

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON FINANCE

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February 13, 2017

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HELD AT: Committee Room - City Hall

B E F O R E: JULISSA FERRERAS-COPELAND
Chairperson

COUNCIL MEMBERS: Ydanis A. Rodriguez
James G. Van Bramer
Vanessa L. Gibson
Robert E. Cornegy, Jr.
Laurie A. Cumbo
Corey D. Johnson
Mark Levine
I. Daneek Miller
Helen K. Rosenthal
Steven Matteo

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

Michael Hyman, First Deputy Commissioner
NYC Department of Finance

Karen Schlain, Associate Commissioner
Tax Policy
NYC Department of Finance

Sal Kumar, Senior Legal Advisor
NYC Department of Finance

Samara Karasyk, Assistant Commissioner
External Affairs
NYC Department of Finance

Gale Brewer
Manhattan Borough President

George Sweeting, Deputy Director
NYC Independent Budget Office

Nelson Rosario
National Supermarket Association

Paul Fernandez
Supermarket and Deli Owner

Michael Slattery
Real Estate Board of New York, REBNY

Jessica Walker
Manhattan Chamber of Commerce

Andrew Rigie, Executive Director
NYC Hospitality Alliance

Billy Richling, External Affairs Coordinator
Times Square Alliance
Appearing for Tim Tompkins, President
Times Square Alliance

Thomas Ferrugia, Director
Governmental Affairs
Broadway League

Kevin McCollum, President & CEO of Alchemation
Member, Broadway League's Board of Governors

Tony De Paolo, Member, Local 1
International Alliance of Theatrical Stage
Employees, IATSE

Joshua Knoller
Broadway Association

Steven Sloan, Co-Owner
Morton Williams Supermarkets

Dr. Lipsky (sp?)

Renee Flores
Appearing for Red Apple Group
Gristedes Supermarkets

Ian Poulos
Gotham Government Relations and Communications
Also appearing for Red Apple Group

Brendon Sexton

Nikki Kateman,
Local 338 of the Retail/Wholesale Department Store
Union, United for Commercial Workers

Nick D'agostino
D'Agostino Supermarkets

Robert Bookman
Food Industry Alliance of New York State, FIA

Charles Platkin, Executive Director
New York City Food Policy Center at Hunter College

Robin Vitale, Vice President
Health Strategies
American Heart Association

Laura Roswick
Times Square Advertising Coalition

2 [sound check, pause]

3 CHAIRPERSON FERRERAS-COPELAND: Good
4 afternoon and welcome to today's Finance Committee
5 hearing. I'm Council Member Julissa Ferreras-
6 Copeland, and I'm the chair of the committee. We've
7 been joined by Council Members Rosenthal, Matteo,
8 Garodnick, Johnson and Chin, and we'll have
9 colleagues coming in and out today as there are other
10 hearings. I want to take this opportunity. Today is
11 my mother's 61st birthday, and I know she's at home
12 with my son watching. So you better give her a great
13 hearing. [laughter] So happy birthday, mom.

14 Today, the committee will hear four bills
15 concerning the city's Commercial Rent Tax--the CRT
16 was first enacted in 1963--as a way to capture
17 additional revenue from the commercial properties at
18 time when the city was facing statutory limits on
19 property taxes. Although the tax was initially
20 applied citywide, since 1995 it has only been
21 assessed to commercial tenants south of 96th Street
22 in Manhattan with the exception of certain areas near
23 the World Trade Center. Tenants in this area are
24 paying at least \$250,000 annual base rent and a tax
25 at the effective rate of 3.9% of the base rent.

2 Although the Council has extended on several
3 occasions exemptions in tax credits to certain
4 categories of businesses otherwise on the hook for
5 the tax, in 2016, 7,705 businesses were responsible
6 for paying the CRT, which resulted in 2011 (sic) in
7 approximately \$778 million. Since Fiscal Year 2005,
8 annual revenue has grown to an average rate of 5.25%.
9 While the CRT undeniably provides the city with
10 significant revenue, it also imposes a unique burden
11 on businesses already located or seeking to locate in
12 Manhattan. New York City is one of the only two
13 jurisdictions, the other is Florida that levies such
14 a tax specifically on commercial renters. Many
15 businesses argue that the CRT exasperates their
16 already high cost of operations. As the economy
17 continues to slowly recover from the Great Recession,
18 it is imperative that the works to attract and retain
19 businesses. The four bills we will hear today look
20 to address these issues of affordability as well as
21 provide the public with greater transparency in the
22 impact of the CRT. The first, Proposed Introduction
23 799-A sponsored by Council Member Dan Garodnick,
24 would exempt commercial tenants paying less than
25 \$500,000 per year in rent from the CRT. This would

2 provide relief to over 2,700 businesses. Proposed
3 Introduction 1107-A, also sponsored by my colleague,
4 would exempt the rents paid for billboards and signs
5 that advertise theatrical productions. The exemption
6 would last from the date the advertisement was first
7 posted through no later than the first 52 weeks of
8 theatrical production. This would, therefore, re-
9 arrange (sic) the exemption given to tenants renting
10 property for theatrical productions.

11 Next, we will hear a preconsidered
12 introduction sponsored by Council Member Corey
13 Johnson and Manhattan Borough President Gale Brewer,
14 who is here with us today that would exempt grocery
15 stores from the CRT if they meet certain floor space
16 and affordability requirements. This legislation is
17 intended to help prevent the closure of affordable
18 grocery stores so critical to their communities.

19 Finally, we will hear Introduction No. 1376,
20 sponsored by Council Member Helen Rosenthal, that
21 would codify an expand the Department of Finance's
22 annual report on the CRT, which includes detailed
23 information on premises and tax expenditures subject
24 to the tax. This will provide us with important
25 information to assess the impact of the CRT and

2 affected businesses. We must reduce the burden on
3 small businesses while ensuring that the city does
4 not forego needed revenue. Small businesses should
5 never be forced to choose between making a tax
6 payment or closing up shop. I look forward to
7 hearing from the Department of Finance, as well as
8 those businesses impacted by the CRT about how the
9 City can move forward in a fiscally proven and fair
10 way. Before we begin, I'd like to turn the mic over
11 to Council Member Garodnick followed by Council
12 Member Johnson followed by Council Member Rosenthal,
13 and Council Member Chin. After they finish their
14 remarks, I will have committee counsel swear in the
15 Administration. Council Member.

16 COUNCIL MEMBER GARODNICK: Thank you very
17 much, Madam Chair. I—we very much appreciate your
18 holding this hearing today, and the sponsors of these
19 various bills are standing together in support of
20 reforming what is a most unusual and unjust tax, the
21 Commercial Rent Tax. As you noted, under the current
22 law a commercial tenant is subject to the commercial
23 rent tax if they rent commercial space in Manhattan
24 below 96th Street. A tax on rent it's as if small
25 businesses did not have enough challenges already.

2 This is a great way to throw cold water on the local
3 economy, and it is a relic of another era.

4 Introduced in 1963, a tax on commercial rent was a
5 way for a desperate city to close some gaps, and at
6 the time the tax was introduced, it only covered the
7 largest companies. The City later largely cut the
8 cut, exempting nearly everyone in the entire city
9 except for businesses located in Manhattan south of
10 96th Street. And then after 9/11 the City exempted
11 areas in Lower Manhattan, too. So here we have a tax
12 that is only paid by a portion of the city
13 businesses, the ones between Lower Manhattan and 96th
14 Street in Manhattan. That is plainly not fair to
15 these businesses that are already struggling, and
16 it's also double taxation because commercial
17 landlords pay the real property tax, and generally
18 pass that cost on to their commercial tenants, and
19 those commercial tenants pay the commercial rent tax
20 on the very same space. So they're paying both the
21 property tax and the commercial rent tax on the same
22 space. This tax is so crazy that it exists in only
23 one other jurisdiction in all of the United States.
24 Now, New York City has seen fit to exempt the
25 smallest businesses namely the ones paying the least

2 in rent, but that exemption threshold has not been
3 touched now for 16 years. In 2001, the last time
4 that that exemption was altered, the average asking
5 rent for retail space in SoHo was less than third of
6 what it is today, and Midtown asking rents were about
7 half. As rents have risen, more and more businesses
8 have become subject to the tax. Today, the tax hits
9 an overwhelming number of small businesses,
10 restaurants, hardware stores, boutiques. Yes,
11 they're the kinds of businesses that give
12 neighborhoods their character. They are struggling
13 to pay the rapidly rising rents, and at the same time
14 are hit with the extra cost of the Commercial Rent
15 Tax. You ever wonder why we're being overwhelmed by
16 banks and chain drug stores in Manhattan? Well, this
17 tax on commercial rent is one of your prime culprits.
18 It is just worsening the affordability problem for
19 small businesses. They are the life blood of the
20 city, and with today's bills, we're going to give
21 them some relief. So the Chair noted what the bills
22 do so I'm not going to go back through them. I will
23 note that the first bill on 799-A, the one which
24 increases the exemption, that would—that would help
25 thousands of businesses, and it would save them the

2 equivalent of about a half month's worth of their
3 rent. And as for the theaters, that we're trying to
4 help by exempting billboards from the Commercial Rent
5 Tax for a year. You know, we want to give them some
6 relief because Broadway theaters not only are
7 incredibly important to our local economy, but most
8 of the actual productions are simply not successful,
9 and they never find commercial success. So, they are
10 taking big risks, and we do not need the city adding
11 to their burdens. It's a surprise at all that a
12 commercial billboard would be included in the
13 Commercial Rent Tax in any event, but this bill would
14 help them by not charging them any tax in the first
15 year while we figure out if they're actually going to
16 survive. So with that, Madam Chair, thank you again
17 very much for the hearing, and for your
18 thoughtfulness on this issue and so many others, and
19 I look forward to hearing the testimony today.

20 CHAIRPERSON FERRERAS-COPELAND: Thank you
21 very much. Council Member Johnson.

22 COUNCIL MEMBER JOHNSON: [coughs] Thank
23 you very much. Good afternoon. Thanks, Chair
24 Ferreras-Copeland and members of the committee. I am
25 really glad that we are taking action on this bill

2 today, and I want to really thank Manhattan Borough
3 President Gale Brewer and her office for their
4 incredible work on this. They're always great to
5 work with. The Borough President had her State of
6 the Borough yesterday, and she talked about a lot of
7 incredibly important things that she's been doing
8 over the past year, but I think the most popular
9 thing that she talked about in a room of hundreds of
10 people was when she talked about helping our small
11 businesses, our mom and pop stores who are under and
12 avalanche of financial burden because of significant
13 rent increases. I'm not going to repeat everything
14 that my friend and colleague Dan Garodnick said, but
15 I will ways that the neighborhoods that I represent
16 on the West Side of Manhattan, West SoHo, Greenwich
17 Village, the West Village, Chelsea, Hells Kitchen,
18 that whole area. If you walk through any one of
19 those neighborhoods, you will see dozens if not
20 hundreds of vacant storefronts, and when a community
21 loses its locksmith, and its shoe repair store, and
22 its drycleaner and its local family owned pharmacy
23 and a small restaurant that's existed there or a
24 bodega and a deli that has been the life blood a
25 community, that doesn't just impact those small

2 businesses, and they are super important, and I'm
3 glad we're doing this today for them, but it impacts
4 all New Yorkers. It impacts the folks that live in
5 those neighborhoods that rely upon affordable
6 retailers, and that make up the important fabric of
7 our city. The bill that the Borough President and I
8 are putting forward today is a bill that exempts
9 supermarkets in this area. At 14th Street and 8th
10 Avenue, a block from where I live there was an
11 associated super market that had been there for
12 almost 30 years. The last remaining affordable
13 supermarket really in that areas, and last April
14 their rent went from I believe \$20,000 a month up to
15 \$100,000 a month, and the supermarket closed, and now
16 there is not an affordable supermarket in that area.
17 Part of the issue for all of these small businesses,
18 as Dan Garodnick said, is that the property owners
19 are passing along their Commercial Rent Tax to the
20 tenants, which is another expense that they can't
21 afford. So, this tax is outdate. It's an
22 anachronistic. I don't know why it exists any more.
23 It's blatantly unfair to the small businesses that
24 exist in these neighborhoods, and it's something that
25 we really should get rid of. It's not a panacea.

2 It's not a silver bullet. It's not going to fix
3 everything. There's much more we can do, but it is
4 an incredibly important step in how we need to move
5 forward for the small business owners, and for the
6 folks that rely upon them. So I want to thank you,
7 Madam Chair for having this hearing today, and I ask
8 my colleagues to please support the Commercial Rent
9 Tax Reform package that all of us have worked very
10 hard on. Thank you very much.

11 CHAIRPERSON FERRERAS-COPELAND: Thank
12 you, Council Member. Council Member Rosenthal.

13 COUNCIL MEMBER ROSENTHAL: Thank you
14 much—so much, Chair Copeland—Ferrereras-Copeland, and
15 especially the Council Members Garodnick, Chin,
16 Johnson and to the borough president. This package
17 of bills starts to get at what is becoming a
18 tremendous burden on our small independent business
19 owners. As Council Member Johnson just mentioned,
20 you know, not only do they have to pay—not only is
21 the burden of the property tax passed onto the retail
22 owner, but then the additional hit of the commercial
23 rent tax, which is a tax on the property tax is
24 passed along to them as well. It is outrageous, and
25 it's especially outrageous in this time of

2 exponentially rising rents. As I have spoken with
3 small business owners and leaders in my district who
4 are struggling to keep their shops open, as you
5 mentioned, they may have had a 20-year lease with
6 increases of 2% ever year, and then when the lease
7 expires and they're negotiating a new lease,
8 sometimes the base—their base rent as much as
9 doubles, right. So not only do they have to pay the
10 increased rent cost, but now they have to carry the
11 burden of the commercial rent tax. When they go over
12 the amount, the dollar value, yeah, Council Member
13 Garodnick equated it to a half month's value of rent.
14 Generally, that's also—it's equivalent to the value
15 of one staff person if not two at which point we may
16 be losing jobs, right, and where do the workers come
17 from? More likely than not they are coming from
18 districts that are outside of the band where the
19 Commercial Rent Tax applies. So, just to be clear,
20 this rent tax is not a burden only on small business
21 owners in the band in Manhattan, this impacts workers
22 throughout the city. I do want to talk about the
23 importance of my bill, 1376, which will require the
24 Department of Finance to issue an annual report on
25 many segments of the Commercial Rent Tax as we start

2 to look to phase out this unfair burdensome tax.
3 We're asking them to detail information not only by
4 zip code, but by type of industry, type of property
5 owner and segmented in the dollar-different dollar
6 values, whether it be—it will be \$250,000, \$250,000
7 to \$500,000 up to \$1 million and then eventually up
8 to \$4 million, which will really help us identify
9 those businesses that are hurting the most as we
10 start to phase out this tax. I guess I'm saying that
11 a little dispositively kind of like someone we know
12 who Tweets. As we phase out this tax, here's where—
13 how we're going to do it. The better that we
14 understand the sources of revenue for the CRT, we can
15 tailor the solution, and maybe for example there is a
16 way to craft a revenue neutral proposal that would
17 shield our small businesses. Thank you very much.

18 CHAIRPERSON FERRERAS-COPELAND: Thank
19 you, Council Member, and now we will hear from
20 Council Member Chin, and if the Administration could
21 begin to make their way to the testimony table.

22 COUNCIL MEMBER CHIN: Thank you, Madam
23 Chair. Good afternoon. I am Council Member Margaret
24 Chin and I represent Council District 1 in Lower
25 Manhattan. I'm here today to hear from the

2 Administration about the Commercial Rent Tax that
3 unfairly impacts many small businesses, supermarkets
4 and other commercial establishments in my Council
5 District. First I want to thank our Finance
6 Committee Chair Julissa Ferreras-Copeland for putting
7 a spotlight on this important issue by hearing these
8 sets of bills that I'm also proud to co-sponsor.
9 When the Commercial Tax-Rent Tax was first instituted
10 in the '70s, our city was a much different place. At
11 that time, we were in the middle of a severe economic
12 downturn along with a fiscal crisis that sent our
13 city to the brink of bankruptcy. Luckily the time
14 has changed. However, for our struggling business
15 owners in my Council District the burdensome
16 Commercial Rent Tax has not. New York City's economy
17 is thriving, but for too many of our small businesses
18 there are at a constant struggle to make ends meet,
19 and to pay rent. Not only are these businesses
20 burdened with this antiquated community--Commercial
21 Rent Tax, they also must also deal with rising rents,
22 increasing competition, and the lack of legal
23 protection against unscrupulous landlords. The
24 changes made to modernize the Commercial Rent Tax in
25 the last decade and a half have not kept up with the

2 changes in our city economy. As a result, small
3 businesses struggle to balance the books.
4 Supermarkets are already paying astronomical rent
5 like the Met Food Supermarket in Little Italy in my
6 district are being forced out. They will have to
7 close, and they're taking vital services with them
8 out of our neighborhood, and in the end is our
9 resident seniors, working families and everyday New
10 Yorkers who are losing out. So once again, I wanted
11 to thank our chair for holding this hearing, and I
12 wanted to thank my colleagues Council Member
13 Garodnick, Rosenthal, Johnson and our Borough
14 President Gale Brewer for introducing these important
15 bills that we're going to hear today, and I look
16 forward to hearing testimony from the Administration,
17 small business owners, and community leaders about
18 this Commercial Rent Tax. Thank you.

19 CHAIRPERSON FERRERAS-COPELAND: We've
20 been joined by Council Members Cumbo, Miller, Gibson
21 and Van Bramer. Now my counsel will swear you in and
22 we can begin your testimony.

23 LEGAL COUNSEL: Can you raise your right
24 hand, please. Do you affirm to tell the truth, the
25 whole truth, and nothing but the truth in your

2 testimony before the committee today, and to respond
3 honestly to Council Member questions?

4 DEPUTY COMMISSIONER HYMAN: Okay. Good
5 afternoon Chairwoman Ferreras-Copeland, and members
6 of the Committee on Finance. I am Michael Hyman,
7 First Deputy Commissioner of the New York City
8 Department of Finance, and I am joined today by my
9 colleagues Karen Schlain, Associate Commissioner for
10 Tax Policy; Sal Kumar, Senior Legal Advisor; and
11 Samara Karasyk, Assistant Commissioner for External
12 Affairs. Thank you for the opportunity to testify on
13 the New York City Commercial Rent Tax, and
14 specifically on Intro 799-A, legislation that would
15 raise the CRT taxable threshold, Intro 1107-A,
16 legislation to establish a 52-week CRT exemption for
17 certain rent related to advertising, theatrical
18 productions on billboards. Intro 1376, legislation
19 requiring the Department of Finance to issue a report
20 on the CRT, and Intro 7925, legislation to exempt
21 groceries, certain grocery stores from the Commercial
22 Rent Tax. [coughs] You gave a lot of the background
23 before, but to reiterate the New York City Commercial
24 Rent Tax is imposed on tenants of properties used for
25 commercial purposes in Manhattan south of 96th

2 Street, the statutory rate is 6% of base rent, but
3 the effective tax rate is 3.9% because only 65% of
4 base rent is subject to tax. For example, a tenant
5 pays a landlord \$1 million in base rent. The law
6 provides a 35% reduction in base rent. Thereby
7 reducing the taxable base rent to \$650,000. The
8 \$650,000 tax on base rent will be subject to the 6%
9 tax rate. The tenant pays \$39,000 in CRT, which is
10 3.9% of the tenant's \$1 million base rent. All
11 commercial tenants with annual or annualized rents
12 less than \$250,000 are exempt from the tax. The CRT
13 is phased in for tenants with base rents between
14 \$250,000 and \$300,000. The \$250,000 taxable base
15 rent threshold became effective June 1st, 2001. In
16 addition, tenants of a governmental or non-profit
17 organizations; tenants located in the World Trade
18 Center area--Word Trade Center area; tenants
19 occupying retail space in Lower Manhattan; and
20 tenants eligible for the Commercial Revitalization
21 Program are exempt from the Commercial Rent Tax. The
22 tax year 2016, which ran from June 2015 to May 2016,
23 commercial tenants subject to the Commercial Rent Tax
24 owed \$754 million in total tax liability.
25 Approximately 7,700 taxpayers were subject to the tax

on 11,000 taxable premises. The City projects that the Commercial Rent Tax will generate \$816 million in the current fiscal year, and \$848 million in fiscal year 2017-18.

Starting with the bills Intro 799-A, the proposed legislation would increase the Commercial Rent Tax taxable threshold to \$500,000 annual rent per premises, and phase in the tax for tenants paying between \$500,000 and \$550,000 in annual rent. DOF has estimated that the proposal would benefit more than 40% of current Commercial Rent Tax taxpayers, approximately 3,300 businesses and will reduce projected revenue by about 6%. From the policy perspective the proposed treatment would provide relief to smaller size businesses such as restaurants and smaller retail stores, some of which are struggling economically, and which an excise tax on rent can be a burden, and there is an argument that the CRT taxable threshold is due for an increase. The threshold has not kept up with rent inflation since it was not indexed and has been at its current level for more than 15 years. But the proposed legislation would cost approximately \$52 million

2 annually, and thus must be discussed in the broader
3 context of city-city budget needs, and priorities.

4 Intro 1107-A. DOF understands the
5 concerns and needs of billboard owners who use
6 billboards to advertise their products and services.
7 Billboard are taxable under the Commercial Rent Tax.
8 Those Commercial Rent Tax regulations have long
9 provided that the definition of taxable premises
10 includes "advertising signs on the tops of buildings
11 or structures, or located in otherwise unoccupied
12 land." Intro 1107-1107-A would provide a 52-week
13 exemption for taxable premises used for the
14 advertisement of a production or performance of
15 theatrical work. DOF estimates the cost of the pro-
16 proposal at approximate \$1 million annually. The
17 proposal is seeking an extension of the current
18 Commercial Rent Tax exemption provided to tenants
19 that use taxable premises for the production and
20 performance, a theatrical performance for the first
21 52 weeks from the date the production commences. The
22 current exemption does not cover rent paid for
23 advertising on billboards not attached to the
24 theater. That is rent paid for advertising on
25 billboards attached to a different building or space

2 is subject to the Commercial Rent Tax. While the
3 legislation is intended to benefit the city's theater
4 sector an important part of the city's economy, there
5 is a tax equity argument that billboards use to
6 advertise theatrical performances should not be
7 treated differently than other billboard advertising,
8 and it is important to note that the CRT on rents for
9 billboard advertising is generally paid by Fortune
10 500 type companies, including the CRT on billboards
11 used to advertise certain theatrical perform-
12 productions.

13 Intro 1376. DOF is committed to
14 transparency and release as many tax policy reports.
15 DOF currently provides an annual report, Statistical
16 Profile of the New York City Commercial Rent Tax,
17 which provides detailed statistical information on
18 CRT taxpayers by base rent ranges in economic sectors
19 for example. DOF is open to making changes to how it
20 reports Commercial Rent Tax data. It is problematic,
21 though, to provide systematic reporting of some data
22 because of problems with the reported information.
23 For example Intro 1376 mandates certain reporting by
24 the zip code of the taxable premises, but some
25 taxpayers omit zip code information when filing, and

2 some taxpayers file incomplete address information
3 for premises, and provide information in a non-
4 standard format. DOF reporting must also be in
5 compliance with statutory tax confidentiality
6 requirements, which restrict reporting on the number
7 of observations for categories too low. We recommend
8 that DOF's staff meet with City Council Finance staff
9 to discuss the type of enhanced reporting that we may
10 be able to provide.

11 Intro 7925. Intro 7925 provides a CRT
12 exemption for certain grocery stores meeting the
13 criteria specified in the bill. The legislation as
14 currently drafted raises significant Tax
15 Administration and compliance issues. The detailed
16 eligibility criteria regarding the use of the space
17 on a square footage basis, the development of
18 affordability requirements and annual inspections
19 would be a challenge for DOF to administer, and could
20 place compliance burdens in the very businesses the
21 legislation seeks to assist. In addition,
22 implementing this type of subsidy to Tax Code would
23 inhibit transparency as DOF would not be able to
24 provide information on the specific businesses
25 benefitting from the legislation. It is important to

2 note that financial assistance provided through the
3 Food Retail Expansions to Support Health or FRESH
4 program is discretionary rather than as-of-right, and
5 evaluated by the New York City Industrial Development
6 Agency staff case by case to determine specific
7 eligibility. As it regards cost, we do not have
8 specific information for the firms [coughing] that
9 would qualify for relief under Intro 7925, but we do
10 know that the economic subsector retail grocery
11 stores and supermarkets had a Tax Year 2016 CRT
12 liability of \$5.4 million. This subsector included
13 95 taxpayers and 142 premises. In closing, the
14 Department of Finance believes the bills that are the
15 subject of this hearing highlight important policy
16 issues. From the tax policy perspective we believe
17 broad based relief such as increasing the CRT taxable
18 threshold is desirable, but any proposed CRT
19 reduction proposal is a budget issue and needs to be
20 assessed as part of the broader budget discussions.
21 Thank you for the opportunity to testify today. I'm
22 happy to take any questions you may have.

23 CHAIRPERSON FERRERAS-COPELAND: Thank you
24 very much for your testimony. So I'm going to ask
25 some technical questions so that we can get it on the

2 record, and then the sponsors will follow up with
3 their questions. Do you know—do you know anything
4 about the kind of firms that would benefit from an
5 exemption of the CRT, and how many are small
6 businesses as opposed to medium or large firms?

7 DEPUTY COMMISSIONER HYMAN: I think the
8 vast majority of the firms that would benefit tend to
9 be small businesses, single premises that pay the
10 tax. I mean there are some larger firms that have
11 multiple premises, but this tends to be smaller size.
12 I don't know if we have it right here. I can give
13 you a distribution of the estimate of the type of
14 firms. They tend to be smaller food establishments,
15 retail trade type firms. Some professional service
16 sectors, but in general they're—the businesses are,
17 you know, one premises. It's like the stores or the—
18 -

19 CHAIRPERSON FERRERAS-COPELAND:
20 [interposing] So in general we would see that these
21 are businesses that support the local community
22 because they're providing either a restaurant food
23 service or maybe a small doctor's office or kind of
24 when you talk about professional offices, is that
25 what you mean?

2 DEPUTY COMMISSIONER HYMAN: That's one
3 category, yes.

4 CHAIRPERSON FERRERAS-COPELAND: Okay, and
5 the larger markets that these businesses may support
6 what do they look like in the event that they're not
7 the small. So then is it the larger ones, or is it
8 medium size? Like what--what are we seeing?

9 DEPUTY COMMISSIONER HYMAN: Well, as far
10 as larger size, there is a certain small segment of
11 the population, which could be chains like firms that
12 have multiple premises. I think we estimated more
13 than 90% of the beneficiaries would be either one or
14 two premises establishments, and then there would be
15 a small percentage that would be larger chain type
16 enterprises.

17 CHAIRPERSON FERRERAS-COPELAND: Okay.
18 Thank you. We wanted to get that on the record. Does
19 DOF currently provide small businesses with
20 assistance in completing or filing their CRT?

21 DEPUTY COMMISSIONER HYMAN: I'm sorry.
22 Could you repeat the question?

23 CHAIRPERSON FERRERAS-COPELAND: Do you
24 provide any assistance to the small businesses that
25 need to understand or that maybe that have to pay

2 this fee to their CRT as an application, or how-how
3 does a tenant that's moving into this space know that
4 they're paying this cost over the regular property
5 tax?

6 DEPUTY COMMISSIONER HYMAN: Well, I
7 think—I think when a—I think when a business moves to
8 the city, the Small Business Services, and not the
9 city agencies provide kind of comprehensive summaries
10 of the type of taxes that you will be subject to in
11 New York City

12 CHAIRPERSON FERRERAS-COPELAND: So, we're
13 basically assuming that SBS does this service? DOF
14 doesn't do this directly?

15 ASSISTANT COMMISSIONER KARASYK: I'm
16 going to jump. Do you need to swear me in?

17 CHAIRPERSON FERRERAS-COPELAND:
18 [interposing] Can you just—just state your name for
19 the record.

20 ASSISTANT COMMISSIONER KARASYK: Yes.
21 I'm Samar Karasyk, Assistant Commissioner with the
22 Department of Finance. Do you need to swear me in,
23 Committee Counsel? Yes? No, okay.

24 CHAIRPERSON FERRERAS-COPELAND: No, we
25 thank you're going to say the truth.

1 COMMITTEE ON FINANCE

29

2 ASSISTANT COMMISSIONER KARASYK: [laughs]

3 I will. I promise.

4 CHAIRPERSON FERRERAS-COPELAND: We'll

5 fact check you after.

6 ASSISTANT COMMISSIONER KARASYK: We did,

7 in fact, talk to Small Business Services before

8 preparing for this. So we—we did talk to them. They

9 provide all kinds of services. So we're not

10 speculating, right. We know that there is a ton that

11 they do. This is a huge priority for them. So they

12 provide all kinds of services for small business

13 services and they will contact us from time to time

14 if somebody needs assistance. You know, if they have

15 a question, we try and help them with that. When we

16 go to, you know, sometimes we'll go to an event for

17 small businesses, not that often. They don't usually

18 have a lot of questions for us, but if they need us

19 then we absolutely will get involved.

20 CHAIRPERSON FERRERAS-COPELAND: Okay. So

21 I have just three more questions. Can you—and I

22 guess I don't know who, but who—how many of those

23 tenants filed a late 2016 tax return that maybe a

24 flag? [background comments]

25

1 COMMITTEE ON FINANCE

30

2 DEPUTY COMMISSIONER HYMAN: I don't know
3 off hand, but I can get back to you.

4 CHAIRPERSON FERRERAS-COPELAND: Okay. So
5 please get back to me. What is the average penalty
6 assessed for non-compliant tenants for failure to
7 file their return with DOF?

8 DEPUTY COMMISSIONER HYMAN: The average
9 penalty for non-compliance would apply at COT?

10 CHAIRPERSON FERRERAS-COPELAND: Yes.

11 DEPUTY COMMISSIONER HYMAN: I have to get
12 back to you with that.

13 CHAIRPERSON FERRERAS-COPELAND: Okay, and
14 approximately how many tenants were assessed the
15 maximum penalty for non-compliance with filing this
16 year, and I'm sure you'll have to get back to me with
17 that one, too.

18 DEPUTY COMMISSIONER HYMAN: So, you said
19 the maximum penalty. Generally, if there's--there's
20 nothing nefarious about it, people just, you know,
21 have mistakes. They may get charged interest and
22 back penalties. It's generally penalties that tend
23 to be weighed, but I can get back to you with
24 specific statistics.

25

2 CHAIRPERSON FERRERAS-COPELAND: Yeah, you
3 know, we're just trying to—to better understand when
4 people are not able to file their taxes on time, it's
5 usually a flag that they are struggling. So does the
6 flag just then get booted off to being kind of being
7 able to assess the penalties on what they owed, and
8 what is the burden on top of the burden I guess is
9 what we're trying to discover here with this
10 questioning. I have additional questions, but I want
11 to give my colleagues and the sponsors of the bills
12 an opportunity to ask their questions. We will have
13 Council Member Garodnick followed by Council Member
14 Rosenthal.

15 COUNCIL MEMBER GARODNICK: Thank you very
16 much, Madam Chair, and thank you all for your
17 testimony today. I—I just want to make sure that I
18 understood a couple of the points that—that you made.
19 It's my understanding that from your testimony 3,300
20 businesses would be affected by the bill that
21 increases the threshold. Is that correct?

22 DEPUTY COMMISSIONER HYMAN: Yes.

23 COUNCIL MEMBER GARODNICK: And that the
24 revenue that would have been generated from those
25 3,300 businesses represents 6% of the total revenue

2 that otherwise would have been collected under the
3 CRT. Is that right, too?

4 DEPUTY COMMISSIONER HYMAN: Yes, the 6%
5 is that portion out of the total revenues.

6 COUNCIL MEMBER GARODNICK: And can you
7 tell us what percentage of the total number of
8 businesses that pay the CRT is represented by this
9 3,300?

10 DEPUTY COMMISSIONER HYMAN: I think we
11 say in the testimony it's 40% of current--

12 COUNCIL MEMBER GARODNICK: [interposing]
13 this is 40%. Okay. 40% of all businesses paying CRT
14 would be affected by this relief.

15 DEPUTY COMMISSIONER HYMAN: Yes.

16 COUNCIL MEMBER GARODNICK: Okay. Your
17 analysis of the cost of the bill does that include
18 any evaluation of potential increased economic
19 activity that might be resulting from the reduced
20 burden?

21 DEPUTY COMMISSIONER HYMAN: No, that's
22 just a straight analysis based on foregoing revenues
23 and statically.

24 COUNCIL MEMBER GARODNICK: Okay. [pause]
25 In your testimony you said that there is an argument

2 that the CRT taxable threshold is due for an
3 increase. Would you like to make that argument
4 today? [background comments]

5 DEPUTY COMMISSIONER HYMAN: I think what
6 I'm trying to say is I think from a policy
7 perspective we—we—we agree that there's issues with
8 the taxable threshold being static for many years,
9 but ultimately it becomes a budget issue. So we do
10 think they need to be discussed in terms of city
11 budget priorities, you know, but, you know, we
12 understand this is an important policy area, but it
13 needs to be part of the bigger picture.

14 COUNCIL MEMBER GARODNICK: So you believe
15 that we're due for an increase?

16 DEPUTY COMMISSIONER HYMAN: I think I
17 said in my testimony that, you can make the argument
18 that the taxable threshold hasn't been raised since
19 2001, and it's not indexed. It hasn't kept up with
20 rent inflation.

21 COUNCIL MEMBER GARODNICK: It has not? I
22 would that we--

23 DEPUTY COMMISSIONER HYMAN: [interposing]
24 It has not kept up.

2 COUNCIL MEMBER GARODNICK: It has not
3 kept up and it probably should have. Is that a fair
4 statement?

5 DEPUTY COMMISSIONER HYMAN: That's a
6 legitimate tax policy perspective.

7 COUNCIL MEMBER GARODNICK: Is it your
8 perspective? [laughter]

9 DEPUTY COMMISSIONER HYMAN: Again, you
10 know, I can support, you know, what I think is good
11 tax policy, but I think ultimately these are budget
12 issues and, as you know, there's a lot of competing
13 budget priorities that get negotiated with the
14 Administration and the City Council.

15 COUNCIL MEMBER GARODNICK: Okay. So what
16 I'm hearing you say is, and you can agree or not
17 agree with this summary, but I'm hearing you say that
18 you believe that it would be an appropriate thing for
19 the Council and the Mayor to decide to up the
20 exemption levels, but that there is a budgetary
21 consequence to doing so, and that that is a
22 conversation between the Mayor and the Council. Is
23 that a fair assessment?

24 DEPUTY COMMISSIONER HYMAN: I think
25 that's accurate. I think we would say that tax

2 policy wise, there--there's an argument for increasing
3 it, but you're right, it's a budget discussion
4 between the Administration and the City Council.

5 COUNCIL MEMBER GARODNICK: Is that
6 different from what I said? [laughter]

7 DEPUTY COMMISSIONER HYMAN: I just don't
8 want to say, and who knows if they read record again
9 and they get everyone's.

10 COUNCIL MEMBER GARODNICK: Okay, I think
11 we--I think we agree. Actually, I think we said
12 basically the same thing. Okay, the tax or the
13 revenues that are gained by this tax, the specific
14 portion of the tax that we're looking at today, the
15 \$52 million without adjusting for any potential
16 benefits resulting from the exemption. What--what
17 percentage of the overall budge is that, the \$52
18 million?

19 DEPUTY COMMISSIONER HYMAN: Well, the
20 proposed budget for--well, the tax revenue--the
21 proposed overall budget I think it's now \$85 billion.
22 The Tax Revenue Budget is in more mid-\$50 billion
23 range. So, we'll say it's \$52 million out of over
24 \$50 million, it would be--what is that, 1%?
25 [background comments] 1.1% percent.

2 COUNCIL MEMBER GARODNICK: Okay, we can do
3 the math, but it is--it's--it's the--the--it's \$52
4 million over \$50 billion essentially is what you're--
5 -

6 DEPUTY COMMISSIONER HYMAN: The Tax
7 Revenue Budget for the city.

8 COUNCIL MEMBER GARODNICK: Okay, and more
9 businesses have become subject to this tax over
10 recent years, as I understand it because more of them
11 have gone over the \$250,000 threshold. Do you have
12 any numbers to represent how many more businesses
13 have actually become subjected to this tax over the
14 last 10 years, 5 years, or any--any increment that you
15 might have?

16 DEPUTY COMMISSIONER HYMAN: We don't have
17 it right now, but we can get you that number.

18 COUNCIL MEMBER GARODNICK: Okay, that
19 would be--that would be useful. On the bill on the
20 Broadway--the Broadway Theaters, you--you noted that
21 while the legislation is intended to benefit the
22 city's theater sector, an important part of the
23 city's economy there is a tax equity argument that
24 billboards use to advertise the actual performances,
25 and should not be treated differently than other

2 billboard advertising. Would you make that same tax
3 equity argument about businesses in a certain
4 geographic area of the city that are subject to the
5 tax while other businesses are not?

6 DEPUTY COMMISSIONER HYMAN: I mean, the-
7 the argument exists. I think each of the-as you
8 know, the tax system is not a pure system. I think
9 when you look at each component of it, you do have to
10 look at tax equity elements of it. You can make the
11 broader argument about yes the tax is restricted to a
12 geographical area and that was done, and again, it's
13 not to say it's a blanket statement, but it was done
14 to try focus on the central business districts of New
15 York City. But when you look at any particular
16 proposal that's coming up from the tax policy
17 perspective se do look at how it completes-how it
18 treats comparable firms doing similar economic
19 activities.

20 COUNCIL MEMBER GARODNICK: So I'm hearing
21 you say that you think it is totally unfair. Is that
22 an accurate answer?

23 DEPUTY COMMISSIONER HYMAN: Not really.

24

25

2 COUNCIL MEMBER GARODNICK: No, I didn't
3 think so, but I really am asking a serious question,
4 and you are--

5 DEPUTY COMMISSIONER HYMAN: [interposing]
6 I know you are.

7 COUNCIL MEMBER GARODNICK: --saying there
8 is an argument--

9 DEPUTY COMMISSIONER HYMAN: [interposing]
10 I think--

11 COUNCIL MEMBER GARODNICK: --there's an
12 argument for this, there's an argument for that, but
13 I-I really, you know, you-you brought up tax equity
14 in the context of the billboards, and I'm-I'm really
15 trying to get an understanding from you as to whether
16 or not the department believes that there is tax
17 equity in treating businesses in Manhattan south of
18 96th Street differently from anywhere else in New
19 York City.

20 DEPUTY COMMISSIONER HYMAN: I think, you
21 know, on the Tax Code in general there are many
22 revisions that drive by relief especially for smaller
23 size businesses. So, you know, we are talking today
24 about taxable threshold issues. I mean the-the
25 decision to eliminate the tax in most of the city,

2 you know, affected different size businesses, but the
3 general, I think policy perspective was that you were
4 trying to focus on the areas, which could afford it
5 the best and while that's not 100% statement, I think
6 that's really what drove the policy decisions. And
7 then when you look at any particular proposal there
8 is tax equity is one consideration, but I'm—I'm not
9 saying that yes there's different parts. You can
10 look at different angles of the tax system, and find
11 different tax equity issues, but I think each one
12 deserves its own hearing.

13 COUNCIL MEMBER GARODNICK: Okay, well, I—
14 I think it's totally unfair, and I think that there
15 is no equity in that at all, and I know that you're
16 being a little more restrained and I understand that,
17 but I—but I just think that the idea that there is a
18 real tax on the books that is crushing small
19 businesses in Manhattan is—is unfair and it's
20 outdated and, you know, we—we certainly want to have
21 your support and the Mayor's support and we look
22 forward to that conversation. The last question I
23 have is about the—the billboards. You know, you
24 noted that there may be an equity issue about
25 treating certainly billboards differently from

2 others. I know you're not going to say that there is
3 an equity issue because of the discussion, the
4 colloquy we just had, but if-if-if there were a
5 reason to treat billboards differently, would you not
6 think that a billboard that is connected to Broadway's
7 shows might have or other shows might have a-a
8 rationale for New York City's local economy in a way
9 that is different from say a-a billboard for, you
10 know, a car manufacturer or for, you know, a
11 television show that's being broadcast any-you know,
12 anywhere or nationally, is there-is-is there not a
13 rationale that could be-or is there not an argument
14 as-as you say that could be made for-for doing that?

15 DEPUTY COMMISSIONER HYMAN: Well, I'm
16 talking about the issue more from our tax policy
17 perspective. I think from an economic and wealth
18 perspective there's-there's fair arguments that could
19 be made about, you know, which sectors you want to
20 benefit or not benefit from a tax policy perspective
21 is kind of like it's a laid-a level playing field
22 argument and firms engaged in sim-similar type of
23 economic activities is really comparably. So it's-
24 you know, it's-it's a different perspective. I-I
25 respect what you're saying that you can make judgment

2 calls about particular sectors, and—and city and
3 governments do it all the time. There's a lot of
4 different tax benefit programs on the books, but we
5 approach it from the Department of Finance. Part of
6 the perspective is just comparable treatment for
7 similar economic activity. The economic activity of
8 releasing a billboard.

9 COUNCIL MEMBER GARODNICK: Okay, I mean
10 I—I hear you saying for the billboards that you look
11 at it from tax policy—tax policy perspective. Well,
12 you know, one billboard should be treated the same as
13 another, but I'm asking about a drug store or a
14 restaurant in Midtown Manhattan versus a—a restaurant
15 or drug store in Queens, Brooklyn, the Bronx or
16 Staten Island, and you're that you're a little less
17 clear that that is a tax equity issue, and I don't
18 really understand why that is.

19 DEPUTY COMMISSIONER HYMAN: I think, you
20 know, ultimately it just, you know, it's—it's less
21 money involved than in a small business. You know,
22 taxable threshold like this it becomes a budget issue
23 about how you want to spend your money and what
24 sectors you want to promote. I'm just saying there is
25 the other argument is that, you know, if you give it

2 to one sector, another sector could come in and argue
3 that they're being treated unfairly.

4 COUNCIL MEMBER GARODNICK: Okay, so
5 perhaps it's not so much the question of the
6 equities as it is about the budget itself. I-I
7 understand that there's a budgetary impact with what
8 we're doing, but I-I don't know how we say that the
9 billboard question is one thing, and the restaurant
10 question is-is another thing. I mean there-there
11 seemed to be, you know, from your perspective the-the
12 same-the same sort of equity argument. Is that not--
13 ?

14 DEPUTY COMMISSIONER HYMAN: Well, I guess
15 I'm arguing that there's not just one perspective on
16 the issue. I mean you could, you know, again just
17 taking the issue in isolation there is, I think a tax
18 reg to the argument, but on the other hand, you're
19 making a fair point. There's like the policy issues
20 about, you know, who you're giving your benefit to,
21 and which one do you believe benefits the city's
22 economy the most.

23 COUNCIL MEMBER GARODNICK: Okay. Well,
24 listen I think that the-the billboards and, you know,
25 Council Member Johnson and I talked about this

2 extensively, ones which are an economic driver for
3 the city, and the—the Broadway shows, which—which
4 fail at a—an extraordinary rate, and the ones that
5 are successful, you know, we—we know about, but the
6 ones that are less so, you know, they—they invest
7 money, they hire people and they don't make a dime.
8 The idea from an economic growth policy to do this I
9 think makes a lot of sense. The other one frankly,
10 you know, I—I just don't—I don't see how we continued
11 to—to shackle small businesses with this—with this
12 commercial rent tax without any relief, and so we're
13 glad that at a minimum you believe that there's an
14 argument that this should be updated since the year
15 2001 is now 16 years gone. I thank you.

16 CHAIRPERSON FERRERAS-COPELAND: Thank you
17 very much, Council Member Johnson followed by Council
18 Member Rosenthal.

19 COUNCIL MEMBER JOHNSON: Thank you, Madam
20 Chair. [coughs] Excuse me. So, why was the
21 Commercial Rent Tax initially put in place? [pause]

22 DEPUTY COMMISSIONER HYMAN: Well, I think
23 that as—as was mentioned in some of the introductory
24 comments I have to say I—I can't definitively comment
25 on the initial orders. I think it was related to

2 concerns about property tax, revenue ceilings, which
3 date back to the early 1960s, and as you know, the
4 tax has changed somewhat over time, but that was the
5 initial and I think today it's really the revenue is
6 sort of the key consideration.

7 COUNCIL MEMBER JOHNSON: So my
8 understanding is that the Commercial Rent Tax was
9 designed to address the need for revenue at a time
10 when the city was nearing its constitutional limits
11 no property taxes.

12 DEPUTY COMMISSIONER HYMAN: I can't
13 definitively say that's correct. I'd have to
14 research it, but I think that—I thin that argument is
15 probably and privy (sic) to.

16 COUNCIL MEMBER JOHNSON: So what's the
17 estimate? I think you, Council Member Garodnick
18 asked is the estimate on property tax revenue for
19 this upcoming fiscal year is what?

20 DEPUTY COMMISSIONER HYMAN: Well, that's
21 probably \$22 or \$23 billion. I can get you the
22 precise amount.

23 COUNCIL MEMBER JOHNSON: It's a lot of
24 money. [laughter]

2 DEPUTY COMMISSIONER HYMAN: It is to me,
3 and so the—I know that there's been a healthy back
4 and forth with my colleague on—on whether or not this
5 tax is fair, and you mentioned that there are policy
6 considerations and budgetary concerns when we change
7 these things. Small Business Services here?
8 [pause] Are they—are they here?

9 ASSISTANT COMMISSIONER KARASYK: I don't
10 believe so.

11 COUNCIL MEMBER JOHNSON: Okay, did you
12 talk to them about this?

13 ASSISTANT COMMISSIONER KARASYK: Yes we
14 did.

15 COUNCIL MEMBER JOHNSON: And what do they
16 think about this?

17 ASSISTANT COMMISSIONER KARASYK: They--

18 COUNCIL MEMBER JOHNSON: [interposing] Do
19 they think that it will benefit small businesses?

20 ASSISTANT COMMISSIONER KARASYK: They
21 think that this should be considered along with a lot
22 of other programs they're working on to benefit small
23 businesses.

24 COUNCIL MEMBER JOHNSON: Do they think
25 this would benefit small businesses? Do you know?

2 ASSISTANT COMMISSIONER KARASYK: We get—I
3 mean we share our estimates with the Administration
4 including them and many other agencies. So, you
5 know, First Deputy Commissioner Hyman did say that of
6 business, you know, we speculate but a lot of the
7 businesses would be small businesses, but I think we
8 need to do more analysis to figure out exactly how
9 big they are. Are they single premises? But upon
10 first inspection with our data, it does look like
11 small businesses would benefit.

12 COUNCIL MEMBER JOHNSON: Well, SBS and I
13 have a lot of respect for Commissioner Bishop. I
14 think he's done a great job there. They should be
15 here, and I would love to hear their perspective
16 because if you walk at least in Manhattan, and I
17 can't speak to the other boroughs, but I know that in
18 Council Member Rosenthal's district and Garodnick's
19 district in Chin's district, in Mendez's district in
20 my district in Kallos' district, and the list goes
21 on, you walk up and down the street, and it's
22 shuttered small businesses on every block. And if
23 you ask the small business why did you go out of
24 business, I would say that 80% of the time the answer
25 is the rent is too damn high. Just that's the

2 answer. So, this is to try to give a little bit of
3 relief to those small businesses, and I applaud the
4 Administration and the work that my colleague Council
5 Member Cornegy has done on trying to do outreach,
6 working with Consumer Affairs on reducing fines,
7 working with the Health Department on reducing fines,
8 getting people cure periods. That is, and this is in
9 on disrespect—we are not disrespectful for that
10 important work. That is sort of, you know, tampering
11 around the edges. The real issue here is rent. We
12 do have commercial rent control, and so this is a
13 major problem. I am—I'm sort of shocked that you
14 don't come here today and say, you know, this is a—
15 it's an unfair tax.

16 DEPUTY COMMISSIONER HYMAN: Well, I think
17 we, you know, as I entered my testimony we did say
18 that raising the taxable threshold is a desired
19 policy, but ultimately it becomes a budget issue. So
20 I think it's a fair issue to be raising in budget
21 negotiations if this versus everything else. I mean
22 I think one, you know, it's also the uncertain times
23 we live in. You know, this is—obviously there's a
24 lot of concern about developments at the federal
25 level how it's going to affect the city budget, how

2 the economy is performing. So they all feed into
3 ultimate decisions that you'll make as a legislator.
4 So we're not criticizing the policy. We're—we're
5 just certainly not say it's not worthwhile. I think
6 we agree that raising the taxable threshold is a
7 desirable policy. We're just saying that ultimately
8 it's going to be a budget decision.

9 COUNCIL MEMBER JOHNSON: Do you think
10 that this is—it would be considered your—your tax
11 policy, right?

12 DEPUTY COMMISSIONER HYMAN: Yep.

13 COUNCIL MEMBER JOHNSON: Do you think
14 this is considered a progressive a tax, the
15 progressive taxation?

16 DEPUTY COMMISSIONER HYMAN: Well if it
17 becomes more progressive, as you knock funds off the—
18 the bottom. [coughs] But currently I'd say two-thirds
19 of the tax comes from the top 10% of taxpayers.
20 [background comments] Oh, I'm sorry. So, you know,
21 currently with the—with the current \$250,000
22 threshold I think most of the taxes coming from firms
23 with rent over \$5 million. So I have some statistics
24 here. Like so the top—if you were to look at \$5
25 million or above in base rent, the top 7% are paying—

2 that's 40, but I think we're down on a little. (sic)
3 I mean the top 10% taxpayers pay about two-thirds of
4 the tax.

5 COUNCIL MEMBER JOHNSON: I just want to
6 reiterate and I think Council Member Garodnick got at
7 this. So I'm not going to belabor the point, and
8 badger you, but I would say that when I meet with
9 residents, block associations, the community board,
10 ordinary everyday New Yorkers who live in my district
11 they will tell you if you ask them what the biggest
12 neighborhood issue is, and any neighborhood in my
13 district, the number one issue is the loss of small
14 businesses. Literally it's the top thing that is
15 said over and over and over again. And so, there is
16 not much we can do on trying to get involved in
17 controlling what a landlord does on a lease renewal
18 when it comes to rent, but this probably the most
19 significant thing that we could do that's in our
20 toolkit and in our arsenal. And so I think it is
21 really important that given the importance that small
22 businesses play in New York City and given the huge
23 loss that we're seeing, I think it's really important
24 that we take this step. It seems patently unfair the
25 supplies and the small geographic sector in the city,

2 and that geographic sector that it applies to is
3 probably the most rapidly gentrifying sector of the
4 city, which makes it more and more and more
5 unaffordable. So I am grateful that we're having
6 this hearing today. I hope that my colleagues who
7 don't represent this part of Manhattan understand the
8 total unfairness of the tax, and the effects that it
9 has, and I hope that they will sign onto these
10 different pieces of legislation, and support us
11 passing this. Thank you very much, Madam Chair.

12 CHAIRPERSON FERRERAS-COPELAND: Thank you
13 and now we will hear from Council Member Chin.

14 COUNCIL MEMBER CHIN: [pause] Thank you.
15 My question is I represent Lower Manhattan. So it's
16 below 96th Street, but then I have parts of my
17 district in the World Trade Center area that's exempt,
18 and some other areas in Lower Manhattan, and do you
19 have any statistics showing how effective that was by
20 having the commercial tax waived in terms of
21 attracting businesses to Lower Manhattan?

22 DEPUTY COMMISSIONER HYMAN: That's a very
23 good question. I don't think we have specific
24 statistics on the economic impact of the exemption.
25 I think it was--

2 COUNCIL MEMBER CHIN: Well, first—yeah,
3 first of all, it would probably would be good to have
4 some, and I am sure that the Downtown Alliance they
5 probably have some data that maybe they could share
6 with you. I think businesses that are down there are
7 doing very well, and a lot of businesses are moving
8 down there, and some of them are pretty big. So
9 they're benefitting from this not having to pay
10 Commercial Rent Tax, and meanwhile some other part of
11 my district Chinatown, Lower East Side where they are
12 also, especially Chinatown because of the closure of
13 Park Road, suffered from 9/11. They didn't get a
14 break. We had one store in the beginning of Worth
15 and Mod (sic). It was empty for years after years
16 after 9/11. Of course, the landlord didn't want to
17 give a break either. They wanted to charge \$30,000
18 rent a month. Restaurants over there couldn't—
19 couldn't afford it because there was not foot
20 traffic. Finally, you know, a food store came in, an
21 organic food store and they sell all kinds of fresh
22 fruits and vegetables, and—and they're struggling and
23 they have to pay the Commercial Rent Tax. It's not
24 fair. So, the thing that I'm looking for is that
25 it's got to be some kind of fairness. I mean the

2 legislation that my colleague introduced raising the-
3 the cap from \$250,000 to \$5-to half a million, it-it
4 will give some relief to these businesses, but a lot
5 of these restaurants and stores are paid more than
6 \$20,000 a month for rent, and that's pretty high for
7 small business mom and pop stores, but the rents are
8 very high in-in my district. So I think in terms of,
9 you know, looking yes it's the tax revenue that the
10 city wants to generate, but it's got to be some
11 fairness. There are businesses that are not-don't
12 have to pay, and they're doing very well, and then
13 the other boroughs don't have to pay. I mean there
14 are also a lot of big businesses, you know, starting
15 in whether it's Downtown Brooklyn or Queens, they're
16 developing-the city is fixing up the area to be more
17 attractive and businesses are going there, too. So
18 why are businesses in Manhattan south of 96th Street,
19 and-and excluding some part of Lower Manhattan being
20 penalized. So as the New York City Department of
21 Finance can you help us. So like make it more fair,
22 right. Give the businesses a break.

23 DEPUTY COMMISSIONER HYMAN: Well, you're-
24 you're raising many good points. I think the issue
25 would be and, you know, the-the policy objectives of

2 either, you know, eliminating more small businesses
3 or doing other, you know, changes to the CRT is a
4 legitimate issue. I may sound like broken record.
5 It's just that it has to be addressed as part of
6 again the city's budget making decisions about, you
7 know, ultimately either you're going to have to-it-
8 it--reducing revenues also--also reduces services. So
9 it's kind of obviously you know that so it's part of
10 the hard choices that would be part of the
11 discussions, which is not to deny the policy merits
12 that people are making that the Commercial Rent Tax
13 as--as we said in our testimony we think also is
14 providing small business relief is desirable. It's
15 just ultimately a budget decision.

16 COUNCIL MEMBER CHIN: Yeah, but you're-
17 you're the Finance Department. You deal with taxes.
18 So can you come up with--

19 DEPUTY COMMISSIONER HYMAN: [interposing]
20 Well, but we also--we also try to

21 COUNCIL MEMBER CHIN: --some--also some
22 idea of how to make it, you know, maybe other
23 business, maybe some big businesses should be paying
24 more, the ones that, you know, are renting a lot of
25 space, and--and they're getting all these tax breaks,

2 but then--then maybe they should be paying a higher
3 rate or--I mean there's got to be some way to make it
4 fair because, what we are seeing in our district that
5 the mom and pop store, the one that are being
6 affected like and literally--and literally I recently
7 just had a supermarket close--

8 DEPUTY COMMISSIONER HYMAN: Uh-huh.

9 COUNCIL MEMBER CHIN: --right before
10 Christmas, and the landlord is increasing the rent,
11 and the supermarket is already paying \$90,000 a
12 month. When I heard that I was completely like--I
13 just couldn't believe it's that much rent he's
14 already paid, and on top of that he was telling me
15 that he paid over \$40,000 of Commercial Rent Tax, and
16 he said, you know, I could have invested that money
17 and to upgrade my store whatever, but he closed, but
18 he didn't give up. He's still looking for another
19 space in my district, and we're trying to help him to
20 open backup because we need an affordable supermarket
21 in our district. So something has got to give.
22 Something has to be there to help these small
23 businesses who are serving our community, and they're
24 not getting a break. So hopefully these legislations
25 will be a start. Thank you.

2 DEPUTY COMMISSIONER HYMAN: Thank you.

3 CHAIRPERSON FERRERAS-COPELAND: Thank
4 you, Council Member Chin, and since we're kind of in
5 this space, and—and I'm going to have Council Member
6 Rosenthal followed by Council Member Cornegy. I think
7 the reality is that while it is a budget, and I know
8 that that is your response that this is a budget
9 priority, and it's something that should be taken
10 into consideration in the budget. We've also called
11 for efficiencies in the budget, and I think that
12 there's an opportunity to find efficiencies in the
13 budget that would more than make up for this relief
14 that we can possibly give small businesses that are
15 paying an exorbitant amount of money for rent to be
16 able to sustain themselves within. Because it
17 shouldn't be a—a privilege to be in Manhattan. It
18 should be something that you're born into, something
19 that you, you know, when nobody wanted to be in
20 Downtown Manhattan, these businesses were there, and,
21 you know, now because we have some areas that are
22 hustling and bustling and now when they finally
23 should be able to garner the benefits of staying
24 there in the touch years, now is when they're being
25 pushed out, and I think, you know, we want Little

2 Italy to remain Little Italy, and if you go to Little
3 Italy, there's a lot less Italian businesses than
4 ever. So, you know, I don't want to go to Crate and
5 Barrel when I go to Little Italy. That's just not
6 the experience that we're supposed to have. No
7 offense to Crate and Barrel. Please don't hate me.
8 So now we're going to hear from Council Member
9 Rosenthal followed by Council Member Cornegy.

10 COUNCIL MEMBER ROSENTHAL: Thank you so
11 much Chair and I'm just going to ask about the
12 reporting bill. I appreciate all my colleagues'
13 questions and—and points and I agree with them, and
14 I'm looking forward to the information that you'll be
15 passing along. You know, I just want to clarify
16 we're looking at the report that you do now online.
17 I'm sure you have it in front of you. So I'm glad
18 it's updated as of 2016. This is really helpful, and
19 I just want to note that there seems to be a sweet
20 spot for when the—the amount that's paid is meaning—
21 it becomes a—a meaningful amount, and it seems to be
22 actually at a million dollars. So that the number of
23 businesses affected below a million is a large number
24 compared to the percent of the total revenue that
25 they bring in. I just noticed that. I mean that it

2 really does look like it's right at a million
3 dollars. It's a sweet spot. So, I think that's
4 something we should think about. You know, if you,
5 you know, the businesses that pay \$10,000--\$10
6 million or over, equal 51% of the revenue. That's
7 startling. So the report that you do today, I really
8 appreciate, and I think we can learn a lot from it.
9 I look forward to tweaking it a little bit more and I
10 appreciate your offer to meet with the Finance staff
11 to do that. I--and, but I do just want to clarify.
12 You say it in your report, but I want to make sure I
13 understand this. You--you have a table that reports
14 by number--by premise, and a separate table that
15 reports by taxpayer. Could you define that
16 difference between a premise and a taxpayer?

17 DEPUTY COMMISSIONER HYMAN: Sure, the
18 actual tax and the \$250,000 threshold applies to each
19 location. So our premise is really each individual
20 establish whereas taxpayer could have multiple
21 establishments. So as we were saying before you
22 could have a chain that has ten premises, but it's
23 really one taxpayer.

24

25

2 COUNCIL MEMBER ROSENTHAL: Right, but
3 each of the two premises would have to be \$250,000 or
4 above.

5 DEPUTY COMMISSIONER HYMAN: Correct.

6 COUNCIL MEMBER ROSENTHAL: So you might
7 as a chain owner have 10 premises, three are \$250,000
8 or over and it's on those three premises that you
9 become a taxpayer.

10 DEPUTY COMMISSIONER HYMAN: Correct.

11 That's it.

12 COUNCIL MEMBER ROSENTHAL: Okay, got it.
13 What is the average number of premises by taxpayer,
14 and also I'm wondering if you have--sorry to d this to
15 you, but if you have also the mode. In other words,
16 what number--what's the average and then what numbers
17 is the highest content?

18 DEPUTY COMMISSIONER HYMAN: You know, I
19 think that actually would be more meaningful if we
20 get you the distribution because just looking at the
21 aggregates--

22 COUNCIL MEMBER ROSENTHAL: [interposing]

23 That's right.

24

25

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2 DEPUTY COMMISSIONER HYMAN: --it's 1,100
3 premises and 7,700. So obviously the average is less
4 than two.

5 COUNCIL MEMBER ROSENTHAL: Yep.

6 DEPUTY COMMISSIONER HYMAN: But I think
7 you really want to see the distribution by taxpayer
8 because there are some chains--

9 COUNCIL MEMBER ROSENTHAL: [interposing]
10 Yes.

11 DEPUTY COMMISSIONER HYMAN: --that have a
12 lot.

13 COUNCIL MEMBER ROSENTHAL: Exactly.

14 DEPUTY COMMISSIONER HYMAN: So we can get
15 you that.

16 COUNCIL MEMBER ROSENTHAL: Exactly what
17 I'm getting at. Thank you.

18 DEPUTY COMMISSIONER HYMAN: [laughter]
19 Okay, we'll get you that.

20 COUNCIL MEMBER ROSENTHAL: And then
21 similarly, on page six of your report, you talk about
22 the mean dollar amount being about \$100,000 per
23 taxpayer. Am I reading that right?

24 DEPUTY COMMISSIONER HYMAN: Yes.

25

2 COUNCIL MEMBER ROSENTHAL: And similarly
3 on that one if you could let me know the same
4 information. So the mode or by industry how many
5 taxpayers fall into each category and that's it, and
6 again I just—I just want to reiterate that the sweet
7 spot seems to be a million dollars, and if we brought
8 the exemptions up to million dollars, you would
9 relieve many more taxpayers, and businesses
10 obviously, and the impact that's on the tax liability
11 is still below 10%, right? One, two, three, four,
12 five, six, seven, eight, nine, ten, eleven. It's 13%
13 roughly. So, you know, if we brought it up to a
14 million dollars I think that's significant, and I
15 would add to that that, you know, similarly if—if we
16 want to look to a revenue neutral approach, you know,
17 it would be interesting to understand the economic
18 impact of increasing the tax on those that pay \$4
19 million or more, what the economic impact would be on
20 those businesses. Obviously the economic impact on
21 the city would rather neutral. So, you know, to—with
22 the understanding that to the extent that if the
23 city's policy is going to be to continue to treat the
24 businesses that are, you know, trying to survive in
25 Manhattan between 14th and 96th Street as a cash

2 machine, we should work harder at targeting ones that
3 can sustain--

4 DEPUTY COMMISSIONER HYMAN: [interposing]
5 Uh-huh.

6 COUNCIL MEMBER ROSENTHAL: --that tax
7 versus the ones that are getting crushed by the tax,
8 and I think by having better data we will be able to--
9 with more detailed data we could--we could get at that
10 a little bit better. I want to see this one raised,
11 which would be great, and put it on--put it on top of
12 the \$4 million or over. So, and I'm not sure if
13 there is total agreement on that, but thank you so
14 much. I really appreciate your help on this.

15 CHAIRPERSON FERRERAS-COPELAND: Thank
16 you, Council Member. Council Member Cornegy.

17 COUNCIL MEMBER CORNEGY: Thank you, Madam
18 Chair. Good afternoon. So although I represent the
19 Outer Boroughs, well Brooklyn. So I don't know if
20 that's actually still considered to be an Outer
21 Borough.

22 COUNCIL MEMBER ROSENTHAL: [off mic] Not
23 any more. Not with this thing.

24 COUNCIL MEMBER CORNEGY: I'm just saying.
25 I-I Chair the Committee on Small Business and so I'd

2 like to just kind of drill down a little bit so I can
3 get a better snapshot of who these businesses are.
4 So for me if you could provide a breakdown of how
5 many businesses are subject to the CRT by the
6 following—by following the size of the business. So
7 for example how many businesses with 100 or under
8 employees, 150, 10 to 50 and 10 employees because it
9 just give me a better snapshot of—of who these
10 businesses are, and if you don't have—well, I'll let
11 you answer.

12 DEPUTY COMMISSIONER HYMAN: Well, that's—
13 that's a very good point. I'm trying to think of how
14 we—we don't have employees per se. We might be able
15 to try to look at it by something like gross receipts
16 of the firms or some economic indicator of the size
17 of the firm. You know, we're kind of dictated by
18 what information we have from tax filings. So
19 sometimes we can kind of cross-tabulate the
20 commercial rent tax with business tax filings and
21 seeing what kind of information they supplied there,
22 but not all business taxpayers are going to give you
23 their employment numbers. So, we could talk to, and
24 we're—we're happy to try to give you more
25 distributional information. I think probably

2 something like the size would be dictated more by the
3 receipts of the firms.

4 COUNCIL MEMBER CORNEGY: If-if you could,
5 you know, provide that information to the Chair that
6 would be important for me to be able to be helpful
7 from a small business chairman perspective
8 understanding-having just a better snapshot of who
9 those businesses are, and so I-obviously I support
10 the legislation as-as-as it is, but I'd-I'd like to
11 have a better snapshot of who those businesses are.
12 So, I don't know if what you're proposing actually
13 gets at what I'm trying to do. So if we could have a
14 conversation off line, and you could provide for the
15 body especially to the Chair.

16 DEPUTY COMMISSIONER HYMAN: As I said
17 before, it would be recommended with the report.
18 Maybe we can meet staff to staff and go through all
19 your, you know, what you require. We could tell you
20 what we can provide and what we can't. I mean we work
21 with you on that.

22 COUNCIL MEMBER CORNEGY: I'd appreciate
23 that. I'd hate to out of that have another six
24 reporting bills that I have to put forward. So let's

2 try—let's try to work this out without that. Thank
3 you.

4 CHAIRPERSON FERRERAS-COPELAND: They love
5 reporting bills. Council Member Garodnick.

6 COUNCIL MEMBER GARODNICK: Oh, yeah.
7 Thank you very much. One—one last question, and
8 thank you for your patience. Right now there is—
9 there's line below which geographically you are
10 subject to the Commercial Rent Tax, and above which
11 you are not. That line is 96th Street in Manhattan.
12 What's the justification for 96th as being the line?
13 [laughter]

14 DEPUTY COMMISSIONER HYMAN: Well, the—I
15 guess it goes back to the mid 90s. I don't know
16 precisely why 96th Street was chosen. I mean
17 obviously it's not—it's picking up more than central
18 business district. So that's correct. I can't say
19 why that's specifically was chosen. I mean the
20 general thrust of it was to—and maybe it's unfair the
21 way it was done but to provide relief in—in the nine
22 Manhattan boroughs and the northern part, but the 96
23 line I can't explain specifically.

24 ASSISTANT COMMISSIONER KARASYK: The
25 Borough President says she know why. [laughter]

2 COUNCIL MEMBER GARODNICK: Well, we'll
3 get her up next. Thank you.

4 CHAIRPERSON FERRERAS-COPELAND: Well,
5 thank you very much for coming to testify. Please make
6 sure that everything you committed to following with
7 us on you will, and I know that you will. Thank you.
8 We will call up the next panel, which is our Borough
9 President Gale Brewer, Manhattan Borough President.
10 [pause] And just for the record, we were joined by
11 Council Member Rodriguez. [pause]

12 GALE BREWER: Thank you very much, Madam
13 Chair. I am Gale Brewer, the Manhattan Borough
14 President. I want to thank Chair Ferreras for
15 holding this hearing and all of the members on this
16 really important issue of Commercial Rent Tax reform
17 legislation. I think you know that New York City is
18 one of the few cities in the United States with a
19 Commercial Rent Tax. Our version of the tax piles an
20 additional cost on top of the commercial tenant's own
21 rent liabilities, and makes it more difficult to
22 weather the ups and downs of the business cycle.
23 Everyone recognizes that the Commercial Rent Tax also
24 known as CRT, is unfairly burdensome, which is why
25 opponents of the tax successfully eliminated it from

2 the Bronx, Queens, State Island the even Brooklyn.

3 Here in the Borough of Manhattan it only applies

4 south of 96th Street and north of Murray Street, and

5 I think Council Member Garodnick it's because Ruth

6 Messinger could not get rid of it completely and it-

7 which was the best she could do. But I have

8 [laughter]-I'm calling her in a few minutes to get

9 the actual story, but I remember that part. Everyone

10 seems to accept that the tax is too much for business

11 to bear it all-to bear it in all of those excluded

12 areas that I mentioned, and Manhattan's small

13 business should not be treated differently. Their

14 financial burdens are made unbearable by this same

15 commercial property market as you know. It's no

16 secret that building owners negotiate their

17 commercial leases to pass along every cost they

18 possibly can to their commercial tenants. This

19 includes property taxes increases, too. Perhaps only

20 in New York will we venerate our storefronters and

21 then ask them to pay a tax that is assessed on

22 someone else's taxes. I support Intro 799, intro-

23 introduced, as you know, by Council Member Dan

24 Garodnick, and I think it is long overdue. I've

25 often said that if my colleagues in the other

2 boroughs--like the wonderful Council Member from
3 Brooklyn--want to see what kind of challenges pre-cure
4 (sic) has in store for them, they should take a look
5 at Manhattan. We're losing our affordable grocery
6 stores in communities across the island up and down.
7 The majority of successful grocery stores have raised
8 within margins, and it isn't easy to rent out large
9 spaces in the hot market. In the past, grocery store
10 owners have leverage because no other type of
11 business could utilize such a larger floor area, and
12 if one grocery store closed another would come in and
13 take its place. Now it seems that for every grocery
14 store we have in our residential neighborhoods, there
15 is a Walgreens or a CVS waiting to take the lease.
16 Full service grocery stores are central, as you know,
17 to providing local access to a range of affordable
18 fresh foods and staples for home preparation and
19 consumption especially for older adults and families.
20 In its 2008 going to a two-market report, the city's
21 Department of City Planning, Health and Economic
22 Development found a data driven connection between
23 neighborhoods that were underserved by grocery stores
24 and the higher rate of diet related diseases, obesity
25 and diabetes. Underserved neighborhoods also missed

2 out on the economic development benefits of
3 supermarkets including job creation and neighborhood
4 revitalization. These findings led to the launch of
5 the FRESH program in the previous City Council, which
6 I was in, which encouraged the establishment and
7 retention of full grocery stores through financial
8 and zoning incentives, and yet Manhattanites FRESH
9 zones are located well outside the CRT zone and the
10 last two years have seen the closure of too many
11 supermarkets between 96th Street and Murray Street.
12 We have to allow grocery stores to be more
13 competitive and we can start by removing the CRT
14 burden. Council Member Johnson and I, as you know,
15 are sponsoring a bill to exempt affordable grocery
16 stores from just that. My office took a close look
17 at what is going on with supermarkets in Manhattan.
18 Even with lower costs per square foot than their
19 neighbors, the amount of floor area that grocery
20 stores require will qualify them for the high end of
21 the Commercial Rent Tax. In exchange for this tax,
22 the City of New York can get far more value by
23 partnering the supermarkets and their workers to
24 invest in healthy communities and local economies.
25 Council Member Johnson and I crafted this bill to

2 resemble the FRESH programs insistence on produced,
3 fresh meats and dairies. Store that seek the CRT
4 exemption must accept SNAP and WIC, and I know that
5 in one case recently affordable—an affordable grocery
6 store chain got rid of the WIC program. So maybe by
7 having this program they would bring back the WIC
8 program. For stores that seek CRT exemption must
9 accept SNAP and WIC is really important while earning
10 the majority of their revenue from the sale of
11 grocery items. The stores must also be affordable so
12 we can maintain the vital tapestry of people from
13 different economic backgrounds who make Manhattan
14 their home. I recognize that affordability is
15 relative, and look forward to working with the
16 Departments of Finance and Health to develop a
17 formula, and process that measures affordability.
18 Thank you for the opportunity to testify today in
19 support of the rule changes. I want to thank
20 supermarket owners and representatives of Local 338
21 and 1500 for their input to testify on the proposed
22 legislation. I also appreciate the consideration of
23 Council of Hunter College's Food Policy Center and
24 CUNY's Urban Food Policy Center, and thank them both
25 their insight on the bill we'll be sharing today, and

2 I look forward to working with the Council and the
3 Administration to support access to affordable,
4 healthy food as well as small businesses throughout
5 the Borough of Manhattan. As I said earlier, it's no
6 joke the supermarkets could become like that Pied
7 Piper, which is an endangered species of bird if we
8 don't try to do something about them. Thank you very
9 much.

10 CHAIRPERSON FERRERAS-COPELAND: Thank
11 you, Madam Borough President. I actually have a-a-
12 well, one of the statements that I think we share in
13 envisioning or what inspired you to put this
14 legislation together, for me it's been, you know, for
15 many immigrant families this is the pipeline to be
16 able to have success. Often times the narrative has
17 been you are able to either work in a bodega, maybe
18 some day own a bodega, and then sell that bodega to
19 be able to buy a supermarket, and only to be burdened
20 with fees and penalties and even more costs than you
21 could have ever imagined, but many have been able to
22 be successful in the supermarket industry. So
23 obviously we would want to prevent any intentional
24 burden to be placed on supermarkets, on local
25 supermarkets and at least Council Chin alluded to

2 that just happening in Little Italy with one of her
3 small business owners. When you envision or state in
4 your legislation affordable, how can you or where-how
5 are you envisioning affordable, right? Because some
6 people have the argument will Whole Foods be able to
7 benefit from this-

8 GALE BREWER: [interposing] Yes.

9 CHAIRPERSON FERRERAS-COPELAND: --or is
10 the small or small to medium sized? Because also
11 some supermarket owners may own multiple sites, but
12 it doesn't make them a corporation like a billion
13 dollar corporation. So what are you envisioning?

14 GALE BREWER: Well, to be honest with you
15 it probably would not be Whole Foods--

16 CHAIRPERSON FERRERAS-COPELAND: Right. I
17 hope.

18 GALE BREWER: --to be honest, to be
19 honest unless their prices go way down. What you
20 would do is a marketplace a basket, which is actually
21 defined by the federal government. So you would look
22 at the price of making their products, fish, chicken,
23 peas. There's a marketplace basket that is standard
24 around the United States. We would look at that
25 working with the Departments of Health and Finance to

2 come up with a formula. So there's—but there is a
3 basis that has already been established in terms of
4 the items that you would look at.

5 CHAIRPERSON FERRERAS-COPELAND: And then
6 is there--because one of the other concerns or, you
7 know, just kind of figuring out how we can create or
8 carve out the best way to protect the intention of
9 the bill. You know, when I go into Duane Reade's or
10 Walgreens, they're selling more and more food.

11 GALE BREWER: [interposing] Okay, so that
12 I can answer.

13 CHAIRPERSON FERRERAS-COPELAND: And even
14 like a Target sells more and more food.

15 GALE BREWER: That I can definitely
16 answer so clearly.

17 CHAIRPERSON FERRERAS-COPELAND: Great.

18 GALE BREWER: When we pass the—the
19 neighborhood and Council Member Cornegy knows when we
20 pass the neighborhood zoning on the Upper West Side,
21 so that you can only have grocery stores a certain—it
22 can be a certain size as large as they want, but a
23 regular store can only be 40 per—40 feet and a bank
24 can only be 25 feet long. So then I panicked. I
25 said what happens if Walgreens comes in as a grocery

2 store, right? Because that would be terrible. Then
3 my whole legislation would be for naught, and I
4 understand from the City Planning Commission, which
5 is involved here, that the amount of groceries that a
6 Walgreens or CVS has probably will never amount to
7 the definition of a grocery store. Now, it should be
8 looked at more carefully, but the grocery store has a
9 unique definition in the City Planning definition.

10 CHAIRPERSON FERRERAS-COPELAND: Okay.

11 GALE BREWER: [interposing] So it is
12 something to look, but I can tell you I spent like
13 three years defining a—a CVS versus a grocery store.

14 CHAIRPERSON FERRERAS-COPELAND: Right.

15 GALE BREWER: And I felt confident after
16 that that my law would not become an opening for
17 Walgreens and the others.

18 CHAIRPERSON FERRERAS-COPELAND: Okay.

19 GALE BREWER: That's a good question.

20 CHAIRPERSON FERRERAS-COPELAND: I try.

21 GALE BREWER: You do it excellently.

22 CHAIRPERSON FERRERAS-COPELAND: [laughs]

23 Thank you very much.

24 GALE BREWER: Thank you very much.

2 CHAIRPERSON FERRERAS-COPELAND: And we'll
3 now hear from Council Member Cornegy.

4 COUNCIL MEMBER CORNEGY: So you, Madam
5 Borough President, you mentioned—you referenced your
6 FRESH program.

7 GALE BREWER: Yes.

8 COUNCIL MEMBER CORNEGY: Everybody I know
9 who's been involved in the FRESH program has said
10 that it's been terribly unsuccessful based on a
11 myriad of reasons some being just the application
12 process, some being the—the long drawn out process.
13 I want to know if that's been your experience as
14 well.

15 GALE BREWER: No, the embarrassing part
16 for me is I haven't had that much experience with the
17 neighborhoods in the past have that I represented in
18 the Council did no qualify, and I think also the
19 problem is it hasn't been a program that a lot of
20 people want to apply for the reasons that you just
21 emphasized. So I would hope that what we're talking
22 about in the CRT area, you know, from Chambers to
23 96th Street that—that it will be a much easier
24 process. I hope that their market—basket market that
25 is already in existence on the federal level will be

2 easier to administer. The FRESH is very—it's a very
3 complicated formula just kind of like the carts that
4 we were all going to have, you know. I haven't seen
5 too many carts, you know, FRESH carts. The same
6 problem. There are so many regulations about where
7 you can't do this, that and the other that you end up
8 not doing it. Nobody applies.

9 COUNCIL MEMBER CORNEGY: And—and just
10 kind of off this topic, but I certainly would love
11 your opinion on the fact that we currently are trying
12 to work with Finance to have the same structure, the
13 same tax benefit structure to take those large
14 footprints and break them up for small businesses
15 into small footprints so that small businesses could
16 be successful.

17 GALE BREWER: I would love to work with
18 you on that.

19 COUNCIL MEMBER CORNEGY: Okay, thank you.

20 GALE BREWER: I would love to work with
21 you on that.

22 CHAIRPERSON FERRERAS-COPELAND: Thank you
23 and I just wanted to add, as you mentioned in your
24 testimony, these supermarket still provide a lot of

2 opportunities not just for the owners, but also the
3 workers--

4 GALE BREWER: [interposing] Yes.

5 CHAIRPERSON FERRERAS-COPELAND: --and I
6 think, you know, it's-it's a pipeline. For a lot of
7 people it's their summer job. Some people it's how
8 they keep food on the table. So it-it really does
9 provide a diversity of positions within the
10 supermarket. So I think--

11 GALE BREWER: [interposing] Right, and--
12 and also only several supermarkets would not matter
13 with the marketplace, the baskets that's irrelevant.
14 It's the cost at that location.

15 CHAIRPERSON FERRERAS-COPELAND: Okay,
16 well, we will continue to work with you on your
17 legislation--

18 GALE BREWER: [interposing] Thank you.

19 CHAIRPERSON FERRERAS-COPELAND: --and
20 thank you very much for coming--

21 GALE BREWER: [interposing] Thank you
22 very much.

23 CHAIRPERSON FERRERAS-COPELAND: --to talk
24 to us today.

2 GALE BREWER: And I'll get the answer for
3 Council Member Garodnick very specifically.

4 CHAIRPERSON FERRERAS-COPELAND: Please do
5 and now we will have George Sweeting from the
6 Independent Budget Office. [background comments,
7 pause] You may begin.

8 GEORGE SWEETING: Okay. Good afternoon,
9 Chair Ferreras-Copeland and members of the committee.
10 Thank you for the opportunity to testify regarding
11 the package of Intros that would make changes to
12 City's Commercial Rent Tax. Before speaking about
13 the particulars of the legislation, I'd like to offer
14 some broader observations regarding the CRT. The
15 City CRT is subject to a number of criticisms.
16 First, it is virtually unique. As has already been
17 noted, it's only the state of Florida that has a
18 similar tax. Imposing such an unusual tax reinforces
19 the notion that New York is a high tax location, and
20 they weaken the efforts to attract and retain
21 businesses. The CRT also pyramids—again this has
22 been discussed—one tax upon another. Some part of
23 the rent charged by landlords to tenants reflects the
24 owner's expenses, expenses that include property tax.
25 Moreover, commercial leases in the city commonly

2 include a tax escalation clause that explicitly
3 passes on some or all of annual increases in property
4 taxes to the tenants. With a portion of the
5 landlord's property tax included in the rent, the CRT
6 is in part a tax on the property tax, and such
7 pyramiding is considered undesirable from the best
8 practice perspective. Another critique is that the
9 CRT treats otherwise similar businesses differently
10 depending on where they—whether they own their
11 building or where they are located in the city.

12 While it is easy to find flaws with the CRT, there
13 are things to bear in mind if contemplating its
14 repeal. First, the City expects to generate \$816
15 million in CRT revenues this year, and \$848 million
16 next year or about 1.5% of all tax revenue. These
17 amounts are roughly equal to the city funded
18 expenditures of the Department of Homeless Services
19 and larger than the city funded spending at agencies
20 such as the Department of Health and Mental Hygiene,
21 Transportation and Parks and Recreation. If the tax
22 revenue were not replaced by raising other taxes,
23 significant cuts in city funded services would be
24 needed to keep the budget in balance. Nor it is
25 like—nor is it likely given the relatively unilastic

2 supply of commercial space, and the relatively low
3 commercial vacancy rate for Manhattan that
4 eliminating the CRT would generate substantial new
5 economic activity and associated tax revenue. With
6 personal and business income taxes in the range of 4
7 to 5-4 to 6%, the tax cut would need to add about
8 1.5% to the total output of the city in order to be
9 revenue neutral. None of this is to say the city
10 should not consider major reductions in the CRT, but
11 rather that it should be done with realistic
12 understanding of the changes on the revenue and/or
13 spending sides of the budget that would likely be
14 necessary. [background comments] Moreover, it is
15 unlikely that the tenant businesses would enjoy the
16 full benefit of any tax cut. Although the legal
17 liability of the tax falls on the tenants, some of
18 the economic effect of the tax falls on landlords who
19 are forced to accept somewhat lower rent to attract
20 tenants to buildings otherwise subject to the tax.
21 Exactly how much of the economic effect of the tax is
22 shifted from tenants to landlords depends on market
23 conditions when leases are signed, but it is
24 reasonable to assume that landlords would be able to
25 extract at least some of the benefits of tax

2 reduction through higher rents if the CRT were
3 eliminated or reduced.

4 Turn—turning now to the legislation
5 before the committee today. Intro 799-A would extend
6 the current rent exemption from \$250,000 to \$500,000,
7 and provide a sliding scale credit for those
8 taxpayers with rent between \$50,000--\$500,000 and
9 \$550,000 to avoid a sharp cliff in the tax liability.
10 The current exemption amount has been in place since
11 2001 with no adjustment for inflation in the interim.
12 However, the doubling of the exemption amount exceeds
13 the 44% change in the Consumer Price Index and the
14 27% change in office rents in the intervening years.
15 Based on data supplied the Department of Finance, IBO
16 estimates that approximately 3,540 firms that
17 currently pay a total of \$47 million in CRT would be
18 eliminated from the tax with an average savings of
19 about \$13,250. Another \$475 would have their CRT
20 liability reduced by about \$4.8 million or \$10,000--
21 \$10,100 on average. Given the relatively low rents
22 paid by these tenants it is likely that many are
23 small firms renting relatively small spaces. These
24 results are consistent with the goal of reducing the
25 tax burden on small businesses. If implemented,

2 Intro 799-A would lead—would likely leave the city—
3 would likely leave the CRT tax base even more
4 dependent on the relatively small number of large
5 firms. For the 2016 tax year, over 51% of the
6 liability, \$388 million came from just 368 tax
7 credits about less than 5%. Turning to Intro 1376 I
8 would first like to compliment the Department of
9 Finance for taking steps in recent years to make
10 basic distributional information about the CRT
11 available on this—on the department's website. The
12 intro would go further by calling for two-way tables
13 such as the distribution of taxpayers and liability
14 by base rent range, industry and location. This
15 additional information would be useful for analysts
16 and others trying to learn about who is paying the
17 tax, and how the burden is distributed. Based on
18 IBO's recent experience working with the CRT data we
19 currently receive from the Finance Department there
20 may be challenges in using the data to identify the
21 location of CRT taxpayers as called for in the Intro
22 particularly those with multiple premises. Likewise,
23 we encounter difficulties with the industry code and
24 which makes it problematic to assess the effects—the
25 effects of the other two intros being considered

2 today. So thank you again for the opportunity to
3 testify, and I'd be happy to answer any questions you
4 may have

5 CHAIRPERSON FERRERAS-COPELAND: Thank you
6 so very much. Council Member Garodnick.

7 COUNCIL MEMBER GARODNICK: Thank you very
8 much Mr. Sweeting. We appreciate your presence here
9 today. You know, I just wanted to talk about the
10 third paragraph in your testimony, which refers to
11 the--the full contemplate--the contemplation of the
12 full repeal of the Commercial Rent Tax because your
13 testimony certainly leaves the impression for
14 somebody who was not necessarily a sophisticated
15 listener that what we are proposing here might cost
16 the city \$848 million--

17 GEORGE SWEETING: Uh-huh.

18 COUNCIL MEMBER GARODNICK: --equal to the
19 expenditures of the Department of Homeless Services,
20 Health and Mental Hygiene, Transportation, and Parks
21 and Recreation, but that's not actually what we are
22 proposing here today, and I just wanted to make sure
23 that that is at least clear for anybody who's
24 listening or watching.

2 GEORGE SWEETING: Yes, and—and absolutely
3 we understand that. We—but we wanted to—I think it's
4 useful to have some basic context when talking--

5 COUNCIL MEMBER GARODNICK: [interposing]
6 Sure.

7 GEORGE SWEETING: --about the whole tax.

8 COUNCIL MEMBER GARODNICK: But—but the
9 difference between \$52 million and \$848 million is—
10 it's—it's certainly material and I think all sides of
11 the table, and contemplating what, you know, how we
12 could actually deliver that sort of relief. So I
13 just wanted to make sure that that was—that was
14 clear. Nonetheless, we appreciate your testimony.
15 Thank you.

16 CHAIRPERSON FERRERAS-COPELAND: Thank
17 you, Council Member. Thank you very much for coming
18 to testify today.

19 GEORGE SWEETING: Okay, uh-huh.

20 CHAIRPERSON FERRERAS-COPELAND: We will
21 now hear from Nelson Rosario of the National
22 Supermarkets Association and Paul Fernandez from Net
23 Food followed by the next panel will be Jessica
24 Walker, Manhattan Chamber, Andrew Rig—Rigie. Sorry
25 if I—Rigie, Hospitality Alliance, and Michael

2 Slattery of REBNY and Billy Richling, Ten Square
3 Alliance. [pause] You may begin. [pause]

4 NELSON ROSARIO: Oh, okay. It says here
5 good morning, but I believe it's good afternoon.
6 Good afternoon, Chair Ferreras-Copeland and other
7 members of the New York City Council Committee on
8 Finance. My name is Nelson Rosario, and I'm here
9 representing the National Supermarket Association,
10 the NSA. The NSA is a trade association that
11 represents the interests of independent supermarket
12 owners in New York and other urban areas throughout
13 the East Coast, and an active region in Florida.
14 (sic) In the five boroughs alone we represent 400
15 supermarkets that employ over 15,000 New Yorkers.
16 I'm here today to testify in support of Intro 5597, a
17 Local Law to amend the Administrative Code with the
18 City of New York in relation to exempting certain
19 grocery stores from the commercial rent tax. First,
20 we would like to thank Borough President Gale Brewer
21 and Council Member Corey Johnson for taking a
22 meaningful and comprehensive look at the existing
23 business climate for grocery stores in Manhattan.
24 It's no secret that the industry is in crisis,
25 particularly Manhattan with local grocery stores

2 closing their doors regularly and leaving
3 neighborhoods void of healthy food options. The
4 elimination of the Commercial Rent Tax for grocery
5 stores would be a significant step towards protecting
6 the viability of the supermarket industry. It will
7 not only save local grocery stores tens of thousands
8 of dollars that will be reinvested in the stores of
9 the community would also spare store owners what
10 basically is a double tax on property in Manhattan.
11 Faced with excessive taxes, sky high rents, and
12 cumbersome fines of burdensome regulations, NSA feels
13 that the CRT extension is necessary to relieve the
14 industry is vital to the city. The city should have
15 vested interest in helping supermarkets keep their
16 doors open because (1) it's a public health concern,
17 and (2) it's an economic development issue, and
18 here's why. First, we know that access to local
19 supermarkets is vital for the health of every
20 community. Studies have shown that access to grocery
21 stores first one would lower obesity rates, diabetes—
22 diabetes and—and diet related deaths. In addition to
23 health benefits, supermarkets offer a cost saving
24 measure for many individuals and households that
25 cannot afford to regularly buy pre-cooked meals or

2 eat out. Second, small business are to a city where
3 supermarkets are to the community, the life blood.
4 Supermarkets are economic drivers. They employ
5 thousands of people citywide. Not only do they
6 employ a significant amount of people, they employ
7 from the community in which they serve. Most of our
8 owners have been in their neighborhoods for years.
9 They know their customers by name, they contact with
10 local vendors and contribute to a robust ecosystem in
11 their neighborhood. So while NSA comes here today in
12 support of this bill, it is absolutely necessary that
13 it be executed correctly and live up to the spirit of
14 the law. With that being said, we caution against
15 giving too much discretion to the agency that tasks
16 are overseeing implementation and refining what
17 supermarkets are. If this becomes an arbitrary
18 process, it defeats the purpose of trying to help the
19 industry at large. I appreciate your time, and
20 welcome any questions.

21 CHAIRPERSON FERRERAS-COPELAND: [off mic]
22 Thank you.

23 PAUL FERNANDEZ: Yes. My name is Paul
24 Fernandez, and I want to thank Gale Brewer, the
25 Borough President and Corey Johnson, Margaret Chin,

2 and other friend Ferreras—Julissa Ferreras—Copeland
3 and everyone here for supporting this bill. I'm one
4 of the casualties of this excessive rent, excessive
5 taxation, and especially the Commercial Rent Tax, and
6 I've been in the Little Italy area for about 42
7 years. First operated a deli for like 15 years and
8 the last 25 I have a—I opened a supermarket on
9 Mulberry Street, and—and again, I want to—I want to
10 try to be brief, but some—nine years ago my rent went
11 up 700% in one shot. That was also at the time when
12 Whole Foods is opened three blocks away. To make a
13 long story short, I've been in the community and I
14 care for the community, and I know four generations
15 in Little Italy. So I've been slicing baloney in
16 Mortadella for about 40 years in the neighborhood.
17 So I know everyone in the neighborhood, and I really,
18 really—it was very visible for me when I closed the
19 doors to see the old ladies crying on my shoulders,
20 and saying, you know, we need a supermarket. What's
21 going to happen? But obviously that is a problem
22 that's happening to too many neighborhoods now, and
23 apparently this is—this is not easy to—to solve, and
24 we can—we're going to have arguments back and forth,
25 and for them and against, and we're not going to come

2 away with a solution. But this is a great step in
3 addressing the—the problem. On top of 90—what is it?
4 A million, yeah, a \$1 million 80 in rent that I paid,
5 and mind you I wasn't—I was losing money, but the
6 landlord when I went to him during the Recession I
7 asked and I asked him to reduce my rent so I could
8 save this, and he said you have a personal guarantee,
9 and I know you have a home that I could keep. So you
10 can't walk away. I'm not going to reduce your rent
11 for you and—and just wait out with your lease. On
12 top of that, I paid almost \$100,000 in—in—in real
13 estate taxes and close to about \$40 in Commercial
14 Rent Tax. Therefore, if I didn't have all the
15 resources, I would not just—I don't know what would
16 happen, but the bottom line is I—I know the city, I
17 know the Department of Finance they need every penny
18 that they could get, and this is a great city, and
19 they—and I know it needs a lot of resources to—to—to
20 run it. But we need to really start looking at the
21 serious problem. How many—your kids and mine,
22 basically you—you're paying 30 to 50% of your income
23 just to pay rent, and that's just the beginning.
24 Never mind everything else. There are other problems
25 that we need to address. Obviously we are here for

2 the CRT, and—and that's why we're going to keep it,
3 but the bottom line is please—yeah, \$40,000 a month
4 over five years would have been enough for me to
5 renovate my store, and I—I still would have been
6 there. So basically I really appreciate you all
7 taking the time to address this—this issue, and thank
8 you. You all have a nice day.

9 CHAIRPERSON FERRERAS-COPELAND: Okay,
10 Thank you very much and you actually answered a lot
11 of my questions because I wanted to understand the
12 breakdown of the affordability, and you did that.
13 Can you—just so we understand with the numbers that
14 you gave us, what was the size of your store, and how
15 many people did you employ?

16 PAUL FERNANDEZ: 5,600 square feet, and I
17 had around 40 some odd employees.

18 CHAIRPERSON FERRERAS-COPELAND: So when
19 you shut your doors, do you know what happened to
20 your employees?

21 PAUL FERNANDEZ: No, I—I have other
22 supermarket that I placed ending business. So no—
23 nobody was left out.

24

25

2 CHAIRPERSON FERRERAS-COPELAND: But if
3 someone doesn't have the opportunity that you have
4 what would happen? Those people would be unemployed.

5 PAUL FERNANDEZ: Obviously, they will be
6 left out of a job. Yes.

7 CHAIRPERSON FERRERAS-COPELAND: And, you
8 know, often times people hear supermarket workers,
9 they think it's just either the girls at the register
10 of the stock boys, but can you just talk about the
11 different types, and I guess Rosario you can also
12 speak to this, the different types of--of employment
13 opportunities that are available within a
14 supermarket.

15 NELSON ROSARIO: Well, there's a lot of
16 management positions to begin with.

17 CHAIRPERSON FERRERAS-COPELAND: Get on
18 the mic.

19 NELSON ROSARIO: There are--there are
20 management positions to begin with. You need to
21 trained professional as a butcher, a butcher
22 assistant. You need a trained deli manager. You
23 need a trained bakery personnel. Beside that, below
24 them there's a lot of assistant managers that require
25 years of experience in the industry. But I just want

2 to say that this is—if you notice, Paul said that his
3 store was 5,800 square feet. It's a known fact that
4 smaller business per square feet employ more people
5 than larger businesses do per square feet. That
6 Whole Foods, which is three blocks away from Paul I
7 dare to say in 30,000 square feet maybe employs 50 to
8 60 people tops. That's why small business is so
9 vital to the community because even an employment
10 fact or is greater than the large box stores.

11 CHAIRPERSON FERRERAS-COPELAND: Thank you
12 very much. Thank you for that. We've been joined by
13 Council Member Levine. We will now hear from Council
14 Member Cornegy.

15 COUNCIL MEMBER CORNEGY: Good afternoon.
16 So I just have one question. Do you know the
17 percentage of local hires in your store? Like how
18 many people in the immediate area of your stores did
19 you employ?

20 PAUL FERNANDEZ: Honestly, they come from
21 all over. So it's not all local, but you have
22 basically—I—I don't have the number, but I—it's
23 obviously a—I don't know. Let's say 20, 25% greater
24 or even—even more better than the assigned number,
25 but obviously it's an entry level job when they come

2 in, and that grows. They—those are the next managers
3 and—and—and—and the next meat butchers and—and deli
4 managers. So you could—you could start at minimum
5 wage, and you could easily climb to—to a \$50 or
6 \$75,000 job in—in the industry. So it's—it's—it's a
7 problem.

8 NELSON ROSARIO: Councilman Cornegy when
9 Paul says local, he means the five boroughs. We're
10 not employing people from another state. It's mainly
11 the five boroughs, and I will tell you yes that 50%
12 of the employees are directly within a 15 square
13 block radius because cashiers who are the bulk of the
14 employees cannot come from other boroughs. They come
15 directly from the neighborhood, and a lot of them are
16 lower entry level jobs like the store or the stock
17 clerks are local people men and women.

18 COUNCIL MEMBER CORNEGY: Do you have an
19 average amount of time that someone stays with you
20 like they come in and maybe in 10, 15, 20 years like
21 what—what's the average amount of time that an
22 employee in a local supermarket generally—generally
23 stays. I know this is a generalization.

24 NELSON ROSARIO: Yes.

2 COUNCIL MEMBER CORNEGY: I'm just
3 curious.

4 NELSON ROSARIO: It depends on the
5 position. Mostly cashiers are part-time workers and
6 they're kids going to school, high school and
7 college, and they are in a transition period, but the
8 upper tier jobs like the butcher, the—the produce
9 manager, the deli manager, they stay a long time, and
10 their assistants do, too.

11 PAUL FERNANDEZ: They—they stay.

12 NELSON ROSARIO: I would say easily ten
13 years. I'm sorry. Go ahead.

14 PAUL FERNANDEZ: The industry by nature
15 it is a high turnover industry, but in my case I have
16 about eight employees. A couple of them have—have
17 been with me since the—the—since we opened the store
18 in '92, and I have and some 12, 15 years. Obviously,
19 the cashiers and—and the stock boys a good number of
20 them really they are—they are temporary. They are in
21 college. They are in high school, and obviously they
22 move from the neighborhood. So it's a highly—there's
23 a high turnover, but in my case I had around 8 to 10
24 employees that some of them have been with me since
25

2 the beginning of--of are with me since the beginning
3 of the opening of that store in '92.

4 COUNCIL MEMBER CORNEGY: And I know you
5 were saying that you had at least one more location.
6 Do you have more than that?

7 PAUL FERNANDEZ: Yes. I have another
8 location in Chelsea of 20--28 and that's where I
9 transferred most--transferred most of my employees,
10 and--and I placed them some with friends that I know
11 that are in the industry as well.

12 COUNCIL MEMBER CORNEGY: So is that
13 industry a very close knit network?

14 PAUL FERNANDEZ: Yes.

15 COUNCIL MEMBER CORNEGY: The supermarket
16 industry?

17 PAUL FERNANDEZ: Yes. We--obviously all--
18 we all suffer from the same--from the same problems,
19 which is obviously a lot of--of legislation and--and
20 just a very ultimately a very high cost of operating,
21 which is affecting our industry.

22 NELSON ROSARIO: Council Member. Oh, I'm
23 sorry for the group that we represent the NSA does
24 that. That's why we're in association of
25 supermarkets independent supermarket owners to

2 support our supermarket owners with a different type
3 of assistance that they need to run their stores
4 whether economically or politically.

5 COUNCIL MEMBER CORNEGY: Thank you for
6 your testimony.

7 NELSON ROSARIO: Thank you.

8 PAUL FERNANDEZ: Thank you.

9 CHAIRPERSON FERRERAS-COPELAND: Thank
10 you. Thank you very much for coming to testify.
11 [background comments] Oh, I'm sorry. I'm sorry.
12 Don't go. Council Member Chin.

13 COUNCIL MEMBER CHIN: Well, I just--

14 PAUL FERNANDEZ: [interposing] I'm sorry.

15 COUNCIL MEMBER CHIN: --I just wanted to--
16 to thank Mr. Fernandez for coming. That's the
17 supermarket in my district that was closed. [laughs]

18 PAUL FERNANDEZ: Thank you, Madam.

19 COUNCIL MEMBER CHIN: But we want to make
20 sure that you can open up again. So we're still
21 continuing to look for--

22 PAUL FERNANDEZ: [interposing] You're
23 going to help me, right?

24 COUNCIL MEMBER CHIN: Yeah, we're helping
25 you looking for a safe and hopefully in a, you know,

2 facility that's subsidized by government. Maybe in
3 an affordable housing development. But definitely
4 what he talked about is so true that I mean the--the
5 leg--one of the legislations wouldn't cover because he
6 pays over a million dollars in rent in--in this--the
7 place on Mulberry Street, but on top of that, 40--more
8 than \$40,000 a year for Commercial Rent Tax and that
9 money could be re-invested back into his business. So
10 that's why it's so important for the other
11 legislation that's introduced by the Borough
12 President and Council Member Johnson about exempting
13 affordable supermarkets and make sure that you can
14 continue. So we look forward to working with you. I
15 look forward to you coming back to my district.
16 Thank you.

17 PAUL FERNANDEZ: Thank you.

18 NELSON ROSARIO: Thank you and I just
19 want to say that within our group within this 96 and
20 below, within the--the NSA, we have about 10 stores
21 that are scheduled also that might be closing because
22 of this rent increase.

23 COUNCIL MEMBER CHIN: Well, hopefully
24 we'll get that.

2 CHAIRPERSON FERRERAS-COPELAND: I think
3 it would be good if you can share with us maybe a
4 fact sheet on businesses that are kind of at risk of
5 closing--

6 NELSON ROSARIO: [interposing] Correct.

7 CHAIRPERSON FERRERAS-COPELAND: --it might
8 be helpful for us--us also as a committee.

9 NELSON ROSARIO: We will definitely do
10 that. Thank you.

11 CHAIRPERSON FERRERAS-COPELAND: Thank you
12 very.

13 PAUL FERNANDEZ: [interposing] I-I just
14 wanted to say that the city through the FRESH
15 program, which Tita (sic) is doing a tremendous--Tita
16 and her team is doing a tremendous job with the FRESH
17 program, and that's--that's a also--it's going to help
18 over the long time, but there is so much more that
19 needs to be done, and I like the National Supermarket
20 Association to be involved in a--in a panel that
21 allows for us to be participate in coming up with--
22 with a deal that will help like for example on the
23 new development obviously when you give the developer
24 a--a--a FAR to--to allow a--a--a food store to be on the
25 commercial space and give them certain tax benefits,

2 but you know what, in 10 or 15 years, you go back to—
3 you go back to—to—to square one. You face the same
4 problem. There are street—the city should go a
5 little bit further in—in—in maybe creating ownership
6 and—and negotiate at the beginning when—when you have
7 an opportunity. Once the building is built, and the
8 landlord is going to throw you out and go and get the
9 next one, and you, you know, and—and the cycle will
10 continue. So just—just for information, I'd like you
11 just to consider.

12 CHAIRPERSON FERRERAS-COPELAND: [off mic]
13 Thank you very much. Thank you for testifying.

14 NELSON ROSARIO: Thank you.

15 PAUL FERNANDEZ: Thank you.

16 LEGAL COUNSEL: The next panel will be
17 Jessica Walker, Michael Slattery, Angel Rigie and
18 Billy Richling.

19 CHAIRPERSON FERRERAS-COPELAND: [off mic]
20 Thank you. [pause]

21 JESSICA WALKER: Good afternoon. My name
22 is Jessica Walker. I'm with the Manhattan Chamber of
23 Commerce. The Chamber is an organization that drives
24 broad economic prosperity by helping businesses of
25 all sizes to succeed in New York. Thank you so much

2 for having us. This is a long time coming, and we're
3 very excited. As has already been addressed here
4 today, escalating rents are threatening the survival
5 of many small businesses in Manhattan, and the
6 Commercial Rent Tax is making this problem worse. We
7 urge the City Council and the Mayor to include relief
8 from this burdensome tax in this year's budget.

9 Councilman Garodnick's bill Intro 799-A is a
10 promising first step in this regard as it would raise
11 the threshold at which businesses are captured. Last
12 year the Chamber issued a report showing that more
13 and more businesses are being captured by this tax.
14 In 2003, the City collected nearly \$388 million from
15 more than 5-5,800 businesses. By 2015, more than
16 7,000 businesses were on the hook for the tax paying
17 \$720 million to the city, and obviously that number
18 is just growing. The average CRT liability per
19 taxpayer also increased in that time period growing
20 from \$80,000 to about \$100,000, and that's on top of
21 the growing number of well intentioned yet expensive
22 government mandates such as increased wages, paid
23 sick leave and healthcare requirements.

24 Unfortunately, we also were able to determine that
25 many unprofitable businesses are paying the tax. So

2 through the City's Department of Finance the
3 aggregate of the data I think it was something that
4 they talked about earlier when they were here about
5 being able to compare a taxpayer's income to how much
6 they pay in CRT. So they looked at 20—they looked at
7 1,200 businesses, and looked at what their income was
8 in 2012, and all of them were very low profit—had
9 very low profit margins. So less—made—made less than
10 \$100,000 each. These—these companies, these 1,200
11 businesses earned a combined \$14 million in net
12 income in 2012, but we found that their 2014 combined
13 CRT liability was actually \$19 million. So higher
14 than the income that they—they had, and—and the
15 aggregate in 2012 and this disparity was particularly
16 pronounced among the retrieval businesses that so many
17 of us are trying to save. So in short, exempting
18 these businesses from the tax will help them survive,
19 and hopefully grow here, and they're depending on all
20 of us to get this done. I think we're very
21 optimistic that something can be done in this budget.
22 So thank you.

23 CHAIRPERSON FERRERAS-COPELAND: [off mic]

24 Thank you.

25

2 ANDREW RIGIE: Good afternoon, Council
3 Member. My name is Andrew Rigie. I am the Executive
4 Director of the New York City Hospitality Alliance.
5 We are trade association that represents restaurants
6 and bars throughout the five boroughs. Many of our
7 members happen to be located in Manhattan below 96th
8 Street, and are really struggling paying this unfair,
9 unjust Commercial Rent Tax. I have testimony that I
10 submitted to the record, but I just wanted to make a
11 couple comments addressing some of the comments and
12 questions that were raised, and I also want to let
13 you know—let you know how busy restaurant and bar
14 owners are nights, weekends, holidays similar to all
15 of you. I have probably three dozen if not more
16 letters from small business owners that are impacted
17 by the Commercial Rent Tax. And when you say
18 inequitable and unjust that is exactly what it is,
19 and we talk about the financial impact of eliminating
20 the Commercial Rent Tax on thousands of businesses.
21 That's obviously an important figure, but one of the
22 other issues we have to look at is the impact. When
23 a local restaurant closes down, it's depressing.
24 People love our neighborhood restaurants. What
25 happens to the community? It's not just the

2 business owner that loses the job, and loses their
3 company. It's the residents. They lose that great
4 business that's in their neighborhood, the restaurant
5 that they have all these memories at. What about all
6 of the workers? What about the workers? Small
7 businesses employ thousands of people in New York
8 City, and who's working in the restaurant industry.
9 There are many immigrants from throughout the five
10 boroughs, people that are working hard, creating
11 opportunities for themselves and their family, and by
12 eliminating the Commercial Rent Tax on all of these
13 businesses, these businesses will be able to keep
14 more money in their pocket, which will be spent
15 immediately going in the forms of wages to cover all
16 of the increased wages, the increased benefits. It
17 will be going into reinvesting in their restaurant
18 to, you know, expand, grow and create more economic
19 activity that is certainly going to be pushed right
20 back into the local economy through sales tax and
21 increased activity. Like I said, that will be going
22 to the tax base. So when we say getting rid of the
23 Commercial Rent Tax is going to mean less revenue for
24 the city it's very important that we recognize all of
25 the economic activity that will increase the tax

2 revenue going to the base. We strongly at the New
3 York City Hospitality Alliance support Council Member
4 Garodnick's Introduction 799, increasing the
5 threshold to exempt businesses from \$250,000 to
6 \$500,000 is an incredible step. I also think it's a
7 first step because when we talk about small business
8 it's not enough just to talk about how much we love
9 them, how they're beloved, how they mean so much so
10 much to our neighborhood. We need to take action,
11 and right now there is a bill in the Council. Many
12 of you were sponsoring it so thank you, but there are
13 other members. We need them to sponsor it. They
14 need the member, then the Mayor to sign this into
15 law. Businesses need this relief. They can take
16 action on something that exists now, and I encourage
17 everyone to act swiftly on this, and then in the
18 future talking about how can we expand the scope of
19 this? Right now, something that doesn't make sense
20 at all is once you cross the threshold to pay this
21 tax liability, you are taxed on not only the first
22 \$250,000, you're taxed on your rent above \$250,000.
23 A lot of taxes work that you're taxed on the amount
24 above the threshold. So there are many ways we can
25 look at this bill, and have further discussions, but

2 as it is, it's critically important to so many
3 businesses and there's also ways if we want to take
4 even bolder action to help more small businesses,
5 which no doubt means that we're helping our city as a
6 whole. So thank you and thank you for your support.
7 [bell]

8 CHAIRPERSON FERRERAS-COPELAND: [off mic]
9 Thank you.

10 ANDREW RIGIE: I didn't even time it, but
11 it worked out.

12 MICHAEL SLATTERY: Hi. I'm Michael
13 Slattery representing the Real Estate Board Of New
14 York. REBNY supports Intro 79-799-A, which would
15 raise the threshold of the imposition of the
16 Commercial Rent Tax to \$499,999 per year, and
17 establish a phase-in from \$500,000 to \$550,000. The
18 bill will provide important tax relief for
19 approximately 2,700 taxpayers or 36% roughly of the
20 Commercial Rent Taxpayers, and despite the large
21 number of taxpayers to benefit this change will
22 result roughly in a \$35 million reduction this year
23 to roughly 4.7% of the taxes generated. Since 2004,
24 the total tax liability has averaged annually a 4.9%
25 increase. In effect, the percentage forgoing (sic)

2 revenue as a result of this proposal is the
3 equivalent of a single year's increase. The amount
4 of revenue the city can collect from real property
5 tax for operating expenses is capped by the New York
6 State Constitution, at 2.5% of the tax for the value
7 of real estate. The Commercial Rent Tax was first
8 implemented in 1963 as a way to raise revenue from
9 the operation of real estate without violating the
10 constitutional real property tax cap. In the mid
11 1990s significant changes were made to the CRT. The
12 most significant change was the—to eliminate the tax
13 for rented commercial space north of 96th Street and
14 the other four boroughs. The Administration at that
15 time we also began a reduction to the effective rate
16 of the tax from 6% to 3.9% with the goal of
17 eliminating this unique tax in Manhattan as well. I
18 really welcome today the unanimity of one of the
19 Council Members that this tax is unfair. We hope
20 that Intro 799 is the beginning of a prudent process
21 whether by raising dollar thresholds or by
22 segregating by industry or by geography to eliminate
23 this tax entirely. Thank you.

24 CHAIRPERSON FERRERAS-COPELAND: [off mic]

25 Thank you.

2 BILLY RICHLING: Hi. Good afternoon. My
3 name is Billy Richling. I'm the External Affairs
4 Coordinator for the Times Square Alliance, and I'm
5 here on behalf of Tim Tompkins the President of the
6 organization. The Times Square Alliance, as you may
7 know, works to improve and promote the Times Square
8 District. Thank you, Chair Ferreras-Copeland and
9 members of the Finance Committee for allowing me the
10 opportunity to testify. As the local Business
11 Improvement District the Times Square Alliance is
12 thankful to our Council Members Dan Garodnick and
13 Corey Johnson for introducing Intros 799-A and 1107-
14 A, which provide exemptions to the Commercial Rent
15 Tax. The Alliance wholeheartedly supports both
16 pieces of legislation. The Times Square district
17 encompasses just .1% of the city's land area, but is
18 responsible for 15% of the city's economic output and
19 supports 7% of the city's jobs. The industries that
20 call Times Square home are diverse including finance,
21 hospitality, media, technology, theater and retail
22 and vary in size from large corporations and national
23 chains to local mom and pop establishments, and non-
24 profit cultural institutions. It is this unique mix
25 and character that continues to draw 350,000 New

2 Yorkers and tourists to Times Square daily. The
3 Commercial Rent Tax was first instituted in the 1960s
4 and hasn't been revised in 16 years when it was
5 imposed on only commercial property south of 96th
6 Street in Manhattan. At the time, it captured only
7 the largest companies in the heart of Midtown.
8 Today, however, the average commercial rent in Times
9 Square is \$63 per square foot, meaning that the CRT
10 is assessed on companies with even modest footprints
11 within our district. As New Jersey and other
12 jurisdictions invest in amenities to attract
13 companies from Manhattan, it is crucial that the New
14 York City Council take steps to remain competitive in
15 an evolving marketplace. Thus, the Alliance supports
16 Intro 799-A, which would exempt tenants paying less
17 than \$500,000 a year in rent from the CRT and
18 establish a credit for tenants paying between
19 \$500,000 and \$550,000 a year in rent. The Alliance
20 also supports Intro 1107-A. The theater community is
21 integral to Time Square's cultural fabric. The
22 district is home to 40 Broadway theaters holding a
23 collective 48,810 seats. Intro 1107-A will ensure
24 that billboards used solely to advertise new
25 theatrical performances will not be subject to the

2 CRT. This is consistent with other sections of the
3 CRT statute, which exempt theatrical venues from the
4 CRT for the first 52 weeks of a performance, and
5 further recognizes the economic impact of Broadway
6 and other New York City cultural institutions. The
7 Times Square Alliance is grateful to the Council for
8 its attention to CRT reform and the impact such a
9 regressive tax has on small and midsize businesses in
10 Manhattan. We look forward to continuing to work
11 with the Council to ensure that Manhattan's
12 commercial districts continue to thrive. Thank you
13 for the opportunity to testify.

14 CHAIRPERSON FERRERAS-COPELAND: [off mic]
15 Thank you. Council Member Garodnick.

16 COUNCIL MEMBER GARODNICK: Very briefly
17 and thank you, Madam Chair. The businesses that
18 ordinarily you would see paying between \$250,000 and
19 \$500,000 a year in rent give us a sense. Who are we
20 talking about there?

21 ANDREW RIGIE: A small restaurant, café,
22 what you may think as a mom and pop restaurant. Not
23 your chain, not your big national brands of business
24 that has been in the community for many years. Maybe
25 the equivalent of—the gentleman mentioned the

2 neighborhood supermarket employing local people. A
3 lot of times they live in the community, and because
4 of the astronomical rents, so many what we think of
5 as small businesses are paying a lot more than
6 \$250,000.

7 JESSICA WALKER: Yes. No, absolutely
8 and—and also, yeah, and there's a lot of retail in
9 there as well as we—as we saw. DOF does have a whole
10 breakdown, which we can share with you. They gave
11 that to us as well. So we'll pass it on.

12 COUNCIL MEMBER GARODNICK: Okay, now to-
13 to the Real Estate Board one question, and I think
14 you—you said it pretty clearly in your testimony. I
15 just want to make sure that I understand it. You
16 said that we generally see a 4.9% increase year over
17 year in the Commercial Rent Tax and that the loss of
18 this revenue would actually be just even slightly
19 less than what we ordinarily see the increase. Is
20 that—is—do you want—can you amplify that at all? Do
21 you want—anything more you want to say about that?

22 MICHAEL SLATTERY: I think we lose sight
23 of, you know, we do our tax expenditure report
24 because I did hear Finance say this is going to cost
25 you \$100 million or some large number over a number

2 of years. There was some conversation about the tax
3 expenditure analysis here, but I think we have to
4 look at—you know, the real practical application
5 here. So one year, the first year this goes into
6 effect we're going to lose roughly \$40 million, but
7 that tax is going to continue to grow and if the
8 history is any indication, it's going to [bell] grow
9 another 5% of the—so if we lose—we go from 8—instead
10 of going from 800 to 850 this year, with those—we
11 stay at 800, next year we'll at 850. So it's like,
12 you know, one year behind. We've lost a year of
13 payment. The tax is going to grow unless we again do
14 what we recommend and encourage you to do and that is
15 to find a way to really get rid of this unfair tax
16 prudently. We know that there is—as you indicated in
17 your conversations with IBO you know we're not really
18 talking about a \$800 million tax program here, but we
19 should be trying to find a way to get rid of this tax
20 over the course of, you know, whether it's ten years
21 or longer, in some way that makes sense economically.

22 COUNCIL MEMBER GARODNICK: Would one way
23 to do that be to increase the exemption in a manner
24 that stays at or below the expected rate of increase?

2 MICHAEL SLATTERY: That would certainly
3 be a way of doing it, and from, you know, from what
4 I've been hearing from some of the Council Members
5 there seems to be even though people say it's unfair,
6 they seem—they seem to suggest that it's not unfair
7 for tenants who pay a lot of money that they can
8 afford to pay it. So it's really not quite unfair.
9 Raising the threshold certainly is a way of balancing
10 those issues where you can continue to eliminate the
11 tax on more and more taxpayers, which this act is
12 actually doing. A sizeable number of taxpayers are
13 being eliminated from this while still holding to—to
14 the view that people who are paying a lot in rent
15 perhaps can pay a little bit more in the way of rent
16 tax. The other way of doing that is also to continue
17 to lower the rate from 3.9 to maybe 3.7, 3.6, 3.5.
18 You know, I think there—there's been a lot of
19 conversations about how to do it, and asking for
20 information about where the tax incidents are. Are
21 they concentrated in Midtown, or they're on the—on
22 the perimeters. That would be helpful information if
23 one wants to develop a prudent system to get rid of
24 the tax.

25 COUNCIL MEMBER GARODNICK: Thank you.

2 MICHAEL SLATTERY: You're welcome.

3 CHAIRPERSON FERRERAS-COPELAND: Thank you
4 very much for your testimony today, and we'll call up
5 the next panel.

6 MICHAEL SLATTERY: Thank you.

7 LEGAL COUNSEL: The next panel will be
8 Tom Furregia (sp?) Kevin McCollum, Anthony Dipello
9 and Joshua Coleman. [background comments, pause]

10 THOMAS FERRUGIA: Thank you. I have a
11 longer version of my statement, which I'm submitting
12 for the record, but I have truncated version, too,
13 for the interest of time. Good afternoon. My name is
14 Thomas Ferrugia and I am the Director of Governmental
15 Affairs with the Broadway League, the principal trade
16 association of the commercial theater industry
17 [coughs] representing over 700 theater owners,
18 producers and row (sic) presenters across North
19 America. I want to thank Chairperson Ferreras-
20 Copeland and the members of the Finance Committee for
21 the opportunity to speak today. I also want to
22 acknowledge Council Member Dan Garodnick for his
23 foresight on Commercial Rent Tax reform. As a
24 representative of Times Square he is aware of its
25 fiscal challenges, and he is a champion for its

2 businesses and residents. We are fortunate to have
3 Council Member Garodnick and Council Member Corey
4 Johnson representing the theater district. Broadway
5 productions have been subjected to commercial rent
6 tax for rent paid on the venue since 1964 like all
7 other businesses in New York City. However, in 1995,
8 theatrical works were granted a statutory CRT
9 exemption for the first 52 weeks of the new show's
10 run. This was an acknowledgment of the mutual
11 benefit of supporting an industry critical to the
12 city's economy and to maintaining its status as the
13 world's cultural epicenter. In the summer of 2014,
14 the Department of Finance published a memo entitled
15 *Update on Audit Issues*, advising accountants that CRT
16 would now be due on outdoor signs. This preceded a
17 series of audits on various Midtown billboards.
18 While outdoor advertising has been included in the
19 city's statute, prior to this notification, the
20 department had not to our knowledge collected any
21 commercial rent tax on any billboards and no
22 theatrical production had ever been assessed for the
23 tax even after it had been audited. Therefore, there
24 was no cause in 1994 and 1995 to think that language
25 would be required to ensure the rent on outdoor

2 advertisements was covered by the statutory
3 exemption. It just wasn't being assessed. Intro
4 1107 is consistent with the existing law as the city
5 intended to exclude-exclude live theatrical
6 productions from Commercial Rent Tax and all rent
7 paid during a show's first year to incentivize live
8 entertainment, which was critical to the economy as a
9 uniquely risky endeavor. We also think the
10 department's determination that rent paid by a
11 theatrical entity for the venue and for the outdoor
12 advertisement are two unique events as a
13 circumvention of the intent of the existing law, as
14 they are both directly related to the production.
15 Accordingly, we endorse 1107. And as noted-excuse
16 me-CRT is regressive, arbitrary and unfair because
17 the businesses also pay local property taxes. As
18 noted, CRT is now assessed on outdoor signs greatly
19 expanding the universe of property subject to the
20 tax, and perhaps even more egregiously even includes
21 unoccupied spaces where no business is even being
22 conducted. While we likewise support Intro 799
23 generally, we believe the appropriate action would be
24 to repeal CRT or at least bring the exemption in
25 alignment with inflation. Another option would be to

2 exempt any business—essentially set the—the minimum
3 as a base where you didn't pay—so in a sense you got
4 a credit for the amount of up to \$500,000 rather than
5 paying the—once you hit that \$500,000 threshold, you
6 paid tax on the full amount of rent up to—up and
7 beyond \$500,000. On behalf of the Broadway League,
8 we again thank you for considering both of these
9 important proposals, and I thank you for your time.
10 [pause]

11 MC COLLUM: Good afternoon. My name is
12 Kevin McCollum and I am the President and the CEO of
13 Alchemation. I am an independent producer, and an
14 entrepreneur and a member of the Broadway League's
15 Board of Governors. My producing partners and I have
16 produced many Broadway shows including Rent, Avenue
17 Q, In the Heights, Motown, Something Rotten, as well
18 as the upcoming play this spring, the Play That Goes
19 Wrong as well as many, many other shows over the 25
20 years that I've been a commercial producer. We
21 finance and operate these and other productions on
22 Broadway and tour throughout North America. First of
23 all, I want to thank Chairperson Ferreras-Copeland as
24 well as our distinguished members of the Finance
25 Committee for this opportunity to present testimony.

2 I also want to acknowledge all of the sponsors of the
3 bills, 799 and 1107 as well as recognize Council
4 Members Garodnick and Johnson for their commitment to
5 improving all the economic environment for thousands
6 of small businesses south of 96th Street in
7 Manhattan. I know I'm preaching to the choir when I
8 tell you that Broadway is a cultural defining aspect
9 of New York City for American and visitors from all
10 over the world. Some very important numbers.
11 Approximately 13.3 million theater tickets were
12 purchased during the 12-month period and ended in May
13 of 2016. Over 80% of those tickets were purchased by
14 patrons presiding outside New York City, and nearly
15 60% of tourists reported that attending a Broadway
16 show was the principal reason for their visit to New
17 York. So Broadway infused to the economy of this
18 city \$12.6 billion-billion in 2015 while related
19 spending generated over \$500 million tax revenue and
20 supported nearly 90,000 well paying jobs. Broadway
21 tours are vital to the hundreds of venues across our
22 country and as some of distributor study (sic) shows
23 what's unique about Broadway in 2012 to 13, which is
24 the latest numbers that are available, we contributed
25 approximately \$3.2 billion to nation's economy, and

2 about 135 or \$400 million of that fiscal contribution
3 comes back city residents in terms of royalties and
4 rentals that actually affect our city even though
5 we're playing them in another city. Despite the
6 enormity of Broadway's impact approximately four out
7 of every five shows that open in a given year fail to
8 recoup the initial capitalization. When I first
9 started producing in 1992, it was about 30 weeks on
10 average. Now it's easily 60 weeks on average to
11 recoup, which is why the 52-week threshold is very,
12 very important. No banks were lending, institutions
13 will give us money. It's a very risky business.
14 It's a business of passion, high taxes, particularly
15 the location specific compound the assessment as the
16 commercial rent tax hits us. They are just—they
17 disincentivize and they discourage investing on
18 Broadway. While Broadway is enjoying one of its best
19 years, the grosses don't equate to our surplus
20 because, of course, we pay. We have 16 unions within
21 our industry that we happily pay. We work very
22 closely with, and they're very skilled, and out of
23 the 14 open-ended shows that launched, nine
24 productions closed within a year. In the previous
25 season 11 out of 17 new shows closed in under a year.

2 So you see that this is a very, very, very high
3 intense entrepreneur kind of business, and there's
4 one exception, which is 11704 to the Administration
5 Code, but that's a tenet that uses taxable premises
6 for production and performance, and the theatrical
7 work shall be exempt from tax for up to—not to exceed
8 52 weeks. Intro 1107 supports the legislative intent
9 of the 11704 and similarly helps lessen some of the
10 risks and barriers to obtain capitalization for new
11 theatrical works, and providing new productions an
12 opportunity to find an audience. [bell] Finally, if
13 I may—may I go over bit, Councilman? I have one more
14 point that I think is very distinctive. If you look
15 at the billboards on Broadway, those billboards
16 advertise shows that only can happen eight times a
17 week at a specific time in a specific theater. It
18 encourages tourists, which as we said, 80% are
19 tickets outside of the city. People who travel. We
20 keep them in town, and the exponential tax incentive
21 of giving us space on these billboards is much more
22 than the multi-national corporations I've heard
23 talked about. They are here for branding. Why are
24 they here for branding? Because people are coming
25 here to see Broadway shows. So if we can capture

2 these people to stay in the city and see a show, go
3 to the restaurant. Go to the—go explore our city,
4 get on the bus and take the tour, and go to different
5 parts of our community, and I mean our community I
6 mean all the boroughs. There's nothing like the
7 diversity and vibrancy, which is why we are the
8 center of live story telling, Rent, Avenue Q, in the
9 Heights. There's no mistake that those are three big
10 hits about New York neighborhoods that I produced
11 because I am passionate about people coming and
12 visiting and spending their money and realizing that
13 it is a place to tell your story against all odds,
14 and make America a wonderful place and a safe place
15 to live, to think, to breathe, and to come here and
16 tell your own story. We need those billboards.
17 They're expensive enough. We contribute back
18 multifold. I want to thank you for letting me speak,
19 and I am passionate about this—these—these bills, and
20 I'm grateful for your—your contribution to seeing
21 this heard today. Thank you very much.

22 CHAIRPERSON FERRERAS-COPELAND: [off
23 mic] Thank you.

24 TONY DE PAOLO: [off mic] Thank you.
25 Good afternoon.

2 CHAIRPERSON FERRERAS-COPELAND: Get on
3 the mic.

4 TONY DE PAOLO: Oh, I'm sorry. My name
5 is Tony DePaolo, I have been a member of Local 1 of
6 the International Alliance of Theatrical Stage
7 Employers, known as IATSE since 1975. I now serve as
8 an international representative and co-director of
9 the Stage Craft Department at IATSE. I would like to
10 express my appreciation to Chairperson Ferreras-
11 Copeland, the members of the Finance Committee,
12 Council Members Garodnick and Johnson as well as the
13 sponsors of Introductory Bill 799 and 1107 for this
14 opportunity to join my colleagues in supporting the
15 four initiatives. Commercial Rent Tax reform is long
16 overdue and I applaud the City Council for finally
17 addressing it in a meaningful way. IATSE was founded
18 in 1893. Today our members work on things of live
19 theater, motion picture, television production,
20 concerts as well as equipment, construction shops and
21 support the arts and entertainment industry. We now
22 have over 130,000 members with approximately 14,000
23 working in live theater in New York City. We have
24 developed a close positive relationship with the
25 theatrical producers, theater owners and the Broadway

2 League. Among the nearly 90,000 workers that the
3 Broadway industry supports approximately 10,000 are
4 regularly employed under union contract. These
5 highly skilled professionals perform virtually all
6 visible and behind-the-scenes work in a large
7 theatrical production. This includes everyone from
8 the people that design and build the sets to the
9 person that sells you a ticket, the usher that seats
10 to you to all the artists and technicians that work
11 back stage. Our work is essential to the quality and
12 the—of the show as well as the safety of the actors,
13 and the performers who ae also union members. A
14 single Broadway show can create employment for
15 hundreds of workers across more than a dozen unions
16 and if successful provide more ongoing employment for
17 years and in some cases decades. However, as you
18 have heard, Broadway is an extremely risky business
19 where only 20% of productions ever earn any of their
20 money back. It is also a very expensive business
21 with new productions costing upwards of \$10 million.
22 The continued employment of many of our union members
23 depends on a constant stream of new productions,
24 which requires individual backers to come risking
25 their personal financial resources of investments

2 that offer 5 to 1 odds. Security this capitalization
3 not to mention weekly operating expenses are becoming
4 increasingly challenging and the cost of doing
5 business in Manhattan continues to rise. Any action
6 that the city may take in the area of tax reform to
7 help reduce the burden on new productions will only
8 incentive investments, help shows run longer, and
9 encourage the development of new productions.
10 Investors have choices about where they invest and
11 the types of projects they finance, and the
12 additional burden of the Commercial Rent Tax is
13 simply an obstacle to attracting new backers and
14 allow a show reimburse investors and pay employees.
15 I, therefore, join my fellow colleagues to express
16 support for Introductory Bill 799 and 1107. Once
17 again, I appreciate this opportunity. I'm happy to
18 answer any questions. Thank you.

19 CHAIRPERSON FERRERAS-COPELAND: [off mic]
20 Thank you.

21 JOSHUA KNOLLER: Good afternoon,
22 Chairwoman and members of the Finance Committee. My
23 name is Joshua Knoller and I'm testifying on behalf
24 of the Broadway Association in support of Intro 799
25 and 1107-A. The Broadway Association founded in 1911

2 is a not-for-profit business association devoted to
3 the cultural and economic betterment of Midtown West,
4 which comprises the Broadway Theater District. Our
5 members include property owners, major corporations,
6 hotels, advertisers, unions, civic association,
7 theater companies, banks and others. The association
8 works to foster the healthy climate that ushered in
9 the development and renaissance we currently enjoy.
10 The Broadway Association supports Intro 1107-A, which
11 exempts the advertising of the-of theatrical
12 productions from the Commercial Rent Tax for one
13 year. While I'm sure the Council is aware of the
14 small minority of Broadway productions that enjoy
15 outstanding financial success, what is underreported
16 is the number of productions that close rather
17 quickly sometimes in a matter of months or even
18 weeks. In addition to not achieving financial
19 success, these productions are now also being hit by
20 the Department of Finance audit of the CRT
21 retroactively. What this means is that shows that
22 have opened and closed in a matter of weeks in some
23 cases years ago, are now being built for a tax on any
24 billboard advertizing that promoted the show for its
25 limited run. The theater industry provides great

2 economic and cultural benefits to New York City,
3 which is unmatched anywhere else in the world, but
4 with a healthy industry comes a competitive barrier
5 to entry that relies almost entirely on early ticket
6 sales. Advertising is a key method for reaching
7 tourists and New Yorkers alike about new theater
8 offerings, and C-O-T applied retroactively can be
9 cost-prohibitive to the advertising of new
10 productions. The Broadway Association also supports
11 Introduction 799, which would exempt businesses with
12 annual rent of less than \$500,000 from paying the
13 CRT. With sky high commercial rents, the Broadway
14 Association wants to ensure that Manhattan remains a
15 commercially diverse destination. This legislation
16 would help ease the burden for smaller independent
17 commercial tenants, which are the fabric of our city.
18 We thank Council Member Garodnick for introducing
19 these bills that help foster new cultural offerings
20 and commercial diversity and we urge the Finance
21 Committee to pass this legislation. Thank you for
22 your consideration and time today.

23 COUNCIL MEMBER GARODNICK: Thank you
24 just-just one-one question for any of you. The
25 Department of Finance was here earlier, as you heard,

2 and testified on this bill and said the following: I
3 just want you to react to it. While the legislation
4 is intended to benefit the city's theater sector,
5 we're talking about 1107-A, the important part of the
6 city's economy, there is a tax equity argument that
7 billboards used to advertise theatrical performances
8 should not be treated differently than other
9 billboard advertising. That's part one. Part two,
10 and it is important to note that the CRT on rents for
11 billboard advertising is generally paid for by
12 Fortune 500 type companies including the CRT on
13 billboards used to advertise certain theatrical
14 productions. So, do you want to react to any of
15 that?

16 KEVIN MC COLLUM: I'm happy to react to
17 that. Kevin McCollum. What has happened, and this
18 is from '92 to now is many of the billboards have
19 been bought up by multi international companies, and
20 then there's usually a middle man [laughs] who then
21 passes it along to us whether it's an advertising
22 agency. And so what happens is but the show has to
23 pay the expense of the billboard. One of the issues
24 that's not for this chamber but is the—the rents of
25 the billboards have increased dramatically because

2 everyone wants to brand in New York City in Times
3 Square, but it's important that shows have a place to
4 tell people because not every theater is at 45th and
5 46th. Our theater is at 54th and we have to tell
6 people go now. So I think we are very different, and
7 I think the argument is we are getting day of and
8 week of sales that stay in the city. Whereas a lot
9 of the multi-nationals, where CBS owns all the
10 billboards. That's one thing, but we still need to
11 use the billboard, and to get on the billboard, we
12 need to have space and for us to have to a Commercial
13 Rent Tax when we are already contributing so much
14 economy to the city is—is a s burden that we don't
15 think is fair especially if you look at it takes
16 longer than 52 weeks many, many times to even recoup
17 even if you have a model tip because of our weekly
18 expenses. So I—I strongly feel that Broadway should
19 be separated from the multi-national no matter who
20 owns the billboard because we're using the billboard
21 to create economies here with often times money not
22 from here, coming here to spend their money. These
23 billboards are a tax incentive. So I think people
24 are looking for relief. They're looking to be
25 recognized from a language standpoint as an incentive

2 for the local businesses to increase the city's
3 payrolls and with the tax—the tax rolls I should say.
4 So that's—that's a way of looking at it, but I'm—I've
5 always it needed to be articulated and thank you for
6 you bringing that to our attention.

7 COUNCIL MEMBER GARODNICK: [interposing]
8 Well, it says that—when they say that the—the CRT on
9 rents for billboard advertising is generally paid
10 for—paid for by Fortune 500 type companies. That is
11 false?

12 KEVIN MC COLLUM: They own—they own them.
13 Those companies might own those billboards, and I'd
14 say it's going about half and half. It used to be
15 primarily Broadway, and then people realized as the
16 renaissance of Times Square happened, and speaking
17 specifically of Times Square and the billboards
18 outside of Times Square are still below 96th Street
19 that advertise theater, but what's happened now is,
20 you know, we have a shelf life of eight shows a week
21 happening at a certain time. Pepsi has plenty of—of
22 cans on the shelves for years, and we can buy Pepsi
23 here or buy a Pepsi in Des Moines but it's branding,
24 and we don't brand actually. We sell, and we create
25 economies. That day, eight times a week. That is a

2 very significant price point, but also uniquely
3 creates and exponential equation with the restaurants
4 and all the other retailers in the neighborhood.

5 JOSHUA KNOLLER: Okay, just two points.
6 So I'm not—that was a part of the—the city's
7 testimony that I found confusing because I'm not—
8 certainly Broadway the—the independent producers who
9 are running the shows, the small—the small businesses
10 that are—are producing and presenting the shows they
11 are paying the Commercial Rent Tax because it's just
12 being passed along to them as—as Kevin said that
13 they—the only—the might—the city might be talking
14 about the owners or they might be talking about
15 another—another area of—of—of advertising that we—
16 that we're not part of. Another thing I just did
17 want to bring up and, you know, I'm—I don't—I'm not
18 necessarily disputing the city's numbers, but we did
19 run our own calculations on what Commercial Rent Tax
20 would cost or what we expect it will cost us now that
21 the City has asked us to start paying it going
22 forward, and the number is not as high as \$1 million.
23 It was—it was—it was about \$600,000 is what we—we
24 estimate. So that would be the direct cost for the
25 city from—from our perspective. So without seeing

2 the Department of Finance numbers, we—we can't really
3 be sure where they have estimated that. They—they
4 may be overestimating the number of shows that
5 actually take out billboards because as Kevin said,
6 they are so expensive. Most of the shows that are
7 opening within the next couple of months haven't done
8 it because it's—it's so costly, but it will be
9 something that we would like to see happen more.

10 KEVIN MC COLLUM: One of the things like
11 every small business in New York and every Broadway
12 show is a small business is the crisis also on top of
13 this is the fact that because these multi-nationals
14 can pay so much for billboards, we're getting priced
15 out of the market. So we can't even get space. So
16 when we do get space, you get taxed on top of it, is
17 I think punitive against a local business creating
18 economies in this city. You have to be in the city
19 if you come to a Broadway show, and we are telling
20 you hey, we're open eight times a week. There's a
21 lot more family shows. We have staggered times,
22 which is confusing. It's not just 8 o'clock. We
23 have to advertise that oh, this was at 7:00 and on
24 this day and specificity of that billboards are
25 powerful in the middle of Times Square for us, and—

2 and the crisis also I wish there was more space
3 specifically for Broadway, but that's another—that's
4 another conversation.

5 COUNCIL MEMBER GARODNICK: A different
6 hearing. Alright, thank you.

7 CHAIRPERSON FERRERAS-COPELAND: I—I just
8 have a—I guess a follow-up question. As we go into
9 the new era, you know, billboards I think on some of
10 these pieces of legislation were written no one
11 thought that you can go into Times Square and it
12 would be like daytime in the middle of the night
13 because of the amount of digital and the quality of
14 digital. So, in having some conversations with the
15 Finance Team and the Department of Finance, if as we
16 go into the digital era and kind of where before we
17 would think about billboards as real estate, now it's
18 really about time, right, about how much time you
19 would have. And—and I guess can you just walk me
20 through the process just so we can get it into the
21 record on, you know, how do you buy these packages?
22 Is it that you'll be presented this amount of time
23 and if we give [loud banging noise] and if we do give
24 the—the tax break, you know, as opposed to [loud
25 banging noise] and maybe that it goes from in the

2 heights to the Pepsi ad back to the GAP, back to in
3 the heights. So how do you kind of figure that out?

4 KEVIN MC COLLUM: It's-it's very simple
5 actually. Typically a rotation for a minute is like
6 eight per minute, and let's say we buy two months. I
7 had the billboard for MoTown coming down the Lincoln
8 Tunnel and it was rotated on eight. I believe that
9 was \$2,300 a week. So \$8,000 a month or like \$9,000
10 a month, and that's what I paid. Now, if it was a
11 Stivant (sic) billboard, it would have been \$80,000 a
12 month. So it's the same type, and I think you can
13 differentiate for Broadway product versus branded
14 product that is sold all throughout the world.

15 CHAIRPERSON FERRERAS-COPELAND: Right.

16 KEVIN MC COLLUM: It's very easy to
17 figure that out of are these businesses contributing
18 to the city of New York directly in real time? And
19 for Broadway the answer is an unqualified yes.

20 CHAIRPERSON FERRERAS-COPELAND: Right.
21 Well, thank you. Do we have any additional
22 questions? NO. Thank you very much for coming to
23 testify today?

24 KEVIN MC COLLUM: Thank you.

25 JOSHUA KNOLLER: Thank you.

2 CHAIRPERSON FERRERAS-COPELAND: Thank
3 you. We will call up the next panel.

4 LEGAL COUNSEL: The next panel will be
5 Richard Lipsky (sic), Steven Sloan, Ian Poulos (sic)
6 and Renee Flores. [background comments, pause]

7 CHAIRPERSON FERRERAS-COPELAND: [off mic]
8 Thank you.

9 STEVEN SLOAN: Good afternoon. My name
10 is Steven Sloan, and I'm one of the owners of Morton
11 Williams Supermarkets, a family owned chain of 15
12 stores that operate in New York City. Ten of these
13 stores are doing business in the area designated by
14 the proposed legislation to give the money to
15 supermarkets from the Commercial Rent. I'm here
16 today on behalf of the management workers of Morton
17 Williams to voice our full support to this bill, and
18 wish to thank Manhattan Borough President Gale Brewer
19 for her instrumental role in drafting this
20 legislation and Council Member Johnson for
21 introducing it. Morton Williams has been committed
22 to New York City for over 60 years. During the
23 turmoil of the 1970s when many of the chain stores
24 abandoned New York we were not only—we not only
25 stayed and continued to invest in the city, as a

2 result of this investment we now employ over 1,000
3 New Yorkers and—and a great majority of these workers
4 come from the Kingsbridge area of the Bronx where our
5 flagship store and hiring hall is located. We have
6 invested in New York City and grown our business, but
7 it has not been easy. Taxes and regulations not to
8 mention rising rents and the proliferation of big box
9 stores have presented us with many challenges, but we
10 haven't shied away from these continued—and continue
11 to expand and employ many New Yorkers. What this
12 proposed bill does is require the Department of
13 Finance to exempt grocery stores from the Commercial
14 Rent Tax if they need certain floor space and
15 affordability requirements. The purpose of the bill
16 is to help prevent affordable grocery stores from
17 closing due to increased cost of commercial rents.
18 It also promotes healthier grocery stores retail
19 practices by requiring that minimum of 500 square
20 feet of floor space be devoted exclusively to the
21 sale of fresh produce. We applaud the spirit of the
22 law and if enacted the savings will enable us to
23 continue to grow our business. We do have some
24 questions about the definition of affordability. We
25 believe that the defining the term will be necessary

2 if the goal of the supermarket retention in Manhattan
3 is to be realized. May I suggest as part of the
4 legislation that the City Council create a working
5 group of industry and government to develop and fine
6 tune the notion of affordability within the context
7 of the aforementioned considerable cost that
8 supermarkets that are in Manhattan face on a daily
9 basis keeping in mind that the supermarkets are a low
10 margin business. It would make sense to develop a
11 working definition of affordability from examination
12 of comparison with the cost and profit margins of the
13 supermarkets who operate under the designated area of
14 the proposed legislation. That being said, let me
15 make it—let me take a moment to make—make a few
16 additional points that directly address the ultimate
17 goal of this legislation. Preservation of
18 supermarkets all New Yorkers can affordable and
19 healthy food to each. While we support the Council's
20 proposal with enthusiasm, please don't think this is
21 a solution to the problem of disappearing
22 supermarkets. As the New York Times pointed out many
23 years ago, a continued decline in the number—in the
24 number neighborhood supermarkets has made it harder
25 for millions of New Yorkers to find fresh and

2 affordable food within walking distance of their
3 homes, which has only continued to get worse since
4 this report came out ten years ago. Given escalating
5 rents and taxes along with one risk regulations that
6 costs us tens of thousands of dollars a year, the
7 current proposed relief from the commercial rent tax
8 while welcome only offers a modest relief. He cost
9 embedded in the rise of the state's minimum wage will
10 greatly exceed the relief from this legislation. It
11 will make it much harder for us to hire new worker at
12 entry level jobs, and involve the heavy investment in
13 training. On the city side the continued existence
14 of fruit and vegetable vendors operating directly in
15 front of our stores takes approximately \$5 to \$7,000
16 a week from our operating revenues. With ten stores
17 in a designated zone, what this means is that the
18 peddlers are costing us easily over five times what
19 the relief of this legislation would grant us. While
20 we hope you move forward this bill, we also hope you
21 would consider—serious entertain our industry's
22 proposal for location of produce peddlers which have
23 none of the same overhead costs from directly and
24 unfairly competing with us. [bell] Let me close—let
25 me close by saying I personally an grateful made by

2 the efforts here to address one aspect of the
3 operating costs that the supermarkets face everyday,
4 and let's work together to solve this problem. Thank
5 you very much.

6 DR. LIPSKY: Good afternoon, Madam Chair.
7 It's a pleasure to see you, and the other members of
8 the Council. I have to admit that I was suffering
9 from a panic attack when I had to fill out the
10 testimony form because for the first time in about 30
11 years I had to check the box in favor of it. I want
12 once testified before the City Council and one of the
13 commissioners Ken Marco (sp?) said, Dr. Lipsky, is
14 there—are you ever again—are you ever in favor of
15 anything? And, of course, for many years I helped to
16 fight big box stores, which is one of the problems
17 facing neighborhood supermarkets, and what was
18 interesting about the administration's testimony, and
19 I'm glad that Councilman Garodnick was test—was
20 questioning them very seriously. For the first time
21 in—in a long time, what I saw the City Administration
22 doing was understanding the concept of collateral
23 damage. The damage to their finances, but whenever
24 they put forward a box store recommendation they
25 never look at the collateral damage to the

2 neighborhood supermarkets. But that being said, this
3 commercial rent tax is extremely important, long
4 overdue recognition by the city that the cost and
5 overhead of doing business here is too great. What
6 we need to do now is to look at other ways in which
7 we can reduce this cost because as Mr. Sloan points
8 out, the Commercial Rent Tax is just one small aspect
9 of it, but it is a first step in a long road to
10 making the business climate more attractive for the
11 supermarkets. One of the things that I would
12 suggest, and I've suggested it probably for the last
13 10 or 15 years prior to even the implementation of
14 the FRESH program, but you need to start looking at
15 supermarkets as public health institutions, and if
16 you do, you will be looking at eliminating the
17 commercial—the commercial tax on supermarkets. If
18 you believe as Manhattan Borough President Brewer
19 stated that supermarkets are integral to the delivery
20 of public health benefits. Then you need to look at
21 how to preserve them, and one of the ways to do that
22 is to look at them as public health institutions and
23 to abate not just the Commercial Rent Tax, but
24 portions of the Commercial Real Estate Tax itself
25 that the Council raised by 20 or 25% in 2002, and

2 that has got an extremely retarding effect on
3 economic growth as we have seen with the disappearing
4 supermarkets. So, just I'm grateful to be here, I'm
5 grateful to see the Council moving in the right
6 direction, and we look forward to working with staff
7 and the Administration in making this bill possible
8 and also other ways that we can retain supermarkets
9 and promote their growth in New York City. Thank you
10 very much. [pause]

11 RENEÉ FLORES: I'd like to thank the
12 Committee on Finance for the opportunity to testify
13 today. I would also like to thank Manhattan Borough
14 President Brewer and Councilman Johnson for drafting
15 this legislation and focusing your attention the
16 plight faced by New York supermarkets today. I am
17 testifying in support of Bill 5597. My name is Renee
18 Flores, and I am here on behalf of Red Apple Group,
19 which is the owner/operator of Gristedes
20 Supermarkets. Gristedes has been feeding, employing
21 and providing for New Yorkers for over 100 years.
22 Our stores supply New Yorkers with fresh meat,
23 produce, dairy products, baked goods, frozen foods,
24 gourmet foods and non-food items throughout the year.
25 Supermarkets are an important staple in the city

2 because we offer such a wide range of products that
3 makes it more convenient for the consumer for one-
4 stop shopping. New Yorkers rely on us for the food
5 that they need for themselves and their families, but
6 our employees rely on us to make sure that we provide
7 them with gainful employment. Our industry is
8 struggling and not just in the city, but other places
9 in the metropolitan area. We're not exempt from
10 suffering at this time. Our position is we've closed
11 two stores just last year alone. There are multiple
12 reasons for our business struggling. The Commercial
13 Rent Tax is just one. Our rents continue to grow,
14 our rents are extremely high. The increasing minimum
15 wage has burdened us, along with street vendors who
16 don't—who not only don't have the same overhead
17 costs, but also aren't responsible to follow the same
18 safety and sanitation guidelines that we are, which
19 we do proudly for the protection of our customers.
20 We support the proposed exemption for grocery stores,
21 and just to give you an idea, in 2015 we paid tax on
22 24 stores, and in 2016 it was 22 stores. The amount
23 that we paid was close to \$1.4 million. That money
24 would be much better used to reinvest into our
25 businesses so that we can expand the marketplace.

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2 With all this in mind, we do have one primary
3 recommendation for the legislation at this time. The
4 exemption only applies to grocery stores that satisfy
5 affordability requirements, which will be determined
6 by the Commissioner of Finance in consultation with
7 the Commissioner of Health and Mental Hygiene. In an
8 effort to achieve the goal of supermarket retention
9 we recommend that the City Council please consider
10 creating an advisory committee or a working group of
11 industry and government members to facilitate the
12 defining of affordability within the context of the
13 aforementioned burdens and costs of doing business as
14 a supermarket in New York City. This legislation
15 will only successfully preserve the supermarket
16 industry if it applies to enough stores. The key to
17 maximizing coverage for the betterment of New Yorkers
18 will depend upon the definition of affordability. I
19 thank you very much for your time.

20 CHAIRPERSON FERRERAS-COPELAND: [off mic]

21 Thank you.

22 IAN POULOS: Good afternoon. My name is
23 Ian Poulos. I'm here from Gotham Government
24 Relations and Communications, on behalf of Red Apple
25 as well, which is the owner of Gristedes. We're here

2 today to testify in support of Bill 5597, which
3 exempts certain grocery stores from the CRT tax. I'd
4 like to thank the Committee on Finance and Manhattan
5 Borough President Gale Brewer for drafting this
6 legislation along with Councilman Corey Johnson for
7 drafting as well. Grocery stores are in trouble in
8 New York City, and this isn't something new. In
9 2008, over a decade ago my colleague read a quote
10 from the New York Times that I'd like to reiterate
11 and cover a few more aspects of it. A continuing
12 decline in the number neighborhood supermarkets has
13 made it harder for millions of New Yorkers to find
14 fresh and affordable food within walking distance of
15 their homes. This same year the New York City
16 Department of City Planning stated in a presenting
17 that, "Widespread shortage of neighborhood grocery
18 stores and supermarkets exists in New York City."
19 That's over a decade ago. Now, since 2005, you're
20 looking at about 300 grocery stores—grocery stores
21 that have closed up until today. Garden of Eden
22 filed for bankruptcy, D'agostino went from 26 stores
23 down to nine, and that's because Gristedes was
24 working on saving those nine stores, and Gristedes
25 itself hasn't been immune. In the past couple years

2 it lost two of its stores, and the reason that it can
3 keep its stores going is partially because it's part
4 of the Red Apple Group, which has been discussed in
5 different news articles as well. The problem is that
6 it's becoming increasingly more burdensome to operate
7 in New York City. You have the increasing minimum
8 wage laws. You have the new sick leave law. You
9 have street vendors that are parking outside of the
10 stores and selling the same products for fewer—
11 selling the same products for a lower cost simply
12 because they don't bear the same overhead that a
13 brick and mortar store has. Now, the street vendors
14 alone, just to give you an idea, let's say they cost
15 the store \$7,000 a week times 52 weeks in a year,
16 For the 22 stores that we have open right now, you're
17 looking about \$8 million. So, let's talk about what
18 we're here for today, the rent. The rent is from the
19 1970s about 2% is what it costs of sales. Now,
20 you're talking about 10 to 12% of sales. That's a
21 big increase. The Commercial Rent Tax is 6%. When
22 you take the deduction you're at 3.9%. Like my
23 colleagues said, for 2014 and 2015, \$700 north of
24 \$700,000. For 2015 for 22 stores, \$638 roughly
25 thousand dollars. The primary recommendation that

2 we're here for in addition to supporting the bill is
3 to create a working group of industry and government
4 officials. We think that the best way that you can
5 find out the best definition of affordability is to
6 ask the people who are going to fall under that
7 category how do you define it? That's going to be an
8 important thing. If enough people aren't covered the
9 legislation won't have an effect at all. So why is
10 it common sense legislation? All grocery stores are
11 indispensable. They provide food and jobs for the
12 community. That's necessary. The high-rise building
13 where we sad in our testimony a Gristedes closing was
14 replaced by a high-rise. High-rises don't feed
15 people. Gristedes does and that's important. It's a
16 double tax. Rent payments are passed down to
17 tenants, and outside of Florida, New York City is the
18 only place that has it. The exemption, and this is
19 an exemption for a struggling industry. You're not
20 repealing the entire tax. So in terms of being
21 worried about the financial consequences, I actually
22 had a little chart that wasn't part of my testimony,
23 but since we were talking about it, you're looking at
24 a chart like this, and I bring it and walk it up
25 there. This is from the New York City Taxes, Trends,

2 Impacts and Priorities for Reform Fiscal Policy

3 Institute. This is a chart of 2014. If you look at

4 all of this here, these are the things that are not

5 Commercial Rent Tax. 1.5% is what it was right now.

6 In this chart it was 2%? That's a small sliver right

7 there. So if you're going to do an exemption for

8 grocery stores, keep in mind this sliver that we're

9 dealing with, and how much of an impact it will have

10 across the entire industry. And lastly, just one

11 more thought. I—I reached the buzzer. [bell] There

12 was some talk from the city about increasing the

13 Commercial Rent Tax because it would be good tax

14 policy. So, let's talk about things that go into tax

15 policy, and once again, the same report. You have

16 six different things for a high quality tax reform

17 system. Adequacy and reliability. The taxes are

18 increased consistently since 1999. So I think with

19 the adequacy we're more than covered on those

20 increases. Economic neutrality and diversification

21 and fairness. It's only in places below 96th Street.

22 Administrative efficiency balances the tax burden and

23 economic development concerns. It's now balanced.

24 How is it balanced if it only applies to people

25 below—below 96th Street?

2 CHAIRPERSON FERRERAS-COPELAND:

3 [interposing] I really appreciate your testimony.

4 I'm—I am going to have to cut you off.

5 IAN POULOS: [interposing] I understand.

6 CHAIRPERSON FERRERAS-COPELAND: We have
7 three panels and they all have--

8 IAN POULOS: [interposing] Thank you for
9 your time.

10 CHAIRPERSON FERRERAS-COPELAND: --to get
11 the Mayor's State of the City. SO thank you very
12 much for your testimony. I just have one quick
13 question and I guess this is for the supermarkets in--
14 in particular. If you were to get this burden or
15 this relief, how would you see yourselves investing
16 the additional money that you may have that are then
17 available to you? You just could say for it for the
18 record.

19 STEVEN SLOAN: I mean this will go a long
20 way in to investing into our stores, allowing us to
21 invest into new—into redoing our stores, building
22 better stores, bringing more affordable expanding
23 areas like produce that people want to see larger
24 areas in, and creating more jobs in new areas of the
25 stores that don't exist now. I mean it—it's just

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2 pure revenue that we—money that could be invested
3 right back into the company.

4 CHAIRPERSON FERRERAS-COPELAND: And how
5 many employees do you have in your supermarket?

6 STEVEN SLOAN: About a thousand.

7 CHAIRPERSON FERRERAS-COPELAND: A thousand
8 and your store is?

9 RENEE FLORES: 1,200.

10 CHAIRPERSON FERRERAS-COPELAND: 1,200,
11 and how many—just for the record how many stores
12 again are there in total?

13 STEVEN SLOAN: Fifteen.

14 DEPUTY COMMISSIONER FRANCO: Fifteen.

15 RENEE FLORES: I have 29.

16 CHAIRPERSON FERRERAS-COPELAND: Twenty-
17 nine. Okay. Very good. Thank you very much for
18 coming to testify today, and Dr. Lipsky, it's
19 interesting to—I'm glad I was the one chairing your
20 one yes.

21 DR. LIPSKY: [laughs] Thank you.

22 RENEE FLORES: Thank you very much.

23 CHAIRPERSON FERRERAS-COPELAND: I will
24 call up the next panel.

25

2 LEGAL COUNSEL: The next panel will be
3 Wellington Chan, Brendon Sexton, Nikki Kateman, and
4 Robert Bookman. [background comments, pause] Jay
5 Pelts. [background comments] No, wait. We'll just
6 add an extra chair here. [pause] The attorneys you
7 guys out of here so. [laughter] Okay, you may
8 begin.

9 WELLINGTON CHAN: Good afternoon. It's
10 been a long day so I'll keep my remarks very short
11 because the Chinatown Partnership and the Chinatown
12 Business Improvement Districts are both here today in
13 support of this legislation. I want to commend the
14 co-sponsors and—and the committee for considering
15 this important initiative. A couple—a couple of
16 comments about why Chinatown, Little Italy and—and
17 our—our area deserves a special recognition is that
18 we are especially vulnerable. It's been a little bit
19 to—most of our businesses our owners are exclusively
20 small businesses. They are mom and pops that are
21 working hard and they're struggling, and—and besides
22 the impact of the closures of Park Row and—and the
23 impact zone. What is not recognized is obviously
24 besides giving a training group for the restaurants
25 are giving workers the jobs and the opportunities the

2 Chinatown businesses support affordable housing, and-
3 and why do I mean that? The other charter Lower
4 Manhattan building is a 55-story building. Most of
5 our buildings are six stories of which five levels
6 are rent controlled and rent stabilized tenement
7 buildings. So the one person that is supporting
8 that-that-that-all that weight is the commercial
9 retail ground floor tenant. So we do not have 55
10 levels of commercial tenants to spread out whatever
11 increase that's been level in the last few years.
12 And so, as a result, we are especially heavily
13 depending on the ground floor retail, and-and so,
14 therefore, it-it is imperative that any consideration
15 that can relieve the burden that will help. The
16 other thing I want to point out is also the issue of
17 parity and equity, right? We have other satellite
18 Chinatowns that are springing up. So if you just
19 simply go across the river the commercial rent tax
20 surcharge disappears. Whether it is for Flushing,
21 whether it is Elmhurst, whether it's for Sunset Park,
22 whether it is for Bensonhurst that disappeared. So it
23 replaces our merchants and all you enjoy the good
24 Chinese food here, and as well as- That competitive
25 advantage is-is not on the level playing field for

2 the other Chinatown. So, and—and—and the proximity
3 that is important to us. So, in—in light of that, I
4 would like to say that we are exploring and I thank
5 Council Member Chin for looking at it seriously. Any
6 sort of relief whether it is a—a community land trust
7 whether it's a special mini impact relief zone,
8 because this is the impact created in my area. We're
9 the only community that—that needs a little breathing
10 room, and yes, that sort of measure we welcome that,
11 and I commend the committee for doing this important
12 legislation today. Thank you.

13 CHAIRPERSON FERRERAS-COPELAND: Thank
14 you. Mr. Sexton.

15 BRENDON SEXTON: Good afternoon. I'd
16 like to thank Chairwoman Julissa Ferreras-Copeland
17 and the other committee members for giving us the
18 opportunity to speak today. This bill is an
19 important first step in addressing the disappearing
20 of affordable supermarket in Manhattan. For decades
21 neighborhood supermarkets provided good affordable
22 food and good paying middle-class jobs. This is no
23 longer the story. Wish low-road groceries like Whole
24 Foods and Trader Joe's lowering the standards we have
25 fought so hard to maintain and improve. While at the

2 same time, raising the prices of stable grocery items
3 we all need. What is missing in this bill is any
4 real standards to protect the workers in grocery
5 stores. Any legislation that is offering taxpayers
6 money should directly deal with the impact on
7 workers. With over 20,000 members, Local 1,500 is
8 one of the largest locals in NCW, and the largest in
9 New York State. Our union represents men and women
10 in Queens, Staten Island, Bronx, Brooklyn and
11 Manhattan along with Nassau, Suffolk, Westchester and
12 Dutchess Counties. Our members work for companies
13 that have a long history in New York City such as
14 Fairway D'agostinos, Stop & Shop, Grestides and
15 Shopper (sic) and they have been serving New Yorkers
16 for many years. Our members receive better salaries
17 and better benefits because of the hard work Local
18 1500 had done in negotiating on their behalf. By
19 neglecting the impact on workers and allowing low
20 road (sic) groceries to benefit from the taxpayer, I
21 ask that the bill be amended to include with other
22 criteria labor standards. This can come in the form
23 on an already existing collective bargaining
24 agreement, and/or a labor peace agreement. Far too
25 often grocery workers are faced with exploitation,

2 wage theft, harassment, and intimidation. By
3 including the supermarket industry in his initial
4 target of industries that are a hotbed for-of
5 exploitation, Governor Cuomo knows the unscrupulous
6 employers these workers face. In light of the
7 industry's tendency to exploit workers, I would
8 include a provision to protect the taxpayers' money
9 as well as any operator that's found guilty of
10 violating workers' rights by governmental agency
11 including the Department of Labor, the Attorney
12 General's Office, the nat-or the National Labor
13 Relations Board. They immediately lose their tax
14 benefit, and may call the arrival time that they were
15 found guilty. For far too long businesses have been
16 given handouts while workers perish. This is an
17 opportunity to correct the record, and protect
18 workers in a meaningful way. Our members are
19 watching and hoping that Council will amend this
20 proposal to address the needs of preserving
21 affordable supermarkets and preserving good middle-
22 class jobs. We stand ready to work with you to
23 achieve this goal. Thank you. [background comments]

24 NIKKI KATEMAN: Good afternoon. Thank
25 you for the opportunity to testify today. My name is

2 Nikki Kateman. I am here on behalf of Local 338 of
3 the Retail/Wholesale Department Store Union, United
4 for Commercial Workers, a labor union that represents
5 over 16,000 men and women employed at supermarkets,
6 grocery stores, specialty food stores, retail drug
7 stores and pharmacies across New York City, Long
8 Island and the Hudson Valley. Currently, Local 338
9 represents 1,200 members who work in close to 30
10 grocery stores, which are below 96th Street and fall
11 within the jurisdiction where the Commercial Rent Tax
12 is applicable. These employers include Gristedes,
13 Morton Williams, Zabars, Associated, Food Town and
14 other smaller specialty or gourmet shops. Grocery
15 stores and supermarkets are essential components of
16 New York City's neighborhoods and the daily lives of
17 its residents. We likely frequent and rely on these
18 businesses more often than we even realize. However,
19 these establishments are not just sources of fresh
20 produce, meats and other foods and household items.
21 Grocery stores are sources of employment, and many
22 companies like the ones I named above provide quality
23 jobs that are—that allow workers to support
24 themselves and their families. Unfortunately,
25 communities can be devastated either by the loss or

2 the absence of a local supermarket. Just last spring
3 the Associated on West 14th Street, which employed
4 Local 338 members was forced to close due an
5 exorbitant rent increase. Despite community outreach
6 and support from local elected officials including
7 Council Member Corey Johnson, who referenced this
8 earlier in the hearing, the landlord and owners of
9 the Associated were unable to renegotiate the lease,
10 and as a result the owners were not only—were not—
11 were unable to sustain a business at that location.
12 This left a huge void for families and seniors who
13 had not only depended on that store, but had also
14 developed relationships with the workers there. With
15 the loss of these jobs for our members at this store,
16 we at Local 338 understand all too well the
17 significant—significance of grocery stores and the
18 urgency of taking steps towards maintaining these
19 community centers like the Associate. While the
20 proposed exemption is a good start towards preserving
21 grocery stores, they must go further in order to
22 protect and retain the best the members of our
23 community. I would strongly encourage the City
24 Council to incorporate labor standards as a
25 requirement for qualifying for the full exemption.

2 This will ensure that we support the existing
3 responsible grocery retailers, encourage their
4 expansion, and prioritize new businesses that
5 understand and respect their link between access to
6 good jobs and affordable groceries within a
7 community. Additionally, there needs to be a more
8 in-depth understanding and definition of what
9 constitutes affordability as a requirement of the
10 exemption especially factors such as
11 purchasing, rent, cost of living wages and benefits,
12 and even the neighborhood competition can cause
13 variation in the pricing of goods. As advocates for
14 the workers within the food retail industry, we are
15 also advocates for the communities that these men and
16 women serve. We must protect this essential public
17 service by ensuring that any tax exempted by this-
18 created by the city only benefit those who truly
19 benefit the community. New York City has a history
20 of recognizing that grocery stores and supermarkets
21 provide crucial public benefits in terms of not just
22 access to goods, but also quality local jobs. I look
23 forward to having further discussions about how we
24 can support responsible grocery and supermarket
25 retailers. Thank you for your time.

2 NICK D'AGOSTINO: Hello, thank you. My
3 name is Nick D'agostino, fourth generation of
4 supermarket. I'm fourth generation in the
5 supermarket business. We've been in business since
6 1908. This summer we're about to close because we
7 just could not economically keep going. Fortunately,
8 thanks to John Catsimiatidis, we're staying in
9 business or trying to, but we need to make the
10 business viable. Otherwise, you know, even someone
11 like John is not going to want to stay in the
12 business. So anything we can do to help the
13 supermarkets, we appreciate. We have the costs of
14 high labor. We have the cost of trying to run a
15 business in the city, and as far as affordability, I
16 would hope that we would take into account what the
17 costs are in the city. I have friends that run
18 supermarkets outside the city. Their rent is like 1
19 or 2% of their costs. We're up to 10, 12, 15% of our
20 costs as rent. So, it's really—what is it—what are
21 our costs? That's what decides on what we can
22 charge. It is very expensive to run—run the stores
23 in the city, and we just need to be economically
24 viable so we can provide the service. [background
25 comments]

2 ROBERT BOOKMAN: Good afternoon. Thank
3 you for the opportunity to testify on behalf of the
4 Food Industry Alliance of New York State in
5 connection with today's public hearing regarding
6 numerous CRT bills. FIA is a non-profit trade
7 association that promotes the interest statewide of
8 New York's grocery, joint and convenience stores.
9 Our members include chain and independent grocery
10 stores that account for a significant share of the
11 city's retail food market, and the grocery
12 wholesalers that supply them as well as drug and
13 convenience stores. I'm going to testify with regard
14 to the Corey Johnson bill only. FIA supports that
15 legislation in its current form, which would exempt
16 grocery stores from the Commercial Rent Tax that meet
17 requirements regarding square footage and
18 affordability as well as accept SNAP and WIC
19 benefits. This relief is long overdue. The
20 Commercial Rent Tax is paid on top of some of the
21 highest retail rents in the country. Combined with
22 other high operating expenses paid by New York City
23 retailers, the tax has contributed to the trend of
24 grocery-of grocery store closures in Manhattan. It
25 is also drained operators of the investment capital

2 needed to open new locations, and thus reduce the
3 number of underserved areas in the city, as well as
4 renovate and expand existing stores, which would
5 provide New Yorkers with a wider assortment of
6 products include healthier choices at cheaper prices.
7 I'll highlight some remaining points from my
8 testimony in the interest of time. Under the
9 legislation, the Commissioners of Finance and—and
10 Health will determine affordability standards. It's
11 very important that we be given the opportunity to
12 meet with them prior to the commencement of a formal
13 rulemaking process--when--when contacts aren't
14 allowed--to discuss those requirements to make sure
15 that we don't prevent the very grocery stores that we
16 want to get the relief from getting the relief. So
17 as Nick pointed out, those affordability standards
18 have to take into account the very high operating
19 expenses paid by food retailers in Manhattan. So we
20 look forward to working with government stakeholders
21 on that. In addition, we would respectfully request
22 that the bill be amended so that in order to qualify
23 retailers provide SNAP and not necessarily with
24 benefits. The reason for that is that typically
25 Manhattan grocers accept SNAP benefits, but not

2 necessarily with benefits because of in certain
3 areas, the population is quite low, and the
4 administrative costs and burdens of participating in
5 that program can be quite high. So, a grocer that
6 meets affordability requirements and offers SNAP to
7 low-income populations should not be kept from
8 qualifying for the exemption because it's not making
9 WIC available in an area that does not really need
10 it. We also ask that we work with the Department of
11 Finance in terms of establishing how a retailers
12 would-would-would get certified for the exemption.
13 There is nothing in that in the bill. We assume it
14 will be in the rule, but it's important that we have
15 that contact with the department before the formal
16 rule making process commences. We would ask for a-a
17 clarification change by way of language in the bill.
18 The current requirements at least 30% of the selling
19 area be devoted to perishables, and there seems to be
20 a separate requirement that 500 feet be allocated to
21 produce. Selling space is very scare in Manhattan
22 stores. So we'd like to-I proposed the rule change
23 or language change in-in my testimony that makes
24 clear at the 500 square foot requirement as part of
25 the 30% requirement and not in addition to it. And

2 we'd like to acknowledge and thank Manhattan Borough
3 President Gale Brewer and Council Member Corey
4 Johnson and their respective staffs for their
5 thoughtful work with regard to this much needed
6 measure and we look forward to working with
7 government stakeholders to ensure that it's
8 implemented successfully. Thanks for your time.

9 CHAIRPERSON FERRERAS-COPELAND: [off mic]
10 Thank you. Thank you very much for coming to testify
11 today. [background comments] And this will be our
12 final panel. No pressure.

13 LEGAL COUNSEL: The—the final panel will
14 be Charles Platkin and Natasha Arnat, Robin Vitale,
15 and Laura Roswick. [pause]

16 CHARLES PLATKIN: Last but not least.
17 [laughs] I want to thank the Chair and the members
18 of the Committee on Finance for the opportunity to
19 submit written and verbal testimony. This is an
20 abbreviated version of my written testimony. I'm
21 grateful to Council Member Johnson, to the Manhattan
22 Borough President Gale Brewer and your staff for the
23 work that went into the proposing—proposing this
24 bill. My name is Charles Platkin and I'm providing
25 testimony on behalf of the New York City Food Policy

2 Center at Hunter College of which I am the Executive
3 Director. While [coughs] what we know is that
4 there's been significant increase in rent, and much
5 higher property taxes, which often cause the loss-
6 cause the loss of standby supermarkets, which already
7 work on very thin profit margins, as we've heard.
8 This City also lost about 300 green groceries or
9 family owned stores of less than 7,000 square feet
10 between 2005 and 2015. The New York City Food Policy
11 Center at Hunter College is in full support of the
12 proposed legislation for-for the following three
13 reasons:

14 1. Should the markets increase healthy
15 food access, which is critical for New York City
16 residents, the need [coughs][pause]-the need for all
17 residents to have access to healthy food is clear and
18 undisputable. If you don't have access to healthy
19 food, it's less likely that you're going to eat
20 healthy food. Like the rest of the country, remains
21 in the midst of a epidon-epidemic of hunger as well
22 as food related diseases. More than 10% of New
23 Yorkers are living with diabetes, a third of New York
24 City adults live with cardiovascular disease 1.3
25 million residents are food insecure.

2 2. Supermarkets, and this is very
3 important and has not been discussed here today. The
4 supermarkets are more than simply sources of food.
5 They provide social capital for a community. It's
6 been talked about by various testimony, but not hit
7 right on the head. Grocery stores are where
8 neighborhood-neighbors meet, where weekly traditions
9 come to fruition, and where familiar faces are found.
10 It is not simply about buying food. When a
11 neighborhood loses a store, not only are there
12 negative impacts or perceptions of food access loss,
13 jobs and local economy, but a disruption of a
14 community's sense of safety, identity and social
15 capital. And we're actually coming out with an order
16 that's specifically on the—on the nycfoodpolicy.org
17 on the psychological impact of supermarket loss.
18 Even residents who do not regularly shop at a store
19 feel the impact when one closes as if the
20 neighborhood is in decline.

21 3. And the third reason is that
22 exempted supermarket grocery stores that meet this
23 criteria are from the Commercial Rent Tax immediately
24 impacts the bottom line profitability of these
25 entities, which again work on very thin profit

2 margins. So I'm skipping most of my written
3 testimony and going right to the discussion about
4 measuring affordability for those who are exempt,
5 and-and I know that you have asked Manhattan Borough
6 President about this, and this is my segue to that-to
7 that, and this is part of the bill, the center. I
8 wanted to provide a working example, and you could
9 take a look at the handout that I provided, which is
10 also part of the written testimony. So this is just
11 one suggestion as how you can measure affordability,
12 which could get quite complicated and dicey, but we
13 want to take up kind of a simple approach. To
14 measure affordability of supermarkets so that
15 entities receiving a CRT exemption remain with reach
16 for lower-income residents. We suggest conserving
17 affordability formula that could be applied to each
18 retailer. The Center--the Center's suggestion would
19 be to take a market basket, which the Manhattan
20 Borough President mentioned of food items, which
21 should not exceed 10% for--for that exemption. The
22 market basket could contain two foods from each of
23 the food groups, grains, vegetables, fruit, dairy,
24 meat and eggs, and you can see the table. The items
25 could be selected based on what low-income consumers

2 frequently purchase, and this data it is--this--this--
3 this data is actually available regularly from the
4 U.S. Department of Agriculture, which publishes a
5 Foods "typically purchased by SNAP households." So
6 it makes it very, very simple, and it actually [bell]
7 is specific to the northeast if you would like it to
8 be. Again, we thank you for listening to our
9 testimony. We're here help the New York City Food
10 Policy at Hunter College, and we're happy to work
11 further on the bill if necessary.

12 CHAIRPERSON FERRERAS-COPELAND: [off mic]
13 Thank you. [banging door]

14 ROBIN VITALE: Thank you. Hi, Council
15 Members. My name is Robin Vitale, and I serve as
16 Vice President of Health Strategies for the American
17 Heart Association here in New York City. I have the
18 distinct pleasure of following so many esteemed
19 representatives of business and tax law experts, and
20 I am neither of the above. So, the Heart Association
21 is here, however, as--as my colleague to the left
22 explained because this is really a health issue, and
23 you're looking at the proposing that would exempt CRT
24 from certain supermarkets. In my written testimony
25 you'll see greater detail about why the Heart

2 Association has prioritized this. We are looking at
3 healthy food access as one of our number one
4 priorities to really address health disparity and
5 improve equity across all boundaries in-in New York
6 City. The testimony goes on to look at additional
7 proposals. This one is honestly very specific to
8 neighborhoods in Manhattan, but we would like to see
9 the city invest across all five boroughs in some
10 specific proposals that would help to improve not
11 only access to healthy foods in our supermarkets, but
12 also incentivizing approaches of healthy foods for
13 consumers. So I invite you to take a closer look at
14 those, and open to any questions you might have.
15 Thank you.

16 LAURA ROSWICK: Good afternoon,
17 Chairwoman Ferreras-Copeland and Council Member
18 Garodnick and Council Member Chin. My name is Laura
19 Roswick and I'm testifying on behalf of the Times
20 Square Advertising Coalition also known as TSAC.
21 TSAC is a not-for-profit trade association dedicated
22 to the continued promotion of Times Square as the
23 most exciting advertising venue in the world. Our
24 membership includes key at-home stakeholders in the
25 Square including Clear Channel Spectacolor and

2 Sherwood Equities. Our organization not only provides
3 a unified voice for the signage advertising industry
4 in Times Square, but we also donate time to our
5 digital screens for nightly public art installations
6 as part of our Midnight Moment Program in partnership
7 with the Times Square Alliance. We also regularly
8 work with elected officials to offer our signage pro
9 bono for a number of campaigns including our annual
10 display of artwork from talented New York City public
11 school students and our annual goal-goal of Campaign
12 for Pediatric Cancer Awareness Month. TSAC supports
13 Introduction 799 and 1107-A, but believes that more
14 can be done to ensure that the CRT is being applied
15 fairly and within the intent of the original law. We
16 understand that Intro 1107-A exempts theatrical
17 productions who advertise for less than a year either
18 at the physical theater location or elsewhere in the
19 CRT district including Times Square. TSAC supports
20 this legislation, but would also urge the Council to
21 consider similar exemptions for all short-short-term
22 advertising not just for the advertising of
23 theatrical productions. The New York City Department
24 of Finance began conducting an audit of the
25 advertising billboard space in Times Square as it

2 relates to the CRT beginning in 2014. The Department
3 of Finance determined that advertisers were consumers
4 of commercial real estate and began billing
5 advertisers retroactively as the department had never
6 collected on this tax before as it relates to
7 advertising. The applicable CRT legislation enacted
8 in 1963 is thought to typically apply to more
9 traditional brick and mortar real estate commercial
10 leases that—that are based on square footage.
11 Applying the CRT to advertising at the same rate as
12 commercial rents does not seem compatible with the
13 law's intent. The New York City Zoning Code mandates
14 that the inclusion—mandates the inclusion of
15 spectacular advertising signage in Times Square. The
16 New York City Department of Buildings' requirement
17 for new signage is viewed as the material hurdle to
18 complete prior to an owner securing a permanent
19 certificate of occupancy on all post Times Square
20 redevelopment construction. As you are all aware,
21 the Times—the signs in Times Square are a landmark of
22 the city and create an exciting destination that
23 attracts tourism and business to New York. A recent
24 pedestrian study commissioned by TSAC and the Times
25 Square Alliance found that an overwhelming majority

2 of tourists and residents think that the digital
3 signage in Times Square adds to the appeal of Times
4 Square, and makes the area an iconic destination. We
5 applaud the City Council's efforts in raising the
6 threshold of the CRT, and hope to work with you to
7 ensure that the CRT is applied justly, and is not
8 just—and is not cost-prohibitive to the fabric of our
9 fabric of our city. Thank you.

10 CHAIRPERSON FERRERAS-COPELAND: [off mic]
11 Thank you [on mic] for testifying on the record. We
12 really appreciate it, and we will be looking at the
13 additional recommendations that you made, and we will
14 follow up. Thank you again. Thank you all that came
15 to testify. DOF I see that you see that you stayed
16 here, the Department of Finance. Duly acknowledge,
17 and we will call this hearing to a close. [gavel]

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1 COMMITTEE ON FINANCE

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C E R T I F I C A T E

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



Date February 18, 2017