to be explicit, we do
19 not want this to be used as a tool for you know
20 federal immigration enforcement. And then finally
21 we do want to say that we think that the, the
22 licensing scheme is important and voluntary does
23 not work. We are completely open to the idea that
24 the bill can potentially be strengthened by
25

1
2 narrowing some of the definitions of the characters
3 regulated. Maybe it's just limited to the people
4 wearing masks as opposed to everybody in costume,
5 maybe narrowing some of the scope of activities,
6 maybe reducing some of the time, place, and manner
7 restricts that were lifted from the vending law to
8 make them more concise, perhaps lessening some of
9 the penalties that may feel like they're out of
10 whack so that there are still strong penalties but
11 only after multiple offences. And we also agree
12 with the idea of reducing the registration fee. So
13 we're open to saying this bill can be stronger..

14 [cross-talk]

15 CHAIRPERSON ESPINAL: ...wrap up.

16 TIM TOMPKINS: And we think... but it, it
17 does need to be done and because all of our Times
18 Square Plazas are going to be opening next Spring
19 time is of the essence.

20 CHAIRPERSON ESPINAL: Thank you. Would
21 you, would you all state your name on, on the
22 record? Okay.

23 KAITLYN: Thank you very much Council
24 Members.

25

1
2 UNKNOWN FEMALE: I'm sorry we have,
3 we're not clear as to who's on this panel. So just
4 for our organizational purposes if you could just
5 go through your names.

6 KAITLYN: Sure, yeah. Our three names
7 should be on the same slip as Tim Tompkins. But
8 we'll all go through our names. I'm Kaitlyn Lewis
9 with the Times Square Alliance.

10 ELLEN: Ellen Goldstein with the Times
11 Square Alliance.

12 FRED ROSENBERG: Fred Rosenberg with the
13 Times Square Advertising Coalition.

14 JOSHUA NOLER: And Joshua Noler
15 representing Christine Nicholas, the Chairman of
16 the Broadway Association.

17 TOM FERRUGIA: Tom Ferrugia, the
18 Director of Government Relations with the Broadway
19 League.

20 KAITLYN LEWIS: So once again my name is
21 Kaitlyn Lewis. I'm with the Communications
22 Department at the Times Square Alliance. As Tim
23 Stated many of the costumed individuals in Times
24 Square... [cross-talk]

25 UNKNOWN MALE: Can we get display?

1
2 KAITLYN LEWIS: Yeah we're, we're just
3 going to play a little bit of video footage in the
4 background. There's no sound but it just kind of,
5 gets, gives you a sense of what's happening in
6 Times Square day to day. And so as Tim stated many
7 of these costumed individuals are honest,
8 respectful individuals who are trying to make a
9 living. But we have heard countless stories of
10 aggressive, predatory, and sometimes violent
11 behavior by a few bad actors. Times Square is the
12 crossroads of the world and because of that our
13 audience literally spans the globe. Many of the
14 people who have interacted with the characters are
15 domestic and international tourists who have
16 returned home and are unable to attend this hearing
17 today. So this morning we invited them to join a
18 virtual public hearing by sharing their experiences
19 on Twitter using the hashtag "SpeakUpTimesSquare"
20 and tagging our handle. And shout out to Council
21 Member Garodnick who voiced his opinion earlier
22 this morning with a colorful tweet. We decided to
23 do this after a recent search of tweets dating back
24 to March 2014 revealed that the public has been
25 weighing in on this issue for quite some time

1 already by spontaneously posting hundreds of
2 troubling incidents online. Many of these incidents
3 which we found date back to last week when the
4 voluntary scheme was already in place. I'd like to
5 just use the rest of this time to read a few
6 examples of what we found in the twitter sphere.
7 Last night some man dressed as an Elmo in Times
8 Square ruined my childhood and whispered something
9 Elmo should never say. Elmo, no bullshit, no
10 bullshit just grabbed my face and tried to make out
11 with me. I hate you Times Square. Five minutes in
12 Times Square and I've managed to get attacked by
13 Chewbacca and Elmo. Just got groped by Elmo in
14 Times Square. Can I add hit on by Elmo to my
15 Resume? Hashtag Times Square. Had drinks with
16 someone who works near Times Square and is
17 regularly sexually harassed by a gauntlet of men
18 dressed as Elmo. I just saw a Broadway play in, in
19 Times Square and had a man in an Elmo costume touch
20 my butt, I'm living the dream. The field trip today
21 was great minus the fact that I got groped by a
22 lady in an Elmo costume in Times Square. The small
23 boy telling his father he's scared of Elmo has
24 learned far too young what's wrong with Times
25

1 Square. Creepy man dressed as Elmo in Times Square
2 who offered to let me tickle him in private. My
3 friend's ass was grabbed twice by Elmo while she
4 was just standing and taking a picture of Times
5 Square. So that's just a very small sampling and
6 we've attached in our testimony a hundred of the
7 tweets that we scanned over the past year. And that
8 is it for me. Thank you again.
9

10 Hi, thank you Council Member Espinal
11 for chairing this session. And thank you again to
12 Council Member King for spearheading today's
13 discussion. My name is Ellen Goldstein and I'm the
14 vice president of policy playing and research at
15 the Times Square Alliance. In September 2014 the
16 Times Square Alliance contracted with Turn Key
17 Intelligence, an independent market research firm
18 to conduct a series of focus groups with district
19 employees. This is something that we do every
20 couple of years to solicit feedback about the
21 neighborhood and our effectiveness as a Business
22 Improvement District. This year more than 60
23 employees participated from a wide range of
24 companies and organizations. At the end of each
25 focus group the moderator asked an open ended

1 question; what are your favorite and least favorite
2 parts of working in Times Square. Nearly every
3 person brought up the costumed characters and I
4 would like to show a brief video that highlights
5 those responses.
6

7 [pause]

8 UNIDENTIFIED FEMALE: ...number one least
9 favorite thing is definitely the characters,
10 topping everything is the characters.

11 UNIDENTIFIED MALE: Creatures that are
12 running around in costume.

13 UNIDENTIFIED FEMALE: ...do not. Life fake
14 Elmo, they just totally freak me out...

15 UNIDENTIFIED MALE: ...you know on my
16 corner where my office is it's Iron Man, Mickey
17 Mouse, and Minnie Mouse, and there's probably two
18 or three different... all like, always on the corner.

19 UNIDENTIFIED FEMALE: Yeah it's not fun
20 and it's not friendly. It's a different breed of
21 characters out here... [cross-talk]

22 UNIDENTIFIED FEMALE: I feel like if I
23 bring my three year old to work one day I have like
24 rush her past those characters because I wouldn't
25 let them touch her.

2 UNIDENTIFIED FEMALE: No I've had more
3 than one of them come up like they're trying to hug
4 me...

5 UNIDENTIFIED FEMALE: One of them tried
6 to touch me and I think he really regretted it..

7 UNIDENTIFIED FEMALE: If you think
8 construction workers have a dirty mouth you should
9 hear Elmo sometimes. Very choice things to say to
10 ladies.. [cross-talk]

11 UNIDENTIFIED FEMALE: And they're so
12 aggressive that it doesn't matter if there's a sign
13 up or not because I've seen them ask people for
14 money and then they often... no no no it's three or
15 four, give him a dollar, give him, he needs money
16 too. So they, you know advocate for each other.
17 That doesn't matter if there's a sign there. They
18 still ask for money for each other.

19 UNIDENTIFIED FEMALE: ...making myself and
20 a lot of my other female coworkers feeling unsafe.
21 They also attract crowds...

22 UNIDENTIFIED MALE: Never seen chaos
23 like this ever.

24 UNIDENTIFIED FEMALE: ...tourist alone you
25 know you can easily leave in and out but you know

1
2 cartoon characters and they're taking pictures so
3 they're blocking... so the congestion overall.

4 UNIDENTIFIED MALE: They're worried
5 about the pornography in Times Square. They got rid
6 of that so now you got a whole nother [sic] realm
7 of this thing...

8 UNIDENTIFIED FEMALE: ...say you can do
9 better with how its manage... [cross-talk]

10 UNIDENTIFIED MALE: ...harassing tourist...

11 UNIDENTIFIED FEMALE: If it was
12 something that was sanctioned and run then I
13 wouldn't have a problem with it. It's the sort of
14 lawlessness of it, the filth of it, harassing
15 people. It's out of control.

16 ELLEN GOLDSTEIN: Thank you again, I'm
17 happy to answer any questions.

18 FRED ROSENBERG: Good afternoon. I'm
19 Fred Rosenberg... [beeping] That was fast.

20 [laughter]

21 FRED ROSENBERG: Thanks. I am Fred
22 Rosenberg, President of the Times Square
23 Advertising Coalition and Senior Vice President of
24 Sherwood Equities the owner of two Times Square and
25 1600 Broadway. Thank you for the opportunity to be

1 here today in support of Intro 467 that establishes
2 a licensing scheme for costumed individuals seeking
3 solicitations from the public. Times Square
4 Advertising Coalition, TSAC is a non-for-profit
5 association dedicated to the continued promotion of
6 Times Square as the most exciting venue in the
7 world. Our membership includes the key branding
8 marketing and advertising stakeholders in the
9 square including Clear Channel Spectacolor Sherwood
10 Outdoor. We're committed to preserving the iconic
11 landscape that millions of tourists have come to
12 experience each year. Times Square has come a long
13 way. Over the past 20 years both government and
14 private investments have revitalized the Times
15 Square area attracting new businesses and tourists
16 alike. This includes a spectacular 42nd Street
17 corridor, newly designed Broadway Plazas and other
18 amenities. Given all this investment we are very
19 distressed that the city is allowing this area,
20 which was envision to be a magnet for tourism and a
21 great amenity for New Yorkers, to be overrun by
22 aggressive costumed characters. This negative
23 behavior as you know includes everything from
24 intimidation to inappropriate touching to physical
25

1 and or verbal altercations. It is clear that
2 regulation is essential in order to provide city
3 officials with the tools needed to protect tourists
4 and New Yorkers from such aggressive solicitation
5 tactics. By regulating costume characters those
6 behind the masks will be held accountable for their
7 actions and the square will remain safe for
8 visitors and locals alike. It is our fear that if
9 the council does nothing the quality of life in the
10 square will continue to, to diminish and all the
11 investments made to the area will be compromised.
12 For these reasons Sherwood Equities and Times
13 Square Advertising Coalition fully supports the
14 licensing of costumed individuals that are seeking
15 solicitations. Thank you for the opportunity to be
16 here today.

18 TOM FERRUGIA: Okay thank you. I can go
19 right here. Thank you this, again Tom Ferrugia the
20 Director of Government Relations with the Broadway
21 League. I realize I'm on a clock so I'll just go
22 through my testimony quickly. The league has been
23 the principal association for the commercial
24 Broadway Theatre in New York state and across the
25 country for over 80 years. We represent more than

1 750 theatre owners, producers, and role presenters
2 nationwide with over 400 maintaining offices in New
3 York City. I want to thank, to thank Chairman
4 Espinal and the other distinguished members of the
5 committee for this opportunity to comment on the
6 proposal under consideration today. We also want to
7 express our gratitude to Council Member King for
8 his leadership in addressing this escalating
9 problem. The league has always encouraged the
10 adoption of legislation aimed at enhancing the flow
11 of pedestrian traffic, encouraging visitor and
12 resident access, and improving the overall quality
13 of life in the Times Square area. In the past we
14 have appeared before this committee in support of
15 sensible restricts that support economic activity
16 on the streets of the theatre district including
17 licensing petty cabs, and improving oversight of
18 street vendors. With respect to Introductory Bill
19 467 we feel it is imperative that the council act
20 to regulate what has quickly become a leading
21 contributor to an unsafe chaotic and disorganized
22 atmosphere in one of the premier tourist
23 destinations in the world. 12.2 million Broadway
24 theatre tickets were purchased in the 12 month
25

1 theatre season ending in May 2014. And over 80
2 percent of those tickets were purchased by patrons
3 residing outside New York City. The majority of
4 these buyer site attending a Broadway show as a
5 principal reason for visiting New York City
6 therefore it is imperative that their entire
7 experience from the moment visitors arrive in the
8 area to the moment they depart is overwhelmingly
9 positive and lives up to what they envision it
10 would be. However we have seen a recent
11 proliferation of anonymous vendors who aggressively
12 solicit trusting families, take unfair advantage of
13 their children's familiarity with the characters
14 the solicitors portray and often attempt to
15 embarrass or harass our guests into paying for
16 photographs. Not only is much of this behavior
17 arguably illegal but these actions damage the
18 perception of New York City and discourage tourism.
19 In addition the publicity generated by their
20 frequent acts of bad behavior while often presented
21 in a humorous and entertaining light by local media
22 ultimately deter residents from visiting Times
23 Square and with it all of the businesses in the
24 area who are familiar with the ongoing... We are all
25

1 familiar with the ongoing plan to convert Times
2 Square into a full on outdoor mall. With that
3 transformation comes the city's responsibility to
4 manage all activity in this new environment. All of
5 the careful planning and hard work that has gone
6 into this ambitious plan will have been futile if
7 we do not make positive measures to prevent the
8 area from deteriorating into chaos. The bill will
9 enhance existing laws designed to thwart aggressive
10 panhandling, disorderly conduct, disturbing the
11 peace, and larceny. This legislation provides the
12 public, Department of Consumer Affairs, and the
13 NYPD with a proactive measure to... [beeping] sorry,
14 at minimum identify who was ever wearing the
15 costume. The Broadway League feels this proposal is
16 the first step in addressing several challenges
17 face Times Square. We look forward to working with
18 the committee, our local members, Council Members
19 Garodnick and Johnson, various city agencies, and
20 our partners in midtown community to continue
21 providing a unique, unique and safe experience.
22 This includes addressing proliferation of hustlers,
23 hawkers, and individuals who assertively solicit
24 various services and products. And we have... the
25

1
2 theatre community, the league applauds the
3 council's ongoing and sincere dedication to
4 addressing this problem. Thank you.

5 CHAIRPERSON ESPINAL: Tom Carpenter...

6 TOM CARPENTER: Thank you for the
7 opportunity, opportunity to speak to you today
8 about this important legislation. I'm Tom Carpenter
9 and the Assistant Executive Director and General
10 Council of Actors Equity Association which is a
11 labor union affiliated with the AFLCIO. We
12 represent over 50 thousand stage actors and stage
13 managers who work in live theatre in New York City
14 and across the country. Additionally we're an
15 employer in the Times Square neighborhood. We
16 employ than 105 full time and part time staffing
17 our offices. And in our audition center on West
18 46th Street less than half a block from Times
19 Square. As a national labor organization we are
20 firmly committed to the right of every individual
21 to earn a, earn a decent living and we would not
22 support a bill that would provide an outright ban
23 on costumed characters who were trying to earn a
24 living in, in the neighborhood. Rather we support
25 this more measured approach that would regulate the

1
2 burgeoning number of characters in Times Square and
3 to reign in the few individuals who behave in an
4 aggressive intimidating or inappropriate manner.

5 While many of our members and staff report that
6 they have had unpleasant interactions with costumed
7 characters in times Square this is not merely about
8 the annoyances or inconvenience of working in a
9 neighborhood where the environment can sometimes be
10 chaotic. For the members of Actors Equity this is
11 an issue of the health of an industry that provides
12 them employment. Employers from around the country
13 come to Times Square in order to hire and employ
14 New York City residents. At the Actors Equity
15 audition center members don't just audition for
16 work on Broadway or in New York City. Theatrical
17 employers come from regional theatres across the
18 country, from Florida, from California, or from
19 let's say Wisconsin to audition equity members at
20 our facility in West 46th Street. In the past 12
21 months more than 40 thousand actors have
22 auditioned, were seen by producers and nearly 300
23 separate audition calls in our facility alone. And
24 we're only one of the many audition spaces in the
25 neighborhood. Most of these auditioning actors are

1
2 New York City residents but actors from up and down
3 the east coast also travel to New York to attend
4 equity auditions at our center. In many cases
5 regional employers have the option to conduct local
6 auditions in their own cities rather than come to
7 New York City. We think that the employers know
8 that there is talent here in New York but if the
9 opt to conduct those local auditions to satisfy
10 their audition requirements it means that many of
11 our New York members won't be seen for those jobs.
12 And we're concerned that the current environment in
13 Times Square with increasing numbs of incidents
14 provide a disincentive then for employers to travel
15 to New York City to hire our members and your
16 constituents to work in their theatres around the
17 country. We're also concerned that our members have
18 to navigate their way through throngs of costume
19 characters in order to try to get a job. The
20 professional actors we represent audition
21 frequently. We, they may also take classes in the
22 neighborhood. They're shuttling from one audition
23 in the neighborhood to another and they need to be
24 able to compose themselves before they go into an
25 audition. Imagine if you had three or four

1
2 different job interviews in a day and you had to,
3 were subjected to harassment on your way into that
4 job interview. What would that do to your ability
5 to, to, to land the job. So it's an important
6 issues. As I said we're a union. We strongly
7 support peoples' right to earn a living wage but we
8 think a common sense regulatory approach protects
9 the industry that provides our members employment
10 and, and protects them when they're trying to earn
11 a living in this industry. Thank you.

12 CHAIRPERSON ESPINAL: Thank you guys.
13 Question for the panel. I think we, I think that
14 you guys all agree that some regulation has to take
15 place. Do you think that this bill is the best way
16 to do that or are there things in the bill that
17 maybe we can work on that, some concerns you might
18 have on the bill? And what do you feel, or your
19 thoughts on the, the costumed characters themselves
20 and how they're saying that they can self-regulate
21 themselves and create this, this personal badge?

22 TIM TOMPKINS: We, we think that are
23 potentially some ways to strengthen the bill based
24 on things we've heard today and I swear which could
25 be possibly narrowing the definition of the, of

1 costume so you're, you're not capturing say you
2 know people who are part of the Halloween parade,
3 that really is people who just have their faces
4 obscured because the, amenity is the, the real
5 problem. Perhaps some of the scope of activities,
6 not just interacting with the public which is, is a
7 phrase but, but soliciting for tips to arrow it to
8 the soliciting for tips for a photograph. We think
9 that, that some of those time, place, and manner
10 restrictions like being next to a, the one that was
11 cited about lean, leaning against a wall or being
12 right next to fire hydrant. We don't think that's
13 central to what the problem is. So we think that,
14 that to the extent that that's a concern for people
15 the bill can be strengthened by focusing that,
16 those time, place, and manner restrictions a little
17 more narrowly. There have been concerns expressed
18 about the first time penalty being high. So we
19 think that that could possibly be adjusted. And the
20 registration fee that could be adjusted. So those
21 are all things that we think can make the bill
22 stronger. The problem with the voluntary system is
23 that you know good people will abide by code of
24 conduct. Bad people may, they may even go as far as
25

1 saying I'm going to behave but if they're protected
2 by anonymity and nobody can identify you know the
3 people, you know the people that did those things
4 that I read about... they're not going to, they may
5 say that they're going to abide by a voluntary code
6 of conduct but only if they know that their license
7 can be revoked for, for not just the really
8 egregious things but also some of those subtle
9 things. I mean if you saw some of things... these
10 are, this, some of the, that first video was
11 literally taken out the window of my office over
12 the last weekend because I'm like this stuff is
13 still going on where people are chasing people
14 around you know hugging them without their consent
15 or one person participates and then suddenly
16 literally you see this rush of five characters.
17 That subtle but it's a form of intimidation. It's,
18 and I want to say again I think the folks who spoke
19 out today are not the people we're talking about. I
20 think they're, the majority of people who are, who
21 are you know part of this, the La Fuente coalition
22 are earnest and and abiding by a good set of rules
23 but voluntary self-regulation doesn't work for the
24 bad ones because they stay out of the system.
25

1
2 UNKNOWN MALE: Can I just make one, two
3 points? I think that the, the idea that if you are
4 continually receiving violations, that this gives
5 the DCA the opportunity to revoke your license and
6 take you out of that environment is a real
7 advantage because it does create the additional
8 burden of wanting to ensure that you don't lose
9 your license. In other words once on, once you
10 continue to get violation after violation after
11 violation but you're still of, you're still going
12 to be in Times Square soliciting. So I think that,
13 that's a, a great thing. Another thing actually I,
14 I mean from, I think one thing the legislation
15 should have in it that, to go a little further
16 unless I've misread I think there should be
17 language delineating penalties for forging or
18 altering or lending out the license or borrowing
19 the license with the attempt to evade law
20 enforcement. Because really that photograph might
21 be the, that number might be the only
22 identification that a, an individual has in order
23 to alert the police of who had harassed them. And
24 unless we, we can create a penalty for, for people
25 swapping out licenses in order to, to evade

1
2 getting, getting ticketing that, that, that needs
3 to be addressed. Is that in there? That's... okay.

4 CHAIRPERSON ESPINAL: Alright. And we
5 have a question from Dan Garodnick. And let's,
6 let's keep the clock at three minutes for
7 questions.

8 COUNCIL MEMBER GARODNICK: Okay we'll be
9 fast. And I, I really first of all want to thank
10 you for setting forth the problem which I think we
11 should just establish here for the record that
12 there is a problem that needs to be addressed.
13 There may be lots of views on how to deal with it
14 but there's clearly a problem. The video shows that
15 we all have seen it and we thank you for that. The
16 only point that I wanted to make and it's not
17 really even a question is the reason I took the
18 police department through the subtle forms of what
19 is and is not aggressive behavior is that even
20 under the bill that we're considering it is
21 aggressive behavior which is the prime opportunity
22 for the police to act. So even under the bill as
23 proposed those same subtle questions still exist.
24 So I, I know that there's, that the panel here
25 feels like the licensing scheme is clear and crisp

1 but in reality one of the reasons why I have some
2 concern about it is that I still, I, I think it
3 still leaves open a lot of those questions which
4 ultimately if the police are not there to enforce
5 we're just where we are today. So I just wanted to
6 make that comment but I wanted to thank you for,
7 for setting it out because it's important. And I,
8 I, I think that there wasn't as much recognition
9 perhaps from the last panel about the existence of
10 a problem and I think that we need to acknowledge,
11 thank you.

13 UNKNOWN MALE: And I totally, totally
14 respect the point of view. I think the, the issue
15 is like some of those scenes you saw in the little
16 video... there's one person and then five people come
17 around... Do we want the only option there to be that
18 all five of them get arrested and put in jail? And,
19 and what I am proposing with the licensing scheme
20 you can, you know you have this in between tool of
21 filing a complaint, saying that somebody's filed a
22 complaint. It's an in between tool for recording
23 that because realistically in our society and
24 understandably there's all these sensitivities
25 about police citizen interaction. And so it's that,

1
2 that softer behavior. You want to have something
3 between doing nothing and putting five people in
4 jail.

5 UNKNOWN MALE: If I could just also add..
6 When I was talking to my staff about coming here
7 today they all to, to a letter had a, had a
8 personal anecdote that they could share. And they
9 all said that if could only have identified who
10 that person was who jumped in front of me and
11 yelled in my face on my way to work this morning I
12 would be able to, to file some sort of a report. Or
13 if I could identify the person who was blocking,
14 blocking me from getting to work so that I had to
15 walk into the street and was nearly hit by a cab.
16 If I could get that person's number and report that
17 that would be something that I would do.

18 COUNCIL MEMBER GARODNICK: So those are
19 two separate rationales. One of them is about the
20 identification and the other one is having an
21 intermediate step. And I, and I think we understand
22 those two points. Although it was interesting the
23 police department did note that even under its
24 existing aggressive panhandling statute they do
25 have an intermediate step to, to summons and not

1 just arrest which I thought was you know an
2 interesting and important point which we should
3 discuss further so thank you.
4

5 COUNCIL MEMBER JOHNSON: Yes. Thank you...

6 [cross-talk]

7 CHAIRPERSON ESPINAL: Council Member

8 Johnson.

9 COUNCIL MEMBER JOHNSON: Thank you Mr.

10 Chairman. I just want to again acknowledge all of
11 the advocacy and hard work Tim that, that the Times
12 Square Alliance and your board has done on this. I
13 think as you've heard from Council Member Garodnick
14 and myself and all of the hard work that Council
15 Member King has done we all acknowledge that a
16 problem does exist. And we are ready, willing, and
17 able to work with you all to come up with the best
18 path forward. I know there's some divergence in how
19 we think the best way to get there is but again I
20 just want to repeat last time I was in Times Square
21 I witnessed this, what I consider to be egregious
22 behavior, and as you just mentioned Tim it actually
23 was not typically tourists soliciting getting their
24 picture taken. It was costumed characters
25 proactively walking up and touching tourists,

1 surrounding them. And that's why, and I wanted to
2 hear your comment on this, I want to understand why
3 you think location restrictions may not be a good
4 intermediary step in this fix which is restricting
5 where they can be, they can't move outside the
6 lines, they can't be free moving around Times
7 Square which means they can't walk up to tourists,
8 tourists would have to walk up to them and the
9 police would know exactly where they are and be
10 able to observe what was going on at all times. I
11 want to understand why you may not think that is
12 the best course of action?

14 TIM TOMPKINS: I, I think we're open to
15 that as a, we are open to that as another tool in
16 the toolbox I think as you guys know. It's, the
17 very, the legal research we've done is showing that
18 it's, it's very complex because then who else does
19 that apply to. But we are completely open to
20 looking at that. My main point was even if you have
21 that, you do address the issue of the, the person
22 sort of pursuing someone down the street and sort
23 of surrounding them. What you don't get at is just
24 the simple fact that there still may be someone
25 under that mask who's going to behave

1
2 inappropriately and is going to be considered sort
3 of a trusting, a person to be trusted in, by the
4 general public because you haven't had number one
5 this, this prefilter of screening for recent,
6 violent, or predatory behavior for which they've
7 been convicted. And second just like with a, you
8 know a taxi driver or a petty cab driver the simple
9 fact that if that person is identifiable that they
10 know that they have to be behaved because if they
11 don't behave in their interaction like we, they
12 could still have something like wait I want five
13 bucks and the person's like wait I didn't, I didn't
14 commit to five bucks. Then, then the person can say
15 wait I know who you are number seven you're not
16 talking to me properly, you're not dealing with me
17 properly. So I don't, I don't rule that out as tool
18 but I think that doesn't preclude the need for a
19 license, a prefilter and identification.

20 COUNCIL MEMBER JOHNSON: Thank you Mr.
21 Chair and I look forward to, for us to all work
22 together to figure out how to make a dent in this
23 problem and working with Council Member King as
24 well.

1
2 CHAIRPERSON ESPINAL: Thank you
3 Councilman Johnson. [cross-talk]

4 JOSHUA NOLER: I just want to read
5 testimony for the Broadway Association.

6 CHAIRPERSON ESPINAL: Your name?

7 JOSHUA NOLER: Sure. So my name is Josh
8 Noler and I'm actually testifying here today on
9 behalf of Christine Nicholas who's the Chairman of
10 the Broadway Association. And I just want to thank
11 you Chairman Espinal and Council Members King,
12 Garodnick, and Johnson for the opportunity to
13 testify here today. The Broadway Association which
14 was founded in 1911 is one of the city's oldest
15 non-for-profit business associations formed by a
16 group of local business leaders and civic minded
17 individuals that were and still are dedicated to
18 the preservation, development, and economic
19 betterment of the Times Square and west midtown
20 community. Our distinguished membership includes
21 Broadway theatre owners and operators, hotels,
22 restaurant owners, airlines, developers, law firms,
23 business improvement districts, members of the
24 media, and so forth. One of if not our core issues
25 is quality of life. Not just for our membership but

1
2 for the 13 million Broadway goers coming through our
3 district annually and for the over 300 thousand
4 people passing through the crossroads of the world
5 every single day. The Broadway Association has a
6 distinguished history of speaking out when a
7 particular issue negatively impacts our district.
8 In fact the Broadway Association was founded
9 because subway construction going on at the time
10 was a danger to pedestrians. More recently we were
11 active in the 1990s supporting the creation of the
12 midtown community court which helped reduce crime
13 and improve safety in the area and we continue to
14 remain vocal on behalf of our membership. And now
15 once again we are under siege by performers dressed
16 as costumed characters. The way these individuals
17 who are typically dressed as Sesame Street
18 characters or superheroes behave and conduct
19 themselves is absolutely unacceptable by any means.
20 I recall one incident where a young child had to
21 witness her mother being harassed by Elmo because
22 the tip the mother left wasn't good enough. Our
23 membership has also seen firsthand how aggressive
24 and intimidating these costume characters can be.
25 And local media have regularly reported incident

1 after incident of violent interactions with local
2 law enforcement. Everything that symbolizes the
3 good in what these costumes represent has been
4 tainted by the few individuals who dawn these
5 costumes. We recognize there are only a few bad
6 eggs or Elmos in this case but it's those few bad
7 Elmos that negatively impact New York City's image
8 as one of the friendliest cities in the world and
9 its spot atop the leaderboard as the number one
10 tourism destination in the country. The Broadway
11 Association supports the City Council's efforts to
12 put a name behind the mask and provide a mechanism
13 for law enforcement to take meaningful action and
14 weed out those few bad Elmos. While the Broadway
15 Association feels that there is no place for these
16 costumed characters in Times Square or anywhere on
17 the streets of New York City for that matter this
18 legislation is a step in the right direction as
19 long as the city keeps a close watchful eye on how
20 these individuals operate and ensure they adhere to
21 all licensing requirements and background checks.
22 With tourism in Times Square pumping billions of
23 tax revenue into our city we must put our best foot
24 forward to make sure that anyone who visits, lives,
25

1
2 or works in the Times Square area feels safe. Thank
3 you for the opportunity to testify here today and
4 the Broadway association looks forward to working
5 with all of you.

6 CHAIRPERSON ESPINAL: Thank you so much.

7 JOSHUA NOLER: Yeah, thank you guys.

8 CHAIRPERSON ESPINAL: We'd like to call
9 up Jose Escalon Martinez, Maria Deluca, Bishop
10 Junior AKA Spiderman, Drew Yoll, Elizabeth Holland.
11 Bishop Jr., Drew Yoll, Elizabeth Holland? Batman, I
12 just want to say I'm a little disappointed. So the
13 Joker was here earlier and you were nowhere to be
14 seen, you know took over city hall.

15 BATMAN: Where is the Joker?

16 CHAIRPERSON ESPINAL: Just, just state
17 your name on the mic before you speak so we can
18 have your name on record. And we'll set the clock
19 for two minutes. Two minutes.

20 JOSE MARTINEZ: Ready? Okay, my name is
21 Jose Escalon Martinez and I have something to say
22 and I be here because I really want to say
23 something. Who doesn't want a free checkup for
24 free. When you go to the doctor who will want a
25 free checkup for free. So I know that there is a

1 lot of people against the free background check but
2 if you don't have anything to hide you know come
3 on. You know it's, it's, it's just a regulation.
4 But the... amendment is... that protect us... I want to
5 let you know everybody in the whole world that the
6 third amendment is protect... constitution rights 100
7 percent. But Times Square it needs a little work
8 you know. And we need... I am working there for four
9 years, four years and I would like the, anyone can...
10 my time until... the police and anyone, anyone like
11 for example the police they took me twice. And
12 they... it been proof they been run. So there's the
13 video for Times Square Alliance that they can, I
14 guarantee that they already watch it and they know
15 that I do the right job over there. So people like
16 me... a lot of... costume... that they do that. But a
17 space, about the space they put the cartoon
18 character in a space, I'm not agree with that you
19 know. I want to be free for, in Times Square, free
20 by the constitution, free, okay? But I understand
21 about the 20 feet, about, or, or 12 feet, about the
22 wall, whatever. I understand that 100 percent.
23 Nobody want it but I approve the bill. I, I, I am
24 agree.
25

CHAIRPERSON ESPINAL: Thank you.

JOSE MARTINEZ: You're welcome.

ELIZABETH HOLLAND: Good afternoon

Councilman. My name is Elizabeth Holland and I perform in Times Square as Robin, also as Officer Friendly. I've been working the character job about eight months. And there's always a, you know a bad apple in a group of workers, not referring to the apple, that's the big apple here, he is the best one right? But there's, there's, there is going to be a needening [sic] a little bit of respect within the officers to the characters, the characters to the officers and making every experience for the tourist in Times Square a good one. Taking out the characters that have been in Times Square for so long would make a family experience to Times Square not the same. And putting in a bill, a law that identifies each character with who they are and a small background check to me would be a, a great idea. Recently they spoke on how, how La Fuente is doing a similar identification, that they are also charging for, that is identifying the characters and helping to know who is under each mask, who are your children taking pictures with. And just making

1
2 it a, you know a good experience with respect. I am
3 with the, the idea of having this law brought. I
4 think the expense may could be broughten [sic] down
5 a little bit since we are there you know working
6 for tips. But I think all in all putting a little
7 RS, R E S P E C T and, into the bill and
8 recognizing that we have a little problem and
9 actually taking care of that problem with what
10 we're, you know what we have in hand would be the
11 best idea. Thank you very much.

12 MARIA DELUCA: Hello, my name's Maria
13 Deluca. I am actually a student at John Jay College
14 of Criminal Justice that also works out as Times
15 Square, in Times Square as a Disney character. I
16 have been doing this for a couple of months now and
17 have found that it is one of the only jobs that I'm
18 capable of upholding because I have an excessive
19 amount of school work that needs to be done. To get
20 a job in New York City that you can only get on the
21 weekends is almost impossible. And with the rent
22 that I have as high as it is it's not possible for
23 me to pay for it without doing this job. So hearing
24 that everyone wants to take this thing away is
25 taking away my college opportunity which means I'll

1
2 have to transfer back to Pennsylvania. However, I
3 am for regulating this bill because this bill will
4 bring us more experience in what we can do and will
5 allow us to do more as long as some regulations are
6 changed. Things like places where they're trying to
7 keep us in one area, how do you expect us to go to
8 the bathroom, how do you expect us to change
9 locations? It's just not plausible. And we are also
10 people too. We have jobs, we have backgrounds,
11 children, schooling. It needs to be taken into
12 account that no one in Times Square is safe.
13 Because we're working there too. You say oh I work
14 there I want to be protected, this is my job, well
15 this is our job as well and we want to be
16 protected. And that's what this law's going to do
17 if there are changes made to it. We don't want to
18 be the ones out there getting touched because I do.
19 I work as a Disney princess and I get surrounded by
20 tourists that slap my butt and try to get with me
21 and that's not okay. So hopefully this will allow
22 us to become more protected because I'm only 18
23 years old.

24 BISHOP JUNIOR: Hi. I, Bishop Junior,
25 totally agree that certain rules and regulations

1 should definitely be opposed. I do believe that we
2 should have a sense of ID. But I also don't believe
3 that we should be set on certain blocks as our, as
4 our first amendment rights. I believe that we all
5 have the right to be wherever we want to be and
6 really, really express ourselves in a certain
7 character. We have the right just like, just like
8 the Joker character said. He has a right to wear
9 makeup just like women have the right to wear
10 makeup wherever they want. And I think I've been
11 victimized as a, as a, as a costumed character in
12 Times Square. It was a job that I, that I actually
13 took on. It's something that I actually thought
14 about doing because I seen people working for tips
15 and I had lost my job that's why I actually did it.
16 And it was actually something that helped me out,
17 to, to better my character. And I'd like to share
18 something of, of the case that happened, the
19 incident that happened in July. I don't really want
20 to bring up the case so much but I'd like to share
21 something that will free my spirit. And excuse me
22 I'm just little bit, just hyped up off of caffeine
23 right now so I just want to share something. I
24 strongly and firmly believe there are good people
25

1 as well as bad people and individuals and growth.
2 To state that myself am a good person is unhumble
3 and can only be rewarded by god. I Bishop Jr. who
4 was allegedly accused of charging a tourist with a
5 set amount and socking an NYPD officer would like
6 to share my behalf of the actual story. The NYPD
7 officer you know was, was, was socked in Times
8 Square. That was right, that was wrong, I'm sorry,
9 that was wrong, it was wrong, it was something
10 wrong. And I take full actions for, for what I did.
11 But it was also wrong for the story to be lied
12 about, just for the, for the actual officer to lie
13 and say that I was charging for a picture when I
14 actually wasn't charging for a picture but I
15 suggested a tip and there wasn't a certain amount.
16 So I'd just like to share that. There should be
17 some certain limits that the characters should,
18 should be able to withhold but also some, some,
19 some, some actual, some actual you know things to,
20 been, like they should actually watch the police
21 officers as well as the characters opposed to what
22 we're doing out there in Times Square.

24 CHAIRPERSON ESPINAL: Alright thank you.
25 Thank you. Any questions from my colleagues? No?

1 Okay. Thank you guys. Thank you for all your
2 testimony. Appreciate it. Like to call up the next
3 panel. Have David Robinson from 3 Times Square,
4 Jordan Barowitz from the Durst Organization, Jinja
5 Mamude [sp?], excuse me if I'm not pronouncing your
6 name correctly from the Night Hotel, Daniel Sorrino
7 from the Hard Rock Café, and George, George Tim
8 from the Marriott Marquis.

9 [background conversations]

10 CHAIRPERSON ESPINAL: Tori Bailey? Okay.
11 Okay you, you may begin but please state your name
12 on the mic for, for our records.

13 DAVID ROBINSON: Can I go first? Yes my
14 name is David Robinson. I work in Times Square.

15 CHAIRPERSON ESPINAL: Give me one
16 second.

17 DAVID ROBINSON: Sure.

18 CHAIRPERSON ESPINAL: I'm going to pass
19 the mic Council Member King who actually had to
20 step away. Just give him a chance to say a few
21 words.

22 COUNCIL MEMBER KING: I apologize. My
23 time is, I'm turning into the pumpkin, see I got
24 the orange pants, I've turned into a pumpkin now. I
25

1
2 have a meeting with the speaker. But I just want to
3 thank everyone who came out and testified. And I'm
4 looking forward to reading your testimonies little
5 later on in the day. But I think today was a great...
6 Thank you Tim. I think the conversation you laid
7 out you know hit home of the realities. My
8 colleagues Garodnick and Johnson and Espinal and
9 Lancman you, we laid out a conversation for
10 everyone understand the importance of why we're
11 trying to do this. We recognize there is an issue.
12 You're all here today because there's an issue not
13 because we, we were bored and we just wanted to put
14 something on paper to keep us busy. But there is an
15 issue in Times Square which is, which will spread
16 across the city if we don't manage it right now.
17 And that's what we want to get ahead of the curb,
18 they're waiting for something to happen and being
19 reactive, more reactive than we have been but thank
20 you to each and every one... asking you please
21 continue to have the real conversations. Please
22 continue to understand the legislation. And be
23 truthful in the words that are on the paper and,
24 and I'm asking anyone who can hear the sound of my
25 voice please do not change out the words and give a

1
2 different spin of what the reality of this
3 legislation is. And if you're going to offer real
4 suggestion, offer real suggestions that we can all
5 live by and not an agenda that, that's designed to
6 confuse everyone, especially our costumed
7 characters, our brothers and sisters, who are out
8 there for 12 hours out of the day trying to bring
9 smiles to every New York tourist and every child.
10 Thank you so much again. God bless you. And thank
11 you again. Mr. Chair thank you so much. Have a
12 great day everyone.

13 CHAIRPERSON ESPINAL: Thank you. You may
14 begin your testimony.

15 DAVID ROBINSON: Thank you for this
16 opportunity. Let me just say that I love New York
17 City. I've lived here for over 20 years and I have
18 for the last four years been working in an office
19 building in Times Square. And I'm wondering whether
20 or not you can just sympathize with an individual
21 New Yorker, me who's just trying to get to work. So
22 the last part of my commute is walking about a
23 block and a half from the 7 train exit to 3 Times
24 Square and it's always been an obstacle course. I
25 mean there are tourists busses loading and

1 unloading. There are men trying to get me to go to
2 gentleman clubs and somebody is always asking me if
3 I like comedy. So I want you to add to that, it's
4 proliferation of these unregulated costumed
5 characters. And it's now actually, I would consider
6 it probably the worst part of my day and probably
7 the worst part of my commute. There was one morning
8 recently where Captain America just sort of lucked
9 out in front of a family. You know photo photo five
10 dollars. And so this throng of traffic that's
11 moving up this small part of this avenue suddenly
12 ground to a halt. We're all trying to figure out
13 how to get around it. Coming out at the end of the
14 day I found there was Captain America, Batman, Cat
15 Woman, and about three to four Elmos. And this is
16 on the same half a block basically from, from,
17 halfway between 42nd Street and 43rd Street on 7th
18 Avenue. And I'm just trying to get to work, I'm
19 just trying to get home and it's an ever more
20 frustrating experience. You know I mean as I said
21 it's already one of the most congested areas of the
22 city. It's bursting at the seams and I just would
23 like some regulation around these people who are
24 working for tips so that those people who work in
25

1
2 Times Square can move through it and around it a
3 little easier. You know it's been getting bad and
4 it just keeps getting worse and it makes working
5 there pretty difficult and pretty much awful. Thank
6 you.

7 GEORGE: Thank you Mr. Chairman and
8 Council Member Garodnick. My name is George Tim.
9 I'm with the Marriott Marquis. I'm the Director of
10 Community Relations. The New York Marriott Marquis
11 was a pioneer in Times Square when the hotel opened
12 in 1985 and it will celebrate its 30th anniversary
13 in 2015. The 1957 room hotel was the first major
14 branded hotel in the neighborhood. And it's opening
15 was considered a high business risk. And in this...
16 neighborhood. It sits on Broadway between 45th and
17 46th Streets. The hotel runs, runs approximately 90
18 percent occupancy and above all year around. We
19 welcome thousands of visitors each week as a major
20 tourism business destination. And we have flagship
21 property for Marriott international. When the
22 pedestrian walkways and new Duffy Square Plaza were
23 completed we heard many times that these should be
24 areas to be enjoyed by tourists and workers in
25 Times Square and that it was the neighborhood's

1
2 responsibility to activate the areas in a good way
3 so that random individuals did not begin to
4 activate the areas themselves. This is exactly what
5 has been happening with the costumed characters.
6 Prior to our own renovation on, on the Broadway
7 side of the building we have eye witnesses who
8 would see the characters getting dressed in our
9 breezeways, areas, on the hotel property, usually
10 in the men's room or the ladies' room... more than
11 one at a time. Many tourists visit our hotel feel
12 they are in a protected environment given
13 Marriott's reputation for high levels of service
14 and attention. It is our impression that they
15 continue to have this, that positive feel good
16 attitude when they step outside into Times Square.
17 And it appears as if taking photos with the
18 costumed characters continues the experience that
19 the neighborhood has created which is misleading.
20 Aggressive solicitation by the costumed characters
21 creates a negative impression of the, of our
22 neighborhood and of New York City. In addition the
23 negative press on the incidents that have occurred
24 exacerbates the perception. Thank you Mr., Mr.
25 Chairman.

1
2 REGINA FOHOUSE: Hi, my name is Regina
3 Fohouse [sp?] and I'm reading this testimony on
4 behalf of Jordan Barowitz. Good morning. My name is
5 Jordan Barowitz and I'm the Director of External
6 Affairs for the Durst Organization. My company owns
7 3.9 million square feet of office and retail space
8 on the block between 42nd and 43rd Street and 6th
9 Avenue and Broadway. Our two office buildings on
10 the block has approximately 15 thousand office
11 workers. 4 Times Square which was instrumental in
12 the revitalization of Times Square in the 1990s
13 abuts the pedestrian plaza on Broadway. The
14 costumed characters are more than a nuisance.
15 Employees in our buildings complain about
16 aggressive behavior and a sense of disorder, chaos
17 and, and law, lawlessness that is reminiscent of
18 the Times Square of the 1980s and early 1990s.
19 Clearly we have come a long way from the old Times
20 Square but any comparison is cause for concern. We
21 understand that the legislation before you is not
22 perfect but action is needed. Good legislation
23 solves specific problems. We have a specific and
24 solvable problem and we urge the council to act.
25 Thank you.

1
2 RACHEL ZURRIER: My name is Rachel
3 Zurrier and I'm reading this testimony on behalf of
4 Daniel Sorrino, General Manager of the Hard Rock
5 Café. The proliferation of unregulated costumed
6 characters in the Times Square area has negatively
7 impacted safety, quality of life, and the New York
8 tourist experience. These issues mentioned have in
9 turn had a negative impact upon the businesses in
10 our community. The issue of safety is of course
11 paramount to anything in this discussion. We have
12 all read about the incidents that received local
13 and national media attention with the unregulated
14 characters and know that such incidents serve to
15 perpetuate the fear of visitors entering the area
16 with their families which in turn affects our
17 businesses. The safety of our employees has also
18 been a concern as we have heard the complaints from
19 them about not only what they have seen but
20 personal experiences where they were harassed by
21 the characters themselves verbally. Employees have
22 asked that we the management do what we can to keep
23 them away from the front of our building as they
24 have repeatedly made unwanted sexually related
25 comments publically as well as insults which per

1
2 perceived as threatening. How is a child supposed
3 to process this when they see one of their beloved
4 costumed characters behaving this way? We have had
5 to deal with refusing the characters entry to our
6 property to attempt to use our facilities that are
7 reserved for our paying guests which often has led
8 to negative confrontations. They come in and feel
9 is their right to change, lounge, warm up or cool
10 down, or use our restrooms and become quite
11 belligerent when asked to leave. Our employees have
12 expressed that they do not like to have to deal
13 with this as they know they will have to leave the
14 building at some point themselves and fear
15 retaliation as they have been threatened in a
16 roundabout way by the characters when asking them
17 to leave. From a guest perspective we receive
18 comments daily about the activities of the
19 characters. The guests relay stories of how they
20 were made to feel they had to pay but never wanted
21 a photo with them in the first place but the
22 character jumped in and photobombed. Or that they
23 were disgruntled with the tip provided and felt
24 intimidated to provide more. We've even asked that
25 the costumes were monitored for hygiene as people

1
2 have felt itchy after the character has hugged
3 them. Our guests have related to us that they were
4 informed by the characters they had to pay and
5 threatened, and that the characters had threatened
6 to call the police and report them for theft of
7 service if they did not. As they are mostly
8 foreigners who do not know better they pay to avoid
9 a confrontation with the law. It's a shame this is
10 allowed to happen and we know the tourist will go
11 home and warn friends of this in our Times Square
12 community. It is reminiscent of when I was told
13 when I was younger to avoid outdoor market places
14 when travelling abroad as it was dangerous because
15 of gypsy kids who were known to rob tourists. I'm
16 sure these business people were unhappy with the
17 impact of the reputation of the area due to that.

18 SOBIA BEGANDAY: Hello I'm Sobia
19 Beganday [sp?] and I'll be reading on behalf of
20 Victoria Bailey. Good afternoon. Thank you for your
21 consideration of this important issue. My name is
22 Victoria Bailey. I am the Executive Director of the
23 Theatre Development Fund, the not-for-profit
24 performing arts service organization that builds
25 and sustains audiences for NYC theatre and dance.

1
2 Among our many activities we run the TKTS booth in
3 Times Square. I have many concerns about the
4 negative impact of the costumed character issue on
5 business at TKTS and Broadway. But I am here today
6 to speak to you as a parent and as a New Yorker
7 showing out of town relatives the city. My brother-
8 in-law ran this year's marathon and he and his
9 family from Indianapolis were here for three days.
10 On Saturday we took the family, including my eight
11 and 13 year old nieces to the theatre. Upon leaving
12 the Matinee we walked through Times Square. I had
13 not thought to warn them not to talk to any
14 costumed characters. Within minutes my brother-in-
15 law had struck up a conversation with a Statue of
16 Liberty character who moved from being cheerful to
17 looming over him and starting his pitch. As I
18 firmly said let's not talk to him and attempted to
19 move us away I saw my eight year old darting
20 towards Elmo who was moving towards her. Moving
21 quickly I interceded and moved us all to the subway
22 telling the characters to leave us be. The parents
23 were shaken and shocked to discover that there was
24 no way to identify the people in the mask. Creepy
25 was the word used over and over. Parents have a

1
2 very negative reaction to the idea of a masked
3 unidentifiable character being able to touch their
4 children. I know that there are issues with regard
5 to individual legislative approaches and I am sure
6 that all of us in the Times Square community
7 understand that and know that the final legislative
8 action will have to reflect the various concerns.
9 It is a lack of any legislative action that
10 concerns me as a business, a parent, and a New
11 Yorker. Thank you.

12 CHAIRPERSON ESPINAL: Thank you. Yeah I
13 don't think we have any questions. Thank you for
14 your testimony. Appreciate it. I'm going to take a
15 10 minute recess. We'll reconvene at 2:00.

16 [pause]

17 CHAIRPERSON ESPINAL: So reconvening at
18 2:00 just as I promised. I'd like to call up the
19 next panel. Is it, this is it? Marian Vernetson
20 [sp?], Jose Marine [sp?], Phillip Williams, and
21 Jack Friedman on behalf of Sonja Gomez [sic]. And
22 can we set the clock for two minutes. Just state
23 your name before you give your testimony.

24 MARIAN VERNETSON: Hi, my name's Marian
25 Vernetson and I'm reading on behalf of John's World

1 Famous Hotdogs. My name is Ianis Golenopolis [sp?]
2 and I have operated a hotdog stand in Times Square
3 since 1979. I am writing to show my support for
4 licensing the solicitation by costumed individuals.
5 I am starting to hear my customers complain about
6 the costumed characters. While some are hardworking
7 people like me a good percentage are aggressive and
8 prey on the tourists and visitors to Times Square.
9 I was in Times Square when there were no tourists
10 because of crime and my fear is that if we continue
11 to allow the costumed characters to accost our
12 visitors without regulations the tourists will stop
13 coming. I speak with many police officers and they
14 feel bad for the tourists but unless an offence is
15 committed they can't do anything. Also, when they
16 do complain there is no way to identify the
17 offender since they are in costume and there is
18 often several of the same character in times
19 Square. As a licensed food vendor I am governed by
20 a set of rules. I have a license that I need to
21 display so there is no doubt as to my identity. If
22 I brake a rule people can call 3-1-1 and file a
23 complaint against me. The compliant is not
24 addressed by the police department but by another
25

1
2 city agency. Passing this legislation would allow
3 the city to regulate an unlicensed business that is
4 already operating. It would also allow the business
5 to be regulated by another city agency instead of
6 the police department. I support the passage of a
7 law that regulates the solicitation by costumed
8 individuals. Sincerely, Ianis John Galanopolis.
9 Thank you.

10 PHILLIP WILLIAMS: Good afternoon. My
11 name is Phillip Williams, better known in Times
12 Square as Spiderman and/or Darth Vader. I want to
13 say first of all I saw big smiles on everybody's
14 face when Batman sat here. That's the energy in
15 Times Square. That is what we bring. We bring
16 smiles to people. Whether I'm taking pictures with
17 actors such as John Leguizamo or New York Giants
18 Players such as Antrel Rolle the world loves us.
19 Local New Yorkers love us. I almost bursted [sic]
20 into laughter when I heard a, a member of the
21 Actors Equity Association sit here and say that we
22 are preventing actors from auditioning. I, myself
23 am, am a, am a proud member of AEA as well as SAG
24 and AFTRA. I know many actors in Times Square that
25 wear costumes. So by regulating us you will be

1
2 putting actors out of business. We need no
3 regulations because we already have regulations.
4 It's called the law and the constitution. By
5 telling me that I have to stand in a box or I'll be
6 carted off to jail for leaving that box whether I'm
7 going to the bathroom or going to eat or going to
8 the subway to go home. Somebody may stop me and ask
9 me for a picture which is what happens the vast
10 majority of the time. What you saw from Tim
11 Tompkins video was a video taken obviously from a
12 very high location with audio clips with no video.
13 What you don't understand is the characters that
14 sometimes approach people and do those things there
15 is a language barrier. My organization,
16 COTSNYC.com, Characters of Times Square of, of New
17 York City will be happy to work with the immigrants
18 to, to teach them proper ways to, to conduct their
19 performances. Which means what we do, we explain
20 everything first. We do not ask for a tip in the
21 end. We tell anybody that approaches us there,
22 these pictures are for donations. Our performance
23 requires a, a donation which is your option. Now if
24 you don't have it, if, if you cannot provide us
25 with a donation then we may take, then we may take

1 the picture anyway. But we are also harassed.
2 You've probably seen my face in newspapers. I was
3 assaulted. I was bashed in the back of the head
4 with a block of ice in February of last year. I was
5 acquitted and found not guilty. The video that
6 proved my innocence was destroyed by ABC. This was
7 not, this was not talked about in the news. The
8 problem in Times Square is strictly the NYPD, Tim
9 Tompkins, and Andy King trying to bring about
10 fascism, violations of our rights as human beings
11 to make tips. This is not all that I do. I have
12 many things that I can do. But I want to know that
13 as an American citizen that I have the option to go
14 to Times Square or walk throughout the city which I
15 do dressed how I want to and receive a donation for
16 it. The arrest... [cross-talk]

18 CHAIRPERSON ESPINAL: ...your comments to
19 a close.

20 PHILLIP WILLIAMS: Sure. The arrest that
21 the NYPD spoke about while they were here, what
22 they did not say is the majority of those arrests
23 have ended in dismissals. There are, I know of over
24 four characters with over six million dollars of,
25 in lawsuits right now. Myself, I was attacked which

2 I have video of, of Times Square Alliance officers.
3 I had my arm twisted behind my back by Times Square
4 Alliance officers as well as NYPD. I had my neck
5 sprained. I went to the hospital, okay. This is
6 what's going on in Times Square. We are not the
7 problem. We are Times Square. We make Times Square
8 fun. People love us. They keep saying kids...

9 CHAIRPERSON ESPINAL: We have to wrap up
10 but thanks...

11 PHILLIP WILLIAMS: Okay...

12 CHAIRPERSON ESPINAL: ...for testifying,
13 appreciate it.

14 PHILLIP WILLIAMS: Thank you for your
15 time.

16 CHAIRPERSON ESPINAL: Thank you.

17 JACK: Thank you Mr. Chairman. My name
18 is Jack Friedman. I am reading on behalf of Sonja
19 S. Graney of Staten Island. She says; Dear Mr.
20 Rafael J. Espinal Jr., I often pass the costumed
21 characters in Times Square and on several occasions
22 I have witnessed the costumed characters requesting
23 money for photos that were taken. I was so angered
24 by one group of four characters who firmly
25 requested 10 dollars from two German tourists who

1 had posed with two sets of costumed characters that
2 I went over to a policeman and told him what I had
3 just witnessed. His response was I can't do
4 anything unless they insist or demand the money
5 from the tourists. Another time I made, I saw two
6 male costumed characters requesting five dollars
7 from a group of tourists. After the tourists handed
8 over the money I turned to two male costumed
9 characters and asked out loud how much is it to
10 take a photo with you. Suddenly one costumed male
11 replied 'no hablo ingles', 'no speak English', 'no
12 understand English', this was the same person who
13 had just stated five dollars for a picture. I am a
14 native New Yorker raised in Bushwick and a firm
15 believer in earning money the right way. The
16 message that the costumed characters are sending is
17 one of greed, insult, and how we swindle in New
18 York City. We all benefit from tourists in New
19 York. Let's treat them with respect, honesty, and
20 open arms and then they will want to return.
21 Sincerely, Sonja Graney. Thank you sir.

22 CHAIRPERSON ESPINAL: Up next we have
23 Harris Lertsman [sp?], Robert Williams, Diana En
24 from... [speaking Spanish] and Tom Harns [sp?] on
25

1
2 behalf of the Naked Cowboy, Carlos Rojas. Please
3 state your name for testimony and remember we have
4 a two minute clock.

5 ROBERT WILLIAMS: Okay. My name is
6 Robert Williams. I perform as several different
7 characters in Times Square; Chewbacca, Spiderman,
8 Incredible Hulk, Iron Man. I find it incredibly
9 disheartening that the City Council of the greatest
10 city in the world in the greatest nation in the
11 world would seek to violate the most basic of
12 rights afforded to its citizens and those who wish
13 to one day become citizens. How dare you attempt to
14 govern the very breath we breathe as well as the
15 words that leave our mouths. This bill is a direct
16 assault against our first amendment rights and our
17 fourth amendment rights, the right to privacy. Not
18 only does this bill smack of classism but the power
19 granted to police in regards to costumed
20 individuals is redundant. We call ourselves still
21 picture performers so if a still picture performer
22 is found to be in violation of any city code a
23 police officer can simply request to see his
24 identification and arrest if need be. Aggressive
25 solicitation is already a crime and, a crime and if

1
2 someone has a problem with a still picture
3 performer they can very simply find a police
4 officer for help. What isn't being considered are
5 the problems that already exist within the
6 NYPD. This police force is the worst behaved and
7 most unprofessional bunch of incompetent people
8 that I've ever seen in my life. They tip, typically
9 overstep their boundaries and misconduct themselves
10 under the color of law. This bill gives them
11 unlimited powers over still picture performers
12 which will most certainly result in more
13 misconduct, more misconduct and frivolous arrests
14 costing taxpayers even more. Just because we're
15 dressed differently than everyone else doesn't mean
16 we're no longer Americans. To suggest that one
17 needs to submit his fingerprints and submit to a
18 background check in order to stand outside in a
19 costume is laughable at best. If you're suggesting
20 we be screened to the same degree as federal
21 employees maybe the city should pay us for our
22 services as well. Panhandling is legal. This
23 precedent has been set. Street performing is legal.
24 This precedent has also been set. Whether you like
25 costumed individuals or not really doesn't matter.

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2 You can't get around our nation's constitution and
3 for you to make an attempt to do so is despicable
4 and un-American. If safe, if safety is an issue
5 then maybe you should inquire any Muslim woman who
6 wears a veil over her face to wear an
7 identification tag as well. The last time I checked
8 there were no costumed characters on the flights
9 that brought down the twin towers and killed all
10 those people. There are nearly half a million
11 pictures taken every month with still picture
12 performers in and around Times Square. When you
13 compare this number with the number of arrests that
14 have been made as a result of misconduct of still
15 picture performers it's truly miniscule. There are
16 more problems in Bronx, Brooklyn, and Queens. And
17 in fact I would suggest that Mr. King apply himself
18 to correcting the problems in the crime-ridden
19 Bronx that is after he pays his fines for his
20 unethical campaign practices.

21 CHAIRPERSON ESPINAL: Can we wrap it up.

22 ROBERT WILLIAMS: Sure. I have one more
23 paragraph. We as still picture performers are
24 artists. We bring your favorite characters to life
25 and leave you with awesome memories. Most of the

1
2 characters that perform in Times Square come from
3 other countries where they don't have the same
4 liberties as we do in the United States. They have
5 come here in search of a better life. These people
6 are systemically discriminated against, threatened,
7 and intimidated by our police force. In respective
8 of your personal feelings regarding still picture
9 performers the rights granted to us by our nation's
10 constitution cannot be altered and they apply to
11 all who stand on this nation's land. Whether I made
12 my costume or bought my costume, it's mine. I own
13 it and I don't need a license to wear it. Thank
14 you.

15 TOM HARRIS: Good afternoon Chairman
16 Espinal. My name's Tom Harris and I'm reading
17 testimony on behalf of Robert Burk, the Naked
18 Cowboy. My name is Robert Burk but most people know
19 me as Naked Cowboy. I first appeared in Times
20 Square as Naked Cowboy in December of 1997 and I
21 have performed there as a busker virtually every
22 single day for nearly 17 years. I have watched
23 Times Square grow and improve in so many ways over
24 this time and through my continuing diligence I've
25 been graciously recognized as the most photographed

1 man in the world because of the millions of
2 tourists I have positively interacted with in what
3 I consider my home, the crossroads of the world,
4 Times Square. When I first started there was little
5 or no costumed characters on any given day and
6 there was a very kind level of dialogue between
7 buskers. We pretty much all knew each other at
8 least on a casual basis. When New York City closed
9 part of Broadway to vehicular traffic in Times
10 Square to introduce a pedestrian center the numbers
11 of costumed characters increased tremendously. Now
12 on any given day at any given time there may be
13 anywhere from 50 to seemingly 200 costume
14 characters with most of them maintaining amenity by
15 wearing masks that completely conceal who might be
16 behind the mask. I still know some of the
17 performers on a casual basis and there are
18 legitimate buskers. At the same time there are
19 costumed characters who want to maintain anonymity,
20 to remain concealed, and do not really want anyone
21 to know who they really are. This raises concern
22 for me personally because I love Times Square, the
23 businesses in the area, the tourists that travel
24 from all over the world to get a glimpse of the
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2 greatest city in the world and all of my friends
3 whom I've come to know over the years that work
4 daily in the area trying to make an honest living.
5 I now seek continuing instances of turf rivalry
6 between costumed characters where they may argue or
7 fight amongst themselves because somebody is
8 standing too close or in their supposed
9 predestinated area. Sometimes the costumed
10 characters harass the tourists and or get angry
11 when the tourists take pictures with them and don't
12 give them any money or not enough. A group of
13 costumed characters may work individually to get a
14 tourist to take a picture with them, then the
15 remainder of the group jumps in the picture and
16 they all demand money. This demanding anonymous
17 activity generates somewhat of an unnecessary
18 fiasco that creates tension and intimidation with
19 our city's visitors and also produces a concern for
20 safety. I have seen it and because of this I
21 wholeheartedly support and approve any legislation
22 to remove anonymity and create accountability. The
23 licensing requirement addresses a real problem and
24 is worthy of support and I will gladly participate

1
2 in any program that is accepted to eliminate the
3 problem... [cross-talk]

4 CHAIRPERSON ESPINAL: Can we wrap it up.

5 TOM HARRIS: One sentence more. I love
6 Times Square and everything our great city stands
7 for and I applaud congressman King for trying to
8 protect the legitimate operators and buskers that
9 bring so much joy and unforgettable memories to
10 Times Square's tourists. Thank you.

11 CARLOS ROJAS: Hello, my name is Carlos
12 Rojas. [speaking Spanish]

13 TRANSLATOR: My name is Carlos. I'm a
14 member of LA Fuente and a member of the New York
15 City Artists United for a Smile and I'm here to
16 give my testimony.

17 CARLOS ROJAS: [speaking Spanish]

18 TRANSLATOR: The first thing I want to
19 make sure that I say is that when I go out there
20 and dress up as a, in a, in a costume I, I feel
21 like I'm doing art and it's my art.

22 CARLOS ROJAS: [speaking Spanish]

23 TRANSLATOR: I am opposed to the
24 legislation because it's going to limit the space,
25

1
2 the time, and it's going to limit my interaction as
3 a human being.

4 CARLOS ROJAS: [speaking Spanish]

5 TRANSLATOR: I do believe that we can
6 have some kind of auto regulation or some kind of,
7 kind, some kind of system collectively where we can
8 speak to the NYPD and to Times Square Alliance and
9 together, as a group come together and, and do
10 something.

11 CARLOS ROJAS: [speaking Spanish]

12 TRANSLATOR: I feel there's a really bad
13 perception about the characters, something that you
14 know it, it isn't what they say it is.

15 CARLOS ROJAS: [speaking Spanish]

16 TRANSLATOR: I ask that the city council
17 reflect and come together to do something positive
18 so that we can do something positive for New York,
19 for the community, and for us as New Yorkers.

20 CARLOS ROJAS: [speaking Spanish]

21 TRANSLATOR: And lastly I want to say
22 that at the same time that there are some isolated
23 incidents there are thousands of other incidents of
24 you know joy and laughter and, and enjoyment in
25 Times Square.

2 CHAIRPERSON ESPINAL: Thank you. Thank
3 you gentleman. Let's call up the last panel. We
4 have Jose Marine, and Harris Lertsman... Jose Marine
5 and Harris Lertsman. So we have Jose Marine who's
6 ready to testify and Harris Lertsman has submitted
7 his testimony for record. So Jose... [speaking
8 Spanish]

9 JOSE MARINE: [speaking Spanish]

10 TRANSLATOR: Good afternoon. My name is
11 Jose Marine. I have... [speaking Spanish]

12 JOSE MARINE: [speaking Spanish]

13 TRANSLATOR: Two years working in Times
14 Square and I work as Captain America.

15 JOSE MARINE: [speaking Spanish]

16 TRANSLATOR: And I will be totally in
17 agreement with some kind of law that pass as long
18 as it's just for the artist.

19 JOSE MARINE: [speaking Spanish]

20 TRANSLATOR: And, and at the same time
21 as long as it's in agreement with all of the, the
22 city of Manhattan.

23 JOSE MARINE: [speaking Spanish]

24

25

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2 TRANSLATOR: I am conscious that there
3 has been some irregular activity but you can't
4 generalize.

5 JOSE MARINE: [speaking Spanish]

6 TRANSLATOR: But at the same time there
7 is a lot of good people that come to Times Square
8 every single day. I'm just trying to make a good
9 honest living.

10 JOSE MARINE: [speaking Spanish]

11 TRANSLATOR: And I think it's right that
12 there is some kind of regulation.

13 JOSE MARINE: [speaking Spanish]

14 TRANSLATOR: Just as long as it's just.

15 JOSE MARINE: [speaking Spanish]

16 TRANSLATOR: For everyone.

17 JOSE MARINE: [speaking Spanish]

18 TRANSLATOR: Thank you very much.

19 CHAIRPERSON ESPINAL: [speaking Spanish]

20 I think we've heard from everyone who was willing
21 to, was looking to testify today. But I just want
22 to thank everyone for, for your time. I think... very
23 spirited debate and a lot of emotional testimony
24 and I think a lot of very informative testimony
25 from all sides; from the agencies that are going to

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be in charge of licensing to the business owners to the characters themselves. I really appreciate you guys taking the time out and giving us your, your, your point of view. We're going to take everything that's been heard today into consideration. And I want to thank the bill sponsor Andy King. I want to thank Corey Johnson and Dan Garodnick who are both representatives of their districts. And I want to thank my committee staff Labony Ramon for all your work, Israel Martinez and Rachel Cordero for all your work. Thank you guys, thank you. With that said this meeting's adjourned.

[gavel]

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 November 24, 2014